PETITION FOR ZONING RE-CLASSIFICATION
SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 D.R. 2 zone to an D.R. 10.5 zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

~~A. In classifying the property D.R. 2 the Council committed mistakes and/or errors as set forth in the attached exhibit and incorporated herein; and~~

~~B. The owners reserve their right to raise the issues of changes in the neighborhood at such time as that ground for zoning reclassification can be available.~~

RECEIVED
BALTIMORE COUNTY
FEB 27 2 31 PM '81
COUNTY BOARD OF APPEALS
BY

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, 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:

(Type or Print Name)

Signature

Address

City and State

Legal Owner(s): *

Jerome S. Alperstein
(Type or Print Name)

Signature

Marian Alperstein
(Type or Print Name)

Signature

3385 N.E. 167th Street
Address Phone No. (305) 949-3808
North Miami Beach, FLA. 33160
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Same as Above
Name

Address Phone No.

Attorney for Petitioner:

Julius W. Lichter
(Type or Print Name)

Signature

113 Chesapeake Building
305 W. Chesapeake Avenue
Address

TOWSON, MD. 21204
City and State

Attorney's Telephone No.: 321-0600

*SEE ATTACHMENT FOR ADDITIONAL LEGAL OWNERS AND THEIR ADDRESSES -

BADC—Form 1

ADDITIONAL LEGAL OWNER(S):

Legal Owner(s):

E. David Weinberg, M.D.
(Type or Print Name)

Signature

(Type or Print Name)

Signature

1711 Woodholme Avenue 486-4224
Address Phone No.
Baltimore, Maryland 21208
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Same as Above
Name

Address Phone No.

Legal Owner(s):

Robert P. Wagers
(Type or Print Name)

Signature

Jean Wagers
(Type or Print Name)

Signature

1700 Woodholme Avenue 486-4256 486-7212
Address Phone No.
Baltimore, Maryland 21208
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Same as Above
Name

Address Phone No.

Legal Owner(s):

Dennis Herman
(Type or Print Name)

Signature

(Type or Print Name)

Signature

4697 Hawksbury Road 922-3255 home 825-5770 work
Address Phone No.
Baltimore, Maryland 21208
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Same as Above
Name

Address Phone No.

Legal Owner(s):

Bonnie Herman Hament
(Type or Print Name)

Signature

(Type or Print Name)

Signature

Goodlow House #26
200 Cross Keys Road 336-1600 office 532-7232 home
Address Phone No.
Baltimore, Maryland 21218
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Same as Above
Name

Address Phone No.

-2-

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
FROM D.R. 2 TO D.R. 10.5 ZONE
N/S Woodholme Ave., 14' W of Old Court Rd., 3rd District : OF BALTIMORE COUNTY

JEROME S. ALPERSTEIN, et ux, : Item 17, Cycle I
Petitioners

:::::::

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
Deputy People's Counsel

John W. Hessian, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 25th day of August, 1981, a copy of the aforegoing Order was mailed to Julius W. Lichter, Esquire, 113 Chesapeake Building, 305 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners.

John W. Hessian, III

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE

PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

000

Nicholas B. Commodari
Chairman

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

June 29, 1981

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No. 17 (Cycle I April-October 1981)
Petitioner - Jerome S. Alperstein, et al
Reclassification Petition

Dear Mr. Lichter:

Enclosed please find addendum comments for the above-referenced case.

Very truly yours,

Nicholas B. Commodari

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosure

cc: Nancy E. Paige, Esquire
Garrett Building
233 East Redwood Street
Baltimore, Maryland 21202

D. S. Thaler and Associates, Inc.
11 Warren Road
Baltimore, Maryland 21208

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

000

Nicholas B. Commodari
Chairman

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

April 29, 1981

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No. 17 (Cycle 1-April - October, 1981)
Petitioner-Jerome S. Alperstein, et al
Reclassification Petition

Dear Mr. Lichter:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the 1st 1980-84 zoning cycle.

The petition has been reviewed by the Zoning Office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee.

The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or site plans be amended so as to reflect better compliance with the zoning regulations and commenting agencies' standards and policies, you are requested to review these comments, make your own judgement as to their accuracy and submit the necessary amendments to this office before May 29th. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

The subject property consists of a number of parcels located on the north and south sides of Woodholme Avenue west of Old Court Road in the 3rd Election District. A small parcel, located just west of Old Court Road, consists of vacant wooded land, while the remaining parcels, encompassing the majority of the site, are located further to the west and are improved with dwellings on large lots. The property is surrounded by the Beltway to the north, individual dwellings to the east and industrial uses and apartments to the south.

Item No. 17, Cycle I
Jerome S. Alperstein et al
Reclassification Petition

Because of your clients' proposal to rezone these properties from the existing D.R. 2 classification to D.R. 10.5, this hearing is required. That portion of the property, owned by Mr. and Mrs. Alperstein, was the subject of a previous hearing (Case No. 78-183-R) in which a similar request was denied.

If you have any questions concerning the enclosed comments, please feel free to contact me at 494-3391. Notice of the specific hearing date, which will be between September and December of 1981, will be forwarded to you in the future.

Very truly yours,

Nicholas B. Commodari

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:eoh

Enclosures

cc: Nancy E. Paige, Esquire
Garrett Building
233 East Redwood Street
Baltimore, Maryland 21202

D. S. Thaler and Associates, Inc.
11 Warren Road
Baltimore, Maryland 21208

File

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL P.E.
DIRECTOR

April 2, 1991

Mr. Walter A. Reiter, Jr.
Chairman, Board of Appeals
Court House
Towson, Maryland 21204

Re: Item #17 (Cycle I - April-October 1981)
Property Owner: Jerome S. & Marian Alperstein
N/S Woodholme Avenue 145' W. of Old Court Road
Existing Zoning: D.R. 2
Proposed Zoning: D.R. 10.5
Acres: 36.53 District: 3rd

Dear Mr. Reiter:

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:

Subdivision of property within Baltimore County is subject to Baltimore County Subdivision Regulations.

Comments were supplied in conjunction with the Zoning Advisory Committee review of one of the properties of this present overall "composite" site, for Item #9 Zoning Cycle II (October 1977-April 1978).

Highways:

Baltimore County Beltway (I-695) is a State Road; therefore, all improvements, intersections, entrances 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.

Woodholme Avenue, an existing public road, is proposed to be improved in the future as a 50-foot closed type roadway on a 50-foot right-of-way, including a standard type roadway termination at the end thereof due to its severance by the construction of I-695.

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.

The exceptions are in anticipation of market pressures and prudent development practices responsive to public improvements but never the less, always in consideration of promoting stabilization. For example, the central area bounded by Old Court, Sudbrook and Reisterstown Road is recommended for more intensive development primarily for regional serving retail. The areas west of Reisterlown Road along Old Court Road and along the proposed realignment of Slade Avenue are recommended for more intensive residential development, with office potential as a special exception. Both these streets will eventually lead to the Phase II Rapid Transit System Stations and the residential development will be along improved streets.

Building And Environmental Conditions:

The focus of the open design analysis has been along the primary streets. For the most part these streets are lined with commercial buildings, institutional facilities and "open space" in the form of the golf course and the Druid Ridge Cemetary.

The commercial uses include retail buildings, restaurants, gas stations and office buildings. The retail buildings are generally one and two story structures built along the building lines or in small shopping centers facing onto the primary streets. The business corridor has been developed over a long time period as the early commercial center grew in response to the increasing settlement of the northwest County and the market demand supported additional retail establishments.

The sporadic construction of commercial buildings along the approximately two mile stretch of Reisterstown Road from the Beltway to the City/County line typifies the dilemma of older strip commercial corridors whose future is increasingly threatened by the more sophisticated planning and merchandizing of contemporary regional shopping centers. The automobile encouraged the expansion of these linear commercial corridors originally begun at important cross roads, expanded along streetcar lines and entrenched by the reliance of the automobile. After the street car disappeared, the automobile took over and has now become the nemesis.

The presence of the automobile is so pervasive in Pikesville that it dominates all and any other single aspect of the environment. While the congestion creates a sense of excitement, "... something must be going on - look at all the cars ..." Pikesville's future viability is in many ways tied to a reasonable solution for the automobile. Additional parking, better utilization of existing parking, new streets and driveways and improvements to Reisterstown Road (relocation of signals and removal of curb side parking, consolidation of curb cuts and driveways, all must be implemented as high priority activities.

Environmental Conditions:

An objective analysis of the visual quality of the environment may be undertaken by simply walking the area with an eye to the quality and maintenance of the buildings, signs, parking lots and "landscaped" areas along the public right-of-ways.

Form CA2

Jobl Adams — 494-2660
Chief, Assignment Commissioner
Scheduling Circuit

Maria Ercolano — 494-2662
Master Assignment Clerk
Medical Records

TO: Julius W. Lichter, Esq.

Gordon, Feinblatt, Rothman, Hoffberger & Hollander

County Bd. of Appeals for Balto Co.

John V. Hessian, III, Esq.
Peter L. Zimmerman, Esq.

RE: C - 82 M 273 - Jerome S. Alperstein, David M. Paige, Nancy E. Paige VS County Bd. of Appeals for Balto Co.

HEARING DATE: Wednesday, February 2, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeal - 4 hours

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
Nov. 15, 1982

Kathy Rushton — 494-2660
Assignment — Jury — Motions
Marcia Fennell
Assistant Clerk Typist

Irene Summers — 494-2661
Assignment — Non-Jury — Motions
Freddie Grove
Assistant Clerk Typist

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE but in all cases involved POSTPONEMENTS WITHIN 10 DAYS OF TRIAL must be made to the attention of the Director of Central Assignment - 494-3180; Joyce Grimm - 494-3487.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the attention of Job Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record in order of satisfaction is filed prior to trial.

RECEIVED
BALTIMORE COUNTY
FILED
Nov 16 - 9 07 AM '82
BY: CIRCUIT COURT

In THE MATTER OF THE PETITION of
JEROME S. ALPERSTEIN, et al

David M. Paige
Nancy E. Paige
(Appellees)

Vs.

COUNTY BOARD OF APPEALS for BALTIMORE COUNTY

PEOPLE'S COUNSEL for BALTIMORE COUNTY

IN THE CIRCUIT COURT

FOR

BALTIMORE COUNTY

Docket 14 Folio 278

Case No. 82-M-273

NOTICE OF FILING OF RECORD

TO: JUNE HOLMEN

COUNTY BOARD of APPEALS of BALTIMORE COUNTY

Mail Stop 2203

County Office Bldg.,
Towson, Maryland 21204

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on November 5, 1982.

Elmer H. Kahline Jr.
Clerk

FILED NOV 5 1982

BALTIMORE COUNTY
FILED
Nov 5 4 04 PM '82
CIRCUIT COURT

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD B. ROGERS

September 22, 1982

IN REPLY REFER TO:

County Board of Appeals
Rm. 200, Court House
Towson, Maryland 21204

Re: Case No. R-82-76, Item #17
Jerome S. Alperstein, et al

Gentlemen:

Enclosed herewith you will find a check in the amount of $18.00 representing payment of your statement for cost of certified documents filed in Case No. R-82-76.

Very truly yours,

Julius W. Lichter

JWL:lsp

Enclosure

RECEIVED
BALTIMORE COUNTY
Sep 23 6 47 AM '82
COUNTY COMMISSIONERS
BY:

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
September 14, 1982

J. Earle Plumhoff, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

Re: Case No. R-82-76, Item #17
Jerome S. Alperstein, et al

Dear Mr. Plumhoff:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen, Secretary

Encl.
cc: J. W. Hessian, Esq.
Raymond Feinberg, Esq.
Nancy E. Paige
Harvey Galinn
Board of Education
W. Hammond
J. Dyer
N. Gerber
J. Hoswell

September 14, 1982

BILLED TO: Julius W. Lichter, Esq.
305 W. Chesapeake Ave.
Towson, Md. 21204

Cost of certified documents filed
in Case No. R-82-76 . . . . . $18.00

Jerome S. Alperstein, et al
N/s of Woodholme Ave., 145' W. of Old Court Rd.

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

REMIT TO: County Board of Appeals
Rm. 200, Court House
Towson, Md. 21204

494-3160

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
Sep'ember 14, 1982

Julius W. Lichter, Esq.
113 Chesapeake Bldg.
305 W. Chesapeake Ave.
Towson, Md. 21204

Re: Case No. R-82-76, Item #17
Jerome S. Alperstein, et al

Dear Mr. Lichter:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

June Holmen, Secretary

Encls.
cc: Jerome S. Alperstein, et al

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

No. 108933

DATE August 11, 1982 ACCOUNT 01-662

AMOUNT $149.05

RECEIVED FROM Julius W. Lichter for Reclassification Petition

FOR Jerome S. Alperstein, et ux R-82-76

VALIDATION OR SIGNATURE OF CASHIER

N & ROGERS
4(301) 321-0600

IN REPLY REFER TO

Baltimore County Office of Zoning
County Office Building, Room 113
Towson, Maryland 21204

Re: Petition for Re-Classification
N/S Woodholme Avenue
Jerome S. Alperstein, et ux - Petitioners
Case No. R-82-76

Dear Mrs. January:

Enclosed herewith you will find a check in the amount of $149.05 representing payment of the open charges for individual posting and advertising in the above captioned matter.

Very truly yours,

Julius W. Lichter

JWL:lsp

Enclosure

HAND DELIVERED

BALTIMORE COUNTY
FILED
Aug 11 11 39 AM '82
COUNTY COMMISSIONERS
BY:

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

November 1, 1981

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Re-Classification
N/s Woodholme Ave., 145' W of Old Court Rd.
Jerome S. Alperstein, et ux - Petitioners
Case #R-82-76

Dear Mr. Lichter:

This is to advise that $51.31 is due for the 2nd full page add of the cycle 1 billing. You have already been billed for the 1st full page add as well as for the individual posting and advertising of this property. All bills must be paid before an order is issued. This is your final bill.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland, 21204, as soon as possible.

Very truly yours,

ammond
ssioner

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

No. 104537

DATE 1/28/82 ACCOUNT 01-662

AMOUNT $51.31

RECEIVED FROM Julius W. Lichter, Esquire

FOR 2nd full page add for Case #R-82-76 (Alperstein)

5131

VALIDATION OR SIGNATURE OF CASHIER

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS
JAY B. SHUSTER

January 26, 1982

IN REPLY REFER TO:

Ms. Karen Riegel
Baltimore County Office Building
Room 113
Towson, Maryland 21204

Re: Petition for Re-Classification
N/S Woodholme Ave., 145' W. of Old Court Road
Jerome S. Alperstein, et ux - Petitioners
Case No. R-82-76

Dear Ms. Riegel:

In accordance with notice dated November 13, 1981 from Mr. William E. Harmond, Zoning Commissioner, I enclose herewith our check in the amount of $51.31 representing payment of the amount due for the 2nd full page ad of the cycle 1 billing.

Very truly yours,

Julius W. Lichter

JWL:lsp

Enclosure

Julius W. Lichter, Esquire
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

October 15, 1981

NOTICE OF HEARING

RE: Petition for Re-Classification
N/s Woodholme Ave., 145' W of Old Court Rd.
Jerome S. Alperstein, et ux - Petitioners
Case #R-82-76 Item #17 - Cycle 1

TIME: 10:00 A.M.

DATE: Tuesday, November 10, 1981

PLACE: Room 218, Courthouse, Towson, Maryland

cc: Raymond Feinberg, Esquire
6310 York Road
Baltimore, Maryland 21212

Nancy E. Paige, Esquire
Garrett Building
233 E. Redwood Street
Baltimore, MD 21202

William T. Hackett, Chairman
County Board of Appeals

11/12/81 - Above notified of CONTINUED HEARING set for WEDNESDAY, JAN. 6, 1982 at 10 a.m.

1/7/82 - All notified of CONTINUED HEARING set for THURSDAY, FEBRUARY 11, 1982 at 10 a.m.

494-3180

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

August 10, 1982

Julius W. Lichter, Esq.
113 Chesapeake Bldg.
305 W. Chesapeake Ave.
Towson, Md. 21204

Dear Mr. Lichter:

Re: Case No. R-82-76, Item 17
Jerome S. Alperstein, et al

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, Secretary

Encl.
cc: Jerome and Marian Alperstein
Raymond Feinberg, Esq.
J. Earle Plumhoff, Esq.
Nancy E. Paige
Harvey Gellnn
J. W. Hessian, Esq.
W. Hammond
J. Dyer
N. Gerber
J. Hoswell
Bd. of Education

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS
JAY B. SHUSTER

February 25, 1982

IN REPLY REFER TO:

County Board of Appeals
Room 218, Court House
Towson, Maryland 21204

Re: Jerome S. Alperstein, et al
Case No. R-82-76

Gentlemen:

Enclosed herewith you will find an original and two copies of a Memorandum in support of the Petition for Reclassification in the above captioned matter.

Very truly yours,

Julius W. Lichter

JWL:lsp

Enclosures

cc: J. Earl Plumhoff, Esquire
Nancy E. Paige, Esquire
John W. Hessian, III, Esquire
Jerome S. Alperstein, et al

HAND DELIVERED

RECEIVED
BALTIMORE COUNTY
FEB 25 4 11 PM '82
COUNTY BOARD
OF APPEALS
BY:

LAW OFFICES
GORDON, FEINBLATT, ROTHMAN, HOFFBERGER & HOLLANDER
GARRETT BUILDING
233 E. REDWOOD STREET
BALTIMORE, MD 21202
301-539-4567
TELEX 908041 BAL
FROM WASHINGTON DC
202-621-4108

DAVID P. GORDON
MORTON J. ROSENGER
EUGENE M. FEINBLATT
DONALD N. ROTHMAN
EVAN ALEXIADES CHESS
LEWIS A. NAYOR
EDWARD J. OBSTLER
SANDER L. WISE
ZELIG ROBINSON
DAVID H. FISHMAN
ALLAN J. MALESTER
LAWRENCE S. GREENWALD
JULIAN I. JAFFE
LESTER D. BAILEY
HERBERT GOLDMAN
ROBERT I. SHARREF
ALAN RICHARD SACHS
THOMAS J. DOOD JR.
LAWRENCE D. COPPEL
CHARLES F. BENJAMIN JR.
NANCY E. PAIGE
MARC R. ROSE
PERRY M. GOULD
BARRY T. ROSEN
HYLDA R. SACHS
THOMAS C. BARBUTI
FRANCIS MacNICHOLAS
GORDON W. BELCHER
ROBERT B. KATZ
TIMOTHY D. V. CHESS
ROBERT C. KLEINER
RICHARD G. MALEK
WILLIAM W. DUCKSON JR.
ALISON L. ASH
DAVID W. PAPADOS
LYNNE N. PITZER
GARY L. ATTMAN
JAMES P. RAU JR.
RAYNE T. LEONARD
JERROLD A. THROPP
C. CHRISTOPHER S. COUSMAN
JAMES W. LODGE
PAUL E. ROBINSON
DANIEL P. SUNNENBERG
EMANUEL GORDINE
RICHARD P. FALLING
LEROY E. HOFFBERGER
COUNSEL

March 15, 1982

William T. Hackett, Chairman
County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

RE: Jerome S. Alperstein, et al.
Case No. R-82-76

Dear Mr. Hackett:

Enclosed please find Post Hearing Memorandum on Behalf of Nancy and David Paige, Protestants in the referenced matter.

Thank you for your indulgence in allowing additional time for filing this.

Very truly yours,

Nancy E. Paige

taw
Enclosure

cc: Julius W. Lichter, Esquire
J. Earl Plumhoff, Esquire
Newton Williams, Esquire
John W. Hessian, II, Esquire

RECEIVED
BALTIMORE COUNTY
MAR 15 9 01 AM '82
COUNTY BOARD
OF APPEALS

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS
JAY B. SHUSTER

March 26, 1982

IN REPLY REFER TO:

William T. Hackett, Chairman
County Board of Appeals
Room 219
Towson, Maryland 21204

Re: Jerome S. Alperstein, et al
Case No. R-82-76

Dear Mr. Hackett:

I have received reply memoranda from Newton A. Williams and Nancy E. Paige on behalf of the protestants. I had expected upon advice from Mr. Hessian that he would be filing a memorandum as well. Mr. Hessian has now advised me that he will not be filing a memorandum and, therefore, I would apprrciate your granting me time to file a reply memorandum on behalf of the petitioner until April 5, 1982. Your earliest reply would be greatly appreciated.

Very truly yours,

Julius W. Lichter

JWL:lsp

cc/ltr
d/s

RECEIVED
BALTIMORE COUNTY
MAR 26 11 01 AM '82
COUNTY BOARD
OF APPEALS

494-3180

County Board of Appeals
Room 219, Court House
Towson, Marylond 21204

November 12, 1981

NOTICE OF ASSIGNMENT
CONTINUED HEARING

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. R-82-76

JEROME S. ALPERSTEIN, ET AL

for reclassification from D.R. 2 to D.R. 10.5

N/S of Woodholme Avenue 145' W. of Old Court Road

3rd District

ASSIGNED FOR: WEDNESDAY, JANUARY 6, 1982 at 10 a.m.

cc: Julius W. Lichter, Esq.	Counsel for Petitioners
Jerome S. Alperstein and Marian Alperstein	Petitioners
J. Earle Plumhoff, Esq.	Counsel for Protestants
Nancy E. Paige	Protestant
Raymond Feinberg, Esq.	"
John W. Hessian, III, Esq.	People's Counsel
Mr. W. E. Hammond	
Mr. J. E. Dyer	
Mr. N. E. Gerber	
Mr. J. G. Hoswell	
Board of Education	

Edith T. Eisenhart, Adm. Secretary

Item #17 (Cycle I - April-October 1981)
Property Owner: Jerome S. & Martin Alperstein
Page 2
April 2, 1981

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

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.

Future drainage and utility easements, reservations, etc. will be required within this property.

Open stream drainage requires a drainage reservation or easement of sufficient width to cover the flood plain of a 100-year design storm. However, a minimum width of 50 feet is required.

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.

Water and Sanitary Sewer:

A 20-inch public water main exists in Woodholme Avenue.

Public sanitary sewerage can be made available to serve these properties, which are utilizing private onsite sewage disposal systems, by extension of public sanitary sewerage and/or service connections as necessary, from the indicated public 12-inch Mt. Wilson Lane-Woodholme Avenue Outfall Sanitary Sewerage (Drawings #75-0055 and #75-0056, File 1).

These properties are tributary to the Gwynns Falls Sanitary Sewer System, subject to State Health Department regulations and allocations.

Very truly yours,

ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss

cc: Jack Wimbley
James Markle
Samuel Bellestri

P-SE Key Sheet
29 - 31 NW 24 & 25 Pos. Sheets
NW 8 F & G Topo
78 Tax Map

Attachment

October 25, 1977

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

Re: Item 17 (Cycle II) October 1977 - April 1978
Property Owner: Jerome & Martin Alperstein
145' W. Woodholme Ave. 1400' NW Old Court Rd.
Existing Zoning: D.R. 2
Proposed Zoning: 10.5
Acres: 7.01 District: 3rd

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.

Highways

Woodholme Avenue, an existing public road, is proposed to be improved in the future as a 70-foot closed section roadway on a 90-foot right-of-way. Highway widening, including any necessary reversible [illegible] for sight will be required in connection with any grading or building permit application.

[illegible] Boulevard, are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards.

Sediment Control:

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

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

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. However, a minimum width of 50 feet is required.

[illegible] Meeting of March 16, 1981 (Cont'd)

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

Water

A 20-inch public water main exists in Woodholme Avenue.

Sanitary Sewerage

Public sanitary sewerage is not immediately available to serve this property. A public gravity sanitary sewer extension (1,200 - 2,000 feet in length) necessitating [illegible] rights-of-way and a railroad crossing would be required to sewer this property to [illegible] this area will be 12-inch sanitary sewer (drawing #57-0925, File 1) [illegible], or to the 42-inch Gwynns Falls Sanitary Interceptor Sewer (drawing #60-0674, File 1).

As stated, this property, if developed, is tributary to the Gwynns Falls Sanitary Sewer System, subject to State Health Department regulations.

Very truly yours,

[illegible]
Chief, Bureau of Engineering

[illegible]

cc: [illegible]
S. Pikulski

Full Key Sheet
29 NW 24 Pos. Sheet
NW 8 F Topo
Tax Map
78

baltimore county
department of traffic engineering
TOWSON, MARYLAND 21204
(301) 494-3550

STEPHEN E. COLLINS
DIRECTOR

March 30, 1981

Mr. Walter A. Reiter, Jr.
Chairman, Board of Appeals
Office of Law
Courthouse
Towson, Maryland 21204

Item 17 - ZAC meeting of March 16, 1981
Property Owner: Jerome S. & Marian Alperstein
Location: N/S Woodholme Avenue 145' w. of Old Court Road
Existing Zoning: D. R. 2
Proposed Zoning: D. R. 10.5
Acres: 36.53
District: 3rd

Dear Mr. Reiter:

The existing site can be expected to generate about 65 trips per day. If this site were to be developed at D. R. 2, it would generate about 910 trips per day and if developed at 10.5, it would generate about 4,020 trips per day.

This site has only one access point and it will require off site improvements. Another point of access should be provided for D. R. 10.5 development.

Very truly yours,

Michael S. Flanigan
Engineer Associate II

MSF/bza

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

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

April 6, 1981

Mr. Walter Reiter, Chairman
Board of Appeals
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Reiter:

Comments on Cycle I, #17, Zoning Advisory Committee Meeting of March 16, 1981, are as follows:

Property Owner:	Jerome S. & Marian Alperstein
Location:	N/S Woodholme Avenue 145' W. of Old Court Road.
Existing Zoning:	D.R. 2
Proposed Zoning:	D.P. 10 5
Acres:	36.53
District:	3rd

The proposed development and existing dwellings must be served by both metropolitan water and sewer. When the existing dwellings are connected to public utilities, all existing wells and sewage disposal systems must be properly abandoned and backfilled. Connection to metropolitan sewer may be subject to the Gwynns Falls sewer moratorium.

The zoning plan as submitted, does not contain sufficient information; therefore, the Baltimore County Department of Health cannot make complete comments.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/ala

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

March 19, 1981

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

cc: Walter Reiter
Chairman of Board of Appeals

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Jerome S. & Marian Alperstein

Location: N/S Woodholme Avenue 145' W. of Old Court Road

Item No.: 17 Zoning Agenda: Meeting of March 16, 1981

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.

(XX) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 750 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. Fire Hydrants at 750' foot intervals

( ) 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 operation.

(XX) 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", 1976 Edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

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

REVIEWER: [illegible] Noted and Approved: George C. Wiegand
Planning Group
Special Inspection Division
Fire Prevention Bureau

/mb

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

June 15, 1981

Mr. William Hammond
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

C/O William Hackett
Chairman of Board of Appeals

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Jerome S. & Marian Alperstein

Location: N/S Woodholme Avenue 145' W. of Old Court Road

Item No.: 17 Zoning Agenda: Meeting of March 16, 1981

Gentlemen: REVISED 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 750 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

(X) 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 operation.

(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", 1976 Edition prior to occupancy.

( ) 6. Site plans are approved, as drawn.

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

REVIEWER: [illegible] Noted and Approved: George C. Wiegand
Planning Group
Special Inspection Division
Fire Prevention Bureau

/mb /rrj

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Walter Reiter
Board of Appeals Chairman
Date: March 27, 1981

FROM: Mr. Charles E. Burnham
Plans Review Chief - Permits and Licenses

SUBJECT: Cycle I - 1981

RE: Cycle Zoning March 24, 1981

PROPERTY OWNER:	Jerome S. & Marian Alperstein
LOCATION:	N/S Woodholme Avenue 145' W of Old Court Road
EXISTING ZONING:	D.R. 2
PROPOSED ZONING:	D.R. 10.5
ACRES:	36 53
DISTRICT:	3rd

ITEM NO. 17

Any improvements to the property shall have proper permits for proposed improvements.

NOTE: All comments are based on date provided on site plans and data provided by the Zoning Advisory Committee. Comments in many cases cannot be more specific or advisory due to the listed information.

Charles E. Burnham
Plans Review Chief

CEB:rrj

CC: Nick Commodari

November 10, 1981

County Board of Appeals
Room 200
Court House
Towson, Maryland 21204

Gentlemen:

Please send me a copy of the Board's decision when it is made on Case #R-82-76--Jerome S. Alperstein.

Sincerely,

Harvey Galinn

Harvey Galinn
4787 Byron Road
Baltimore, Maryland 21208

BALTIMORE COUNTY, MD.
NOV 17 10 55 AM '81
CLERK OF THE BOARD

LAW OFFICES

J. EARLE PLUMHOFF
NEWTON A. WILLIAMS
WILLIAM H. HESSON, JR.
THOMAS J. RENNER
KENNETH H. MASTERS
STEPHEN J. NOLAN
WILLIAM P. ENGLEHART, JR.
JEAN M. BADOWSKY

NOLAN, PLUMHOFF & WILLIAMS
CHARTERED
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

AREA CODE 301
TELEPHONE
823-7800

November 5, 1981

William T. Hackett, Chairman
and Members
County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

Re: Protestants' Opposition to Untimely Request for Postponement in the Alperstein, et al. Reclassification Case, R-82-76, Item 17, Cycle One, April to October, 1981. Long Scheduled Hearing Date-Tuesday, November 10, 1981 at 10:00 a.m.

Dear Chairman Hackett and Members of the Board:

We have just been retained to represent a number of protestants in this matter. Our appearance and several summons were filed on November 4th with the Board

The Protestants are strongly opposed to the Petitioner's request for postponement. The Petitioner's request for postponement is contained in a letter dated October 27, 1981, from the attorneys for the Petitioners. The request violates Board Rule 2.C. since it is within the proscribed 15 day period of the hearing date. To obtain a last minute postponement the Rule requires "extraordinary circumstances" with a showing that the situation is "of an unusual and extraordinary nature". No such showing is found in the postponement request.

This matter has been set for hearing for several months, and the numerous protestants have arranged their schedules for the November 10th hearing date.

Accordingly, the Protestants respectfully request that the Board deny the postponement because of the lateness of the request and the difficulty, expense and disruption of hearing dates, as well as a multiplicity of hearing dates. The Protestants will be present with their witnesses and ready to proceed on the November 10th hearing date.

Respectfully yours,

J. Earle Plumhoff

J. Earle Plumhoff

JEP/ngp

BALTIMORE COUNTY, MD.
NOV 9 9 54 AM '81
CLERK OF THE BOARD

William T. Hackett, Chairman
and Members
County Board of Appeals
Towson, Maryland 21204
November 5, 1981
Page Two

cc: Julius W. Lichter, Esquire
Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

John W. Hessian, II, Esquire
Peter M. Zimmerman, Esquire
People's Counsel
Room 223, Court House
Towson, Maryland 21204

Raymond Feinberg, Esquire
6310 York Road
Baltimore, Maryland 21212

Nancy E. Paige, Esquire
Garrett Building, 233 E. Redwood St.
Baltimore, Maryland 21202

Mr. & Mrs. Jack Tucker
1505 Woodholme Avenue
Baltimore, Maryland 21208

Pine Ridge Associates
c/o Robert W. Baker, Esquire, President
Suite 1123, Munsey Building
7 North Calvert Street
Baltimore, Maryland 21201

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

November 3, 1981

Julius W. Lichter, Esquire
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Re-classification
N/s Woodholme Ave., 145' W of Old Court Rd.
Jerome S. Alperstein, et ux - Petitioner
Case #R-82-76 Item #17-Cycle 1

Dear Mr. Lichter:

This is to advise you that $149.05 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,

William E. Hammond

WILLIAM E. HAMMOND
Zoning Commissioner

WEH:klr

PETITION FOR RE-CLASSIFICATION

3rd DISTRICT

ZONING: Petition for Re-classification

LOCATION: North side of Woodholme Avenue, 145 ft. West of Old Court Rd.

DATE & TIME: Tuesday, November 10, 1981 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:

Present Zoning: D.R. 2
Proposed Zoning: D.R. 10.5

All that parcel of land in the Third District of Baltimore County

Being the property of Jerome S. Alperstein, et ux, as shown on plat plan filed with the Zoning Department

Hearing Date: Tuesday, November 10, 1981 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

D. S. THALER & ASSOCIATES, INC.
11 WARREN ROAD • BALTIMORE, MARYLAND 21208 • (301) 484-1100

February 26, 1981

DESCRIPTION OF PROPERTY OF:
Dennis I. Herman, Bonnie M. Hament, Robert P. Wagers and wife
Jerome S. Alperstein and wife
Edwin D. Weinberg

TO ACCOMPANY PETITION FOR RECLASSIFICATION

Beginning for the outline of all the properties to be reclassified at a point on the north side of Woodholme Avenue, 145 feet west of the centerline of Old Court Road and running, thence along the north and east side of Woodholme Avenue, 1) North 80° 31' 10" West 397.74 feet, 2) North 58° 46' 10" West 340.00 feet, 3) North 53° 00' 00" West 125.00 feet, 4) North 44° 27' 20" West 20.29 feet, 5) thence by a curve to the right with a radius of 75.00 feet the distance of 107.93 feet, 6) thence by another curve to the left with a radius of 620.30 feet the distance of 348.06 feet, thence crossing over Woodholme Avenue to the west side of same, 7) North 85° 43' 05" West 30 feet more or less, thence along said west side, 8) by a curve to the right with a radius of 590.30 feet the distance of 334.12 feet, 9) thence by another curve to the left with a radius of 105.00 feet the distance of 90.61 feet, thence leaving said road 10) North 47° 50' 10" West 90.80 feet, 11) North 40° 20' 50" East 3.20 feet, 12) North 48° 24' West 418 feet more or less to intersect the southeast right of way line of the Baltimore Beltway, thence along said southeast right of way the following, 13) North 32° 4' East 220 feet more or less, 14) North 21° 00' East 288 feet more or less, 15) North 24° 27' 41" East 135.84 feet,

CIVIL ENGINEERS • SITE PLANNERS

---

16) North 43° 39' 24" East 368.34 feet, 17) South 05° 40' 52" West 113 feet more or less, 18) South 80° 19' 08" East 30 feet more or less, 19) North 05° 40' 52" East 25 feet more or less, 20) South 80° 19' 08" East 40.00 feet, 21) North 05° 40' 52" East 30 feet more or less, 22) thence by a curve to the left with a radius of 70 feet the distance of 156 feet more or less, 23) North 43° 50' 36" West 56 feet more or less, 24) North 43° 39' 24" East 30 feet more or less, 25) North 50° 43' 09" East 187.75 feet, 26) North 74° 28' 01" East 127.49 feet, 27) North 63° 09' 40" East 749 feet more or less, thence leaving said right of way line, 28) South 12° 02' East 470 feet more or less, 29) South 89° 17' West 349.42 feet, 30) South 02° 47' East 431.80 feet, 31) North 72° 30' 32" East 6.54 feet, 32) South 13° 48' 30" East 134.28 feet, 33) South 81° 50' 40" West 380.00 feet, 34) South 07° 31' 20" West 280.69 feet, 35) South 79° 30' 50" East 26.00 feet, 36) South 04° 00' 50" East 416.76 feet, 37) South 37° 01' 10" East 255.72, 38) South 59° 58' 50" West 41.84 feet to the point of beginning.

Saving and Excepting therefrom the following two parcels of land:

1) All that lot of ground containing 1.4222 Acres of land more or less which by deed dated November 28, 1978, and recorded in the Land Records of Baltimore County, Maryland in Liber E.H.K. Jr. 5965 Folio 771 was granted and conveyed by Gerald H. Herman and Shirley F. Herman his wife to Jack Tucker and L. Alison Wilow his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 433.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue,

---

North 80 degrees 31 minutes 10 seconds West 140 feet, thence for lines of division North 10 degrees, 54 minutes 10 seconds East 362.70 feet, South 84 degrees 33 minutes 00 seconds East 169.90 feet, thence with the outline of the land herein referred to, South 4 degrees 00 minutes 50 seconds East 176.76 feet thence for lines of division, South 62 degrees 51 minutes 40 seconds West 103.84 feet and South 8 degrees 02 minutes 00 seconds west 140.74 feet to the place of beginning. Containing 1.4222 Acres of land more or less.

2) All that lot of ground containing 0.4866 Acres of land more or less which by deed dated August 8, 1951 and recorded in the Land Records of Baltimore County, Maryland in Liber G.L.B. 2000 Folio 384 was granted and conveyed by Benjamin C. Herman and Mollie Herman his wife to Raymond Feinberg and Beverlee Feinberg his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 115.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue, North 80 degrees 31 minutes 10 seconds West 118.00 feet thence for lines of division North 8 degrees 02 minutes 00 seconds East 140.74 feet and North 62 degrees 51 minutes 40 seconds East 103.84 feet to the outline of the land herein referred to, and thence with a part of said outline, South 37 degrees 01 minute 10 seconds East 90.00 feet, thence leaving the outline and running South 52 degrees 58 minutes 50 seconds West 56.00 feet and South 2 degrees 56 minutes 10 seconds West 100.72 feet to the place of beginning. Containing 0.4866 acres more or less.

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 30, 1981

Julius W. Lichter, Esquire
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No. 17 - Cycle No. 1
Petitioner - Jerome S. Alperstein, et al
Reclassification Petition

Dear Mr. Lichter:

This is to advise you that $77.15 is due for the first advertising of the above property. Two additional bills will be forwarded to you in the near future. All bills must be paid before an order is issued.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,

WILLIAM E. HAMMOND
Zoning Commissioner

WEH:mch

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

No. 100445

DATE 8/12/81 ACCOUNT 01-662

AMOUNT $77.15

RECEIVED FROM: Woodholme Richard Goodman

FOR 1st Advertising of Item 17 - Cycle #1

77.15

VALIDATION OR SIGNATURE OF CASHIER

81-473

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS

BRYAN J. AKMAN

March 2, 1981

IN REPLY REFER TO:

Mr. Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee
Baltimore County Office of Planning and Zoning
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition to Reclassify
Woodholme Avenue Property

Dear Mr. Commodari:

As you are aware, I have filed a Petition to Reclassify approximately 37 Acres of property belonging to Jerome S. Alperstein and wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and wife, and E. David Weinberg on Woodholme Avenue off Old Court Road. I understand that the processing of this Petition will be conducted by you. I would like to meet with you as soon as possible to review the process and to provide whatever input to aid in the process of the Petition.

As the Petitions filed on or before March 2, 1981 will be the first set of requests for reclassification pursuant to the new Section 2-40.1 of the Baltimore County Code, I would like to be kept advised of every step of the process. Please call me to advise of a convenient date, time and place for us to meet.

Sincerely,

Julius W. Lichter

JWL:lsp

MAR 4 '81 AM

81-771

LAW OFFICES
GORDON, FEINBLATT, ROTHMAN, HOFFBERGER & HOLLANDER
GARRETT BUILDING
...LDWOOD STREET
BALTIMORE, MD. 21202
AREA CODE 301
752-1567

APR 9 '81 AM

April 7, 1981

Board of Appeals
of Baltimore County
Court House, Room 219
Chesapeake and Washington Avenues
Towson, Maryland 21204

Jerome S. ~~and Bonnie~~ Alperstein, et al

RE: Petition for Reclassification
Alperstein, Herman, Wagers and
Weinberg Properties
Woodholme Avenue
Baltimore County, Maryland
Item #17

To the Members of the Board of Appeals:

Please enter my appearance, on behalf of myself and David M. Paige, as protestants to the referenced Petition for Reclassification. In addition to Notice of Hearings, I would, if possible, like to be informed when the report of the zoning advisory committ is complete.

Thank you for your assistance.

Very truly yours,

Nancy E. Paige

taw

cc: Mr. Nicholas Commodari

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVE., TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS

BRYAN J. AKMAN

August 3, 1981

IN REPLY REFER TO:

Baltimore County
Office of Planning and Zoning
Room 113, County Office Building
Towson, Maryland 21204

Attention: Ms. Karen Riegel

Re: Item No. 17 - Cycle No. 1
Petitioner - Jerome S. Alperstein, et al
Reclassification Petition

Dear Ms. Riegel:

In accordance with notice of June 30, 1981, I enclose herewith a check in the amount of $77.15 which is due for the first advertising of the above property.

Very truly yours,

Julius W. Lichter

JWL:lsp

Enclosure

301-435-2700

RAYMOND FEINBERG
ATTORNEY AT LAW
6310 YORK RD. BALTIMORE, MD 21212

RESIDENCE
1503 WOODHOLME AVE
BALTIMORE MD 21208
301-486-5775

8/17/81

August 10, 1981

Mr. Nicholas B. Commodari-Chairman
Zoning Plans Advisary Committee
County Office Building
111 W. Chesapeake Ave
Towson, Md. 21204

AUG 11 '81 AM

ZONING DEPARTMENT

Dear Mr. Commodari,

I wish to be considered a protestor in the change of Zoning request by petitioner Jerome S. Alperstein, Et.al.

Re item No 17 (Cycle 1-April-Oct. 1981)
Reclassification Petition
Please forward any and all comments of your department.

Sincerely Yours,
Raymond Feinberg
1503 Woodholme Ave
Pikesville, Md. 21208

RF/ss

301-435-2700

RAYMOND FEINBERG
ATTORNEY AT LAW
6310 YORK RD. BALTIMORE, MD 21212

RESIDENCE
1503 WOODHOLME AVE
BALTIMORE MD 21208
301-486-5775

8/17/81

August 10, 1981

Mr. Nicholas B. Commodari-Chairman
Zoning Plans Advisary Committee
County Office Building
111 W. Chesapeake Ave
Towson, Md. 21204

AUG 11 '81 AM

ZONING DEPARTMENT

Dear Mr. Commodari,

I wish to be considered a protestor in the change of Zoning request by petitioner Jerome S. Alperstein, Et.al.

Re item No 17 (Cycle 1-April-Oct. 1981)
Reclassification Petition
Please forward any and all comments of your department.

Sincerely Yours,
Raymond Feinberg
1503 Woodholme Ave
Pikesville, Md. 21208

RF/ss

10-23-81

Mr Hackett,
Mrs Dia Liter received this letter & informed him that it would be ok to move the Hearing set for 11/10 and make this request at that time.
E

IAN & ROGERS
21204 (301) 321-0600

IN REPLY REFER TO:

RECEIVED
BALTIMORE COUNTY
OCT 27 4 51 PM '81
BOARD OF APPEALS

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

Re: Jerome S. Alperstein, et al
Item #17
Hearing Date - November 10, 1981

Attention: William T. Hackett, Chairman

Dear Mr. Hackett:

The above captioned case involves a petition for reclassification and is scheduled for hearing on November 10, 1981. As your file will indicate, the Petitioners are the owners of four separate tracts of land that are contiguous and who have joined together to seek redress from the 1980 Comprehensive Zoning Map.

My clients hereby request that the hearing scheduled for November 10th be postponed or continued for 45 days to allow them time to amend their petition to provide for a specific plan. The brief delay would allow the Petitioners sufficient time to prepare an amended petition. Your early favorable reply would be greatly appreciated.

Sincerely,

Julius W. Lichter

JWL:lsp

cc: John W. Hessian III, Esquire
People's Counsel for Baltimore
Room 223, Court House
Towson, Maryland 21204

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERBER
DIRECTOR

March 16, 1981

Item #17

Julius W. Lichter, Esquire
Steinberg, Lichter, Coleman and Rogers
305 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Schedule of Reclassification Petitions

Dear Jules:

In response to your letter of March 2, 1981, regarding the scheduling of the Alperstein Property zoning hearing, I suggest that you write directly to the County Board of Appeals. Although this office does recommend specific weeks within which certain groupings of petitions might be heard, these recommendations are made in cooperation with the Board of Appeals. Further, our office's participation consists merely of recommendations; the actual dates are established by the Board of Appeals.

I hope this response is sufficient. If you have any additional questions, please feel free to call.

Sincerely,

Norman E. Gerber, Director
Office of Planning and Zoning

RECEIVED
BALTIMORE COUNTY
MAR 13 10 35 AM '81
COUNTY BOARD OF APPEALS

NEG:JGH:dme

cc: Frank H. Fisher, Chief, Community Planning Division
James G. Hoswell, Community Planning Division
Baltimore County Board of Appeals

F. Fisher
Please reply
To Hoo

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD J. COLEMAN
DONALD F. ROGERS
—
BRYAN J. AKMAN

March 2, 1981

IN REPLY REFER TO

Mr. Norman E. Gerber
Deputy Director
Office of Planning and Zoning
Baltimore County, Maryland 21204

Re: Petition for Re-Classification of
36.53 Acres +, Woodholme Avenue
Owners: Alperstein, et al

Dear Mr. Gerber:

A Petition to Reclassify the zoning on the above property was filed with the Board of Appeals on February 27, 1981. Pursuant to the provisions of the new Section 2-40.1 of the Baltimore County Code, you will be establishing a schedule for the hearings on all Petitions.

My clients in this request are the several property owners comprising the 36.53 A + involved in this Petition. I would appreciate your consulting me prior to establishing the schedule in order that I may be sure that my clients are available on the hearing date. Your earliest advice as to the tentative scheduling of hearings would be most appreciated.

Very truly yours,

Julius W. Lichter

JWL:lsp

Newton A. Williams
Nolan, Plumhoff + Williams

On behalf of
Pine Ridge Assn.
& various Protestants

PROBLEMS WITH PROPOSED D.R.10.5 ZONING
FOR THE ALPERSTEIN AND OTHER TRACTS - ITEM 17
FIRST CYCLE - APRIL TO OCTOBER, 1981

Long established low density, residential area

1.) These larger acreage estate properties located along the section of Woodholme Lane cut off by the Beltway are part of a long-established, low density residential area.

Screened from Beltway and Railroad by Woods & steep topography.

2.) These properties are screened from the Beltway by their steep topography and largely wooded in character, and they have long existed near their neighbor to the southwest, the Western Maryland Railroad.

At least seven acres 1980 Map Issue, 2-107

3.) At least one-fifth of this request was covered by 1980 Map Issue, 2-107, and, thus, this long existent, low density, estate area was specifically considered by the Council in 1980, and the D. R. 2 zone adopted by the Council recognizes the character, topography and limited access available by narrow Woodholme Avenue.

Half of Petitions cover five to eight acre wooded estates.

4.) The five to eight acre nature of the Alperstein, Wagers, and the two Weinberg tracts illustrates the steep, wooded and estate type nature of this area.

Single means of access, winding Woodholme Ave. to Old Court Rd.

5.) The sole means of access to this area is narrowing, winding, Woodholme Avenue leading solely to Old Court Road to the south.

Woodholme Estates developed at D. R. 2 Density.

6.) Woodholme Estates along the east and west sides of Woodholme Way on the north side of Old Court Road represents appropriate large lot, single family, home development in this area.

LAW OFFICES
GORDON, FEINBLATT, ROTHMAN, HOFFBERGER & HOLLANDER
GARRETT BUILDING
233 E. REDWOOD STREET
BALTIMORE, MD. 21202
AREA CODE 301
752-4567

April 7, 1981

Board of Appeals
of Baltimore County
Court House, Room 219
Chesapeake and Washington Avenues
Towson, Maryland 21204

RE: Petition for Reclassification
Alperstein, Herman, Wagers and
Weinberg Properties
Woodholme Avenue
Baltimore County, Maryland
Item #17

To the Members of the Board of Appeals:

Please enter my appearance, on behalf of myself and David M. Paige, as protestants to the referenced Petition for Reclassification. In addition to Notice of Hearings, I would, if possible, like to be informed when the report of the zoning advisory committee is complete.

Thank you for your assistance.

Very truly yours,

Nancy E. Paige

cc: Nicholas Commodari

D. R. 10. 5 represents a five plus fold increase in Density and a four-fold plus increase in traffic.

7.) This multiple party request for D. R. 10. 5 zoning represents a requested five and one-half fold increase in density, and a four and one-half fold increase in traffic. Existing Woodholme Avenue would be completely over-burdened by such dense development.

Decreasing Densities away from Reisterstown Road

8.) The higher densities in this area are located primarily on the Pomona tract to the east; adjacent to the Hilton Hotel and commercial complex, which does not adjoin any of these properties.

Area higher density needs Met by Pomona Development

9.) The higher density residential needs of the area are well served by the nearby Pomona Development, which is exposed to the Beltway and to the Commercial zones and uses including the Hilton complex along Reisterstown Road.

Steep topography, wet areas and stream ruined by D. R. 10. 5 Grading.

10.) The steep topography, wet areas and the stream would all be greatly changed and ruined if these steep, wooded and stream crossed properties were to be regraded for intense and dense D. R. 10. 5 development.

Northwest Expressway and Mass Transit do not cure Access Problems

11.) Neither the Northwest Expressway nor the Mass Transit Line to Owings Mills, both about one quarter mile to the southwest will overcome the fundamental reliance of these properties upon private automobiles all of which must use narrow, winding, Woodholme Avenue to reach Old Court Road.

D. R. 2 equals 72 homes or townhouses or up to 144 Efficiency Apartments

12.) D. R. 2 zoning would allow 73 individual homes or luxury townhouses to be built, and as many as one hundred forty-four efficiency apartments. These 72 to 144 residences could be built at the present D. R. 2 density without completely destroying the wooded, steep and stream-crossed nature of the area.

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD J. COLEMAN
DONALD F. ROGERS
—
BRYAN J. AKMAN

March 2, 1981

IN REPLY REFER TO

Mr. Walter A. Reiter, Jr.
Chairman
Board of Appeals
Baltimore County, Maryland 21204

Re: Petition for Re-Classification of
36.53 Acres +, Woodholme Avenue
Owners: Alperstein, et al

Item # 17

Dear Mr. Reiter:

A Petition to Reclassify the zoning on the above property was filed with the Board of Appeals on February 27, 1981. Pursuant to the provisions of the new Section 2-40.1 of the Baltimore County Code, you will be establishing a schedule for the hearings on all Petitions.

My clients in this request are the several property owners comprising the 36.53 A + involved in this Petition. I would appreciate your consulting me prior to establishing the schedule in order that I may be sure that my clients are available on the hearing date. Your earliest advice as to the tentative scheduling of hearings would be most appreciated.

Very truly yours,

Julius W. Lichter

JWL:lsp

D. R. 10. 5 would change character of area

13.) A five fold increase from D. R. 2 to D. R. 10. 5 would fundamentally change the low density character of this area, and would devalue the nearby neighborhoods of Woodholme Estates and Pine Ridge as well as other neighborhoods on both the north and south sides of Old Court Road.

Adopted Master Plan shows low density residential development for all properties

14.) The adopted Baltimore County Master Plan Land Use Plan shows all of the subject properties in a low-density residential category, i. e., one to four dwelling units per acre, in accord with the D. R. 2 Zoning adopted by the County Council in 1980.

Recent Water Service and Sewer Service known to the County Council in 1980

15.) The recent provision of a twelve inch sanitary sewer in parts of Woodholme Avenue inside the Beltway, known as the Mt. Wilson Lane-Woodholme Avenue Outfall Sanitary Sewer, as well as the availability of public water service in the bed of Woodholme Avenue were both well known to the County Council when it adopted D. R. 2 zoning for the subject properties and others in the area at the time of the 1980 Zoning Maps.

Gwynns Falls Sewer System Moratorium and Allocations

16.) The Gwynns Falls Sewer System, of which the sewer along Woodholme Avenue is a part, has long been subject to complete or partial moratorium as to new connections and new flows, and this system is presently under an allocation system which may be terminated by the State as soon as October, 1982.

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD J. COLEMAN
DONALD F. ROGERS
—
BRYAN J. AKMAN

May 21, 1981

IN REPLY REFER TO

Mr. William T. Hackett
Chairman
Baltimore County Board of Appeals
Court House
Towson, Maryland 21204

Re: Petitioner: Jerome S. Alperstein, et al
Item No. 17 Cycle 1 - April-October, 1981

Dear Mr. Hackett:

Mrs. Eisenhart has advised me that the Board has tentatively scheduled the cases in Cycle 1 and that the above captioned case has been tentatively scheduled for the week of November 9, 1981. I have today advised my clients by mail of the tentative date in order that I be certain that they can be present at the time of the hearing. I have advised them to notify me promptly of any difficulty with the tentatively scheduled date. I will be in touch with you shortly to advise as to whether the date is mutually convenient for the applicants.

Very truly yours,

Julius W. Lichter

JWL:lsp

Newton A. Williams
Nolan, Plumhoff + Williams

On behalf of
Pine Ridge Assn.
& various Protestants

PROBLEMS WITH PROPOSED D.R.10.5 ZONING
FOR THE ALPERSTEIN AND OTHER TRACTS - ITEM 17
FIRST CYCLE - APRIL TO OCTOBER, 1981

Long established low density, residential area

1.) These larger acreage estate properties located along the section of Woodholme Lane cut off by the Beltway are part of a long-established, low density residential area.

Screened from Beltway and Railroad by Woods & steep topography.

2.) These properties are screened from the Beltway by their steep topography and largely wooded in character, and they have long existed near their neighbor to the southwest, the Western Maryland Railroad.

At least seven acres 1980 Map Issue, 2-107

3.) At least one-fifth of this request was covered by 1980 Map Issue, 2-107, and, thus, this long existent, low density, estate area was specifically considered by the Council in 1980, and the D. R. 2 zone adopted by the Council recognizes the character, topography and limited access available by narrow Woodholme Avenue.

Half of Petitions cover five to eight acre wooded estates.

4.) The five to eight acre nature of the Alperstein, Wagers, and the two Weinberg tracts illustrates the steep, wooded and estate type nature of this area.

Single means of access, winding Woodholme Ave. to Old Court Rd.

5.) The sole means of access to this area is narrowing, winding, Woodholme Avenue leading solely to Old Court Road to the south.

Woodholme Estates developed at D. R. 2 Density.

6.) Woodholme Estates along the east and west sides of Woodholme Way on the north side of Old Court Road represents appropriate large lot, single family, home development in this area.

D.R.10.5 represents a five plus fold increase in Density and a four-fold plus increase in traffic.

7.) This multiple party request for D.R.10.5 zoning represents a requested five and one-half fold increase in density, and a four and one-half fold increase in traffic. Existing Woodholme Avenue would be completely over-burdened by such dense development.

Decreasing Densities away from Reisterstown Road

8.) The higher densities in this area are located primarily on the Pomona tract to the east; adjacent to the Hilton Hotel and commercial complex, which does not adjoin any of these properties.

Area higher density needs Met by Pomona Development

9.) The higher density residential needs of the area are well served by the nearby Pomona Development, which is exposed to the Beltway and to the Commercial zones and uses including the Hilton complex along Reisterstown Road.

Steep topography, wet areas and stream ruined by D.R.10.5 Grading.

10.) The steep topography, wet areas and the stream would all be greatly changed and ruined if these steep, wooded and stream crossed properties were to be regraded for intense and dense D.R.10.5 development.

Northwest Expressway and Mass Transit do not cure Access Problems

11.) Neither the Northwest Expressway nor the Mass Transit Line to Owings Mills, both about one quarter mile to the southwest will overcome the fundamental reliance of these properties upon private automobiles all of which must use narrow, winding, Woodholme Avenue to reach Old Court Road.

D.R. 2 equals 72 homes or townhouses or up to 144 Efficiency Apartments

12.) D.R. 2 zoning would allow 73 individual homes or luxury townhouses to be built, and as many as one hundred forty-four efficiency apartments. These 72 to 144 residences could be built at the present D.R. 2 density without completely destroying the wooded, steep and stream-crossed nature of the area.

Aerial photographs and other exhibits in the possession of the Board will show that these properties are of a beautiful, unique and irreplaceable nature in the Pikesville area.

As was pointed out in the course of testimony, some of these properties are to some extent impacted by the Baltimore County Beltway, but of course, Doctor Weinberg at the time the Beltway right of way was either condemned or purchased from him was required by law to be fully and fairly compensated for both the in fee taking of part of the right-of-way, as well as for any consequential damages sustained as a consequence of the Beltway's construction. Indeed, Doctor Weinberg and his wife Edith lived on the property for many years, and it is only since Edith's death in relatively recent years that Doctor Weinberg has changed from an opponent of rezoning to a proponent of rezoning due to his desire to sell the property.

Scaling the width of paving on Woodholme Avenue on the Petitioners' own plat entitled Woodholme Group, dated February 20, 1981, it is evident that Woodholme Avenue traces an extremely circuitous course, and in many places is not over 15 feet in width, with atleast one very hazardous almost right angle bend at the point where Woodholme Avenue turns northward away from the Western Maryland Railroad track and proceeds in a generally northerly direction past the Herman, Wagers, Alperstein and terminates at the Weinberg property. Furthermore, these Petitioners cannot assure this Board or Baltimore County that Woodholme Avenue would be improved, since they do not own either the Tucker or the Feinberg properties on the north side of Woodholme Avenue a short distance from Old Court Road, an impassable bottleneck to widening. Furthermore, Mr. Feinberg is specifically protesting this application, and is unwilling to sell a necessary widening strip to these Petitioners which would bring thousands of automobiles past his home daily.

D.R. 10 5 would change character of area

13.) A five fold increase from D.R. 2 to D.R. 10.5 would fundamentally change the low density character of this area, and would devalue the nearby neighborhoods of Woodholme Estates and Pine Ridge as well as other neighborhoods on both the north and south sides of Old Court Road.

Adopted Master Plan shows low density residential development for all properties

14.) The adopted Baltimore County Master Plan Land Use Plan shows all of the subject properties in a low-density residential category, i.e., one to four dwelling units per acre, in accord with the D.R. 2 Zoning adopted by the County Council in 1980.

Recent Water Service and Sewer Service Known to the County Council in 1980

15.) The recent provision of a twelve inch sanitary sewer in parts of Woodholme Avenue inside the Beltway, known as the Mt. Wilson Lane-Woodholme Avenue Outfall Sanitary Sewer, as well as the availability of public water service in the bed of Woodholme Avenue were both well known to the County Council when it adopted D.R.2 zoning for the subject properties and others in the area at the time of the 1980 Zoning Maps.

Gwynns Falls Sewer System Moratorium and Allocations

16.) The Gwynns Falls Sewer System, of which the sewer along Woodholme Avenue is a part, has long been subject to complete or partial moratorium as to new connections and new flows, and this system is presently under an allocation system which may be terminated by the State as soon as October, 1982.

As the Board knows, at the very least the Alperstein property was a specific issue on the 1980 zoning maps and was identified as map issue 2-107. Thus, these properties were not hidden under a bushel, and Mr. Huddles and other members of the Council were well aware of their presence, and specifically reaffirmed and affirmed their DR.2 zoning.

REVIEW OF PETITIONERS' POINTS

After over 17 years of experience in Baltimore County zoning matters, as counsel for the Protestants, we must say that while we are familiar with certain portions of Baltimore County that for various reasons are appropriate for high density development, this is not one of them. These properties are not now suitable, and in our considered opinion will never be suitable for high density development on the order of DR 10.5, as sought by the six landowners involved. As previously stated, these properties form an isolated and very attractive island of estate and low density properties.

After listening to the testimony of Doctor Paige, and the testimony of Nancy Blacker, we are by no means persuaded that if interest rates abate, and the economy improves, that the Weinberg, Alperstein, Wagers and other properties making up this Petition cannot be sold for their present low density estate type uses. Both the Paiges and the Blackers represent professional persons who believe that multiple acreage properties, inside the Beltway and convenient to Pikesville can be, and are still attractive and fine places to live. We would respectfully submit that no valid conclusions as to the salability and usability of these properties can properly be drawn in one of the most oppressed real estate markets in the second half of the twentieth century.

PETITION FOR RECLASSIFICATION N/S OF WOODHOLME AVENUE 145' W OF OLD COURT ROAD	*	BEFORE THE Newton Williams For Pine Ridge Improvement Assn. et al COUNTY BOARD OF APPEALS
	*	FOR BALTIMORE COUNTY
JEROME S. ALPERSTEIN MARIAN ALPERSTEIN, wife BONNIE HERMAN HAMENT DENNIS HERMAN ROBERT P. WAGERS JEAN WAGERS, wife E. DAVID WEINBERG, M.D.	*	CASE NO. R-82-76, Item 17 CYCLE 1, April to October 1981
Petitioners	*	

* * * * * * * * * * * * * *

PROTESTANT'S REPLY MEMORANDUM

Various protestant's, as individuals and as members of the Pine Ridge Improvement Association, by their attorneys Newton A. Williams and Nolan, Plumhoff and Williams, Chartered, respectfully offer this Protestant's Reply Memorandum for the consideration of the County Board of Appeals in the above-entitled matter.

THE SUBJECT TRACTS

As pointed out by the Petitioners, this reclassification case involves a total of 36.53 acres comprising the 8.19 acre Weinberg tract, the 5.94 acre Weinberg tract, the 6.98 acre Alperstein tract, the 6.84 Herman-Hament tract, and the 4.2 acre Wagers tract. All of these are contiguous tracts forming a very charming, secluded, and difficult access enclave, with the Baltimore County Beltway as its northern, northwestern, and western borders, various tracts including the Pomona tract, the Paige property, the Blacker property, and various properties along Peachtree Court as the eastern boundaries, while the Tucker property and the Feinberg property form part of the southern boundary. The balance of the southern boundaries of this enclave is formed by Woodholme Avenue, a narrow, winding barely two lane road, as well as the long existent right-of-way of the Western Maryland Railroad.

THE MASTER PLAN

The Petitioners and their counsel have spoken at great lengths during the case, and in their Memorandum with regard to the Baltimore County Master Plan. First of all, it should be recalled that that portion of the Master Plan entitled "Baltimore County Master Plan Land Use Plan," which was offered as Protestants' exhibit _____, specifically shows the subject properties and other properties on both sides of Old Court Road in a low density residential classification. The Land Use Plan specifically indicates that low density means one to four dwelling units per acre, and we would submit that two units per acre is precisely in the mid-range of the Plan recommended by the outside consultants, and adopted by the Planning Board, although never formally adopted by the Council. Whether or not the Northwest Expressway is built, and whether or not a mass transit station is placed approximately one-half mile away, a very difficult walk, the access to these properties is terrible. Furthermore it is not susceptible of significant improvement due to the fact that the Beltway has cut off to the North, the Western Maryland right-of-way has cut off to the South, and the only way out is narrow, winding, Woodholme Lane, with the Feinberg property and other properties at the mouth of the bottle choking the access.

The most specific, and definitive part of the Master Plan which the Petitioners have repeatedly pointed to specifically indicates by a yellow coloration that, while appropriate for DR zoning it is only appropriate for one to four units per acre. With this conclusion of low density suitability we heartily agree, due to the difficult access, the wooded nature of the property, the presence of the stream, and the difficult grades and natural beauty of the area.

These properties, hereinafter called the Petitioners' properties, are located in an older, low density residential section of Pikesville, and their sole means of access is narrow, winding, barely two lane Woodholme Avenue leading to Old Court Road.

As the Board is well aware from various exhibits, much of this property has very steep, wooded grades, while the great majority of the property is in fact covered by woods, except those portions which have been cleared for the Weinberg home, the Wagers home, the Alperstein home, and the Herman tract is vacant.

This low density, estate area was isolated from the balance of Woodholme Lane outside the Beltway, when the Baltimore County Beltway was constructed and opened in the summer of 1962.

The Petitioners' site plan shows the presence of an existing sanitary sewer which generally follows Woodholme Avenue, and the small stream which parallels it for quite a distance, and then passes under the Western Maryland Railroad right-of-way and track to reach the Gwynns Falls to the southeast. This sewer has only been built in recent years, and was built according to Mr. Thaler's testimony to relieve failing septic systems in the area outside the Beltway. Although this sewer may have sufficient capacity for more intensive developments of these properties, the Board is well aware of continuing problems in the Gwynns Falls drainage area of which this property is a small portion. Furthermore, the existence of this sewer was well-known to the Council prior to the passage of the 1980 comprehensive zoning maps, since, indeed, the Council must approve every sewer extension, and approved this extension during its regular course of business in a year prior to the comprehensive maps.

PETITIONERS' CLAIMED CHANGES IN THE NEIGHBORHOOD

At pages 10 and 11 of the Petitioners' Memorandum, Counsel for the Petitioners recounts some nine claimed neighborhood points which militate in favor of DR 10.5 zoning, and taking them point by point we would respectfully point out to the Board as follows:

1. As to the presence of the Brittany Apartments in the DR 16 zone to the west of Greenwood Road, these apartments have been in place for many years, and indeed provide part of the high density housing stated to be appropriate for the nearby transit station of which we have heard so much about.

2. Admittedly there is ML zoning on the southwest side of the Western Maryland Railroad, but this zoning is insulated from the subject properties by the presence of the Western Maryland right-of-way, and by the presence of the extensive tree cover on the property which the Petitioners would, of course, be required to destroy in large part in order to accommodate DR 10.5 homes. Once again this manufacturing zoning has long been located in the area, and indeed, parts of it appear to antedate atleast the Wagers and Alperstein homes, if not the Weinberg home.

3. The Western Maryland Railroad has been located in its present location adjacent to these estate type properties since atleast the beginning of the present century or before, and can in no way be claimed as a change in the neighborhood, when in fact it is an insulating barrier with very little rail traffic utilizing it.

4. The Baltimore County Beltway is not a change in the neighborhood, since it was opened in August of 1962, in this area, and at the very least the owners of the Weinberg property were compensated by the State Highway Administration for the

Beltway's location at this point; and in all probability the owners of the Wagers' property were also compensated at the time the right-of-way was either acquired by negotiation or condemnation.

5. Admittedly this property is fairly close to the intersection of Reisterstown Road and the Beltway at the Hilton Hotel Complex, but traditionally this has been one of the most seriously congested intersections in all of Baltimore County; and even if over 400 DR 10.5 homes could get proper access to Reisterstown Road, the intersection of the Beltway and Reisterstown Road cannot offer these residents good service.

6. The Pomona property which bounds one portion of the Weinberg property for less than 500 feet is thoroughly insulated from the adjoining Paige and Weinberg properties by the very effective covenants, which specifically restricted building in a sanitary strip or buffer strip between the Pomona townhouses and the Weinberg and Paige properties. Furthermore, as the Petitioners point out, the provision of eight units to the acre on the Pomona property also meets much of the high density zoning claimed to be appropriate for this area convenient to the transit station, and it should also be noted that the Pomona property has direct access on to Reisterstown Road and on to Old Court Road far superior to these properties.

7. The widening of Old Court Road was accomplished many years ago, and of course is not a change in the neighborhood, and is of little use to these properties due to the inadequate and single access offered by Woodholme Avenue, their only point of access to this widened road. Furthermore, the Board heard quite a bit of testimony about traffic problems in the afternoon particularly, about the inability of neighborhood residents to get in and out of both Woodholme Avenue and Woodling Way; including the total inability of this intersection

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

the subway system become in fact a reality, if indeed they do.

6. As for the "special development opportunities" which are offered by Highway Interchanges, and Mass Transit Stations, once again we agree, as a general principle, but we violently disagree when applied to these particular properties for the reason set out at great lengths hereinabove. Furthermore, we would point out to the Board, that scaling the Petitioners' own site plan from the Baltimore County Beltway right-of-way at the end of Woodholme Avenue (which is the primary access point for the 8.19 acre Weinberg property which extends another 1,000 feet to the northeast,) it is 2,300 feet or four-tenths of a mile to Old Court Road following the course of Woodholme Avenue and that they are no sidewalks whatsoever along Woodholme Avenue, at all. Once Old Court Road is reached, it is then another 1,000 feet along Old Court Road to the access point for the parking lot for the Transit Station and not for the Transit Station itself, thus we are already up to 3,300 feet, and counting. In summary, it is on the order of three-quarters of a mile to a mile from many points on the Weinberg property, and one-half mile to three-quarters of a mile from the Herman property and the Alperstein property to the transit station. By no means is this a walking distance figure. Thus, the Petitioners announced goals of having extensive foot traffic to and from the Transit Station from the 400 plus homes they would propose on these properties is impracticable for most walkers, and, indeed, is completely unreasonable to expect persons to walk such a distance in the winter time or during a rainy spring or cold fall, or in darkness.

7. We agree that Pikesville is identified as a county community, and we agree that the subject site is within the Pikesville community. However, the Pikesville Revitalization Plan and the testimony of Mark Dopkin, Esquire, a member of

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

to service the 4,000 trips per day that DR 10.5 development would bring.

8. As to the Northwest Expressway, once again whether this expressway is built or not, there is no way that even a widened and improved Woodholme Avenue (which is not a possibility as long as the Feinbergs retain their home at the mouth of the bottle neck,) could reach the northwest expressway whether it is built or not.

9. As to the extension of the subway system from Reisterstown Road Plaza to Owings Mills, once again, this was known to the Council in 1980, and is not a change in the neighborhood. Furthermore, this transit station and the 500 car parking lot which services it is a very long walk from the subject properties, since it would be necessary to completely follow long and winding Woodholme Avenue out to Old Court Road, and then proceed southwesterly on Old Court Road to the vicinity of the transit station, and in all probability many users would utilize a car even for this trip.

Thus, it can be seen that none of the nine neighborhood changes are in fact changes in the neighborhood in the zoning sense of the word, since they were all known to the Council when it acted in 1980, and they could be made known to the Council once again in 1984 when it again undertakes comprehensive zoning maps for Baltimore County.

THE MASTER PLAN GOALS AND OBJECTIVES

At pages 12 and 13 of the Petitioners' Memorandum, Counsel for the Petitioners sets out some ten goals enumerated in the Master Plan, and with regard to the subject properties involved in this case, we would point out the following:

1. The first goal stated states "The pace of development in existing communities be limited if public facilities are

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

the Pikesville group that generated the Plan clearly indicates that the subject properties are not within the area designated for higher densities close to Reisterstown Road along Old Court Road to the northeast.

8. Indeed, Pikesville like other Baltimore County communities within the urbanized area, will experience continued growth, and certainly the subject properties should accept a reasonable share of this growth. A review of the Petitioners' site plan indicates that at the present time although there are some five properties included in the Petition, only three of them are improved by homes, namely, Doctor Weinberg at 1711, Doctor Alperstein at 1701 and Doctor and Mrs. Wagers at 1700 are actually improved with houses. Thus, with 36.53 acres available which would allow a total of 73 homes, the area under its present zoning without any change whatsoever is legally zoned to accept an additional 70 homes. Unfortunately, even 70 more homes would vastly overload narrow, winding Woodholme Avenue, but, nevertheless, the County Council saw fit to allow such zoning, and it is available to accommodate additional Pikesville growth.

9. Indeed the Master Plan's Transportation Element does encourage more intense development in the vicinity of transit facilities, including Transit Stations, but once again such growth can only take place where the other necessary factors including open land, reasonable topography, reasonable transportation possibilities, adequate public water and sewer, as well as other necessary public services are all available. By no means are they available to service 400 homes on the subject properties.

10. The final goal recounts that school populations in the Pikesville area are declining, and we agree, that 70 additional homes under the present DR 2 zoning could be built to help stem this falling utilization of schools, without a

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

(103)

substantially inadequate, but to encourage residential and other development where appropriate and where such development would strengthen such communities." We would submit and it is overwhelmingly supported by the evidence that the transportation facilities, particularly, but not only, Woodholme Avenue are completely inadequate even to properly serve this area if it were developed under its present density for 72 homes, much less the over 400 that we would be permitted under the completely inappropriate DR 10.5 zoning requested. Furthermore, DR 10.5 development on these estate type properties would not strengthen the Pikesville community, but, rather, it would bring such traffic congestion and other problems as to completely disrupt this area of Pikesville and Old Court Road already heavily developed and heavily used.

2. We would disagree that steep slopes are already suitably addressed in the development review process in Baltimore County; and we can say that areas like this one that are beautiful, wooded and with steep slopes and a beautiful natural stream cannot be solely protected through the development process alone. Another means of protection, and indeed a more appropriate one, is the imposition of appropriate densities on the zoning map to assure that these valuable resources which are in very short supply inside the Beltway particularly are preserved and enhanced. We would respectfully state that the DR 2 zoning repeatedly placed on this property by the Council in at the very least 1976, and again in 1980 serves these important preservation goals.

3. Indeed, as is set out at great length in the Petitioners' Memorandum, as a general objective of good planning higher densities near mass transit facilities, including mass transit stations are a worthy objective which should be pursued. However, when we encounter a unique set of contiguous properties

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

complete rape of the land inherent in DR 10.5 zoning.

FAILURE TO PROVE CONFISCATION

While confiscation is a concept often discussed in zoning law, it is nevertheless a very rare animal rarely seen, and almost never captured. In order to prove confiscation, the Petitioners must prove that the subject property cannot be used either for the 73 homes that it is zoned for at present under its present DR 2 zoning, nor for any of the other uses allowed as a matter of right or by special exception in the DR 2 zone. Needless to say the Petitioners' very weak and unsubstantiated testimony of a general nature to the effect that the wooded character of the area of the steep slopes, etc. preclude DR 2 development, are not sufficient evidence upon which this Board could find, or indeed should find that a confiscation has occurred as set out in zoning law, nor was confiscation proved as a matter of fact.

ZONING BY PLEBISCITE HAS NOT OCCURRED IN THIS CASE

Again, Counsel for the various Protestants would agree with the general proposition that land is not to be zoned by plebiscite, as stated at many places in our zoning law, including but, not only, Board of County Commissioners vs. Oakhill Farms, 192 A. 2d 761. First of all, there was no evidence to the effect that the various Protestants and residents of this area have been anything other than reasonable opponents of a change to high density zoning, and there has been no undue pressure placed either on this Board, nor on Mr. Huddles and other members of the Council either in 1976 or 1980. We are certain that Mr. Huddles did not count heads, and then decide that there were more persons who favored the retention of DR 2 zoning, than who favored a change, but rather he and his fellow members of

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

such as these properties, there are numerous other factors that come into play, including the long established estate, low density character of the area, the attractive wooded open-space with a stream in reasonably good condition for a stream in an urban area, as well as the established low density character of the Pine Ridge area on the southeast side of Old Court Road, and the attractive homes in Woodholme Estates off of Woodling Way and Peachtree Court, as well as the estate type properties owned by Doctor and Mrs. Paige and owned by Mr. and Mrs. David Blacker. We are certain that if Counsel for the Petitioners would carefully review the area within a one mile radius of the transit station, that there are a number of vacant properties far better suited for more intensive development than are the subject properties in this case.

4. The fourth goal, quoted at page 13, calls for "moderated growth" in existing communities where land changes are not recommended due to a lack of increased public investment spending. While indeed a great deal of money will be spent on the Northwest Expressway, the subway system, and the transit station at Old Court Road, no funds whatsoever are allocated to overcome the fundamentally inadequate transportation possibilities posed by narrow, winding one and one half lane Woodholme Avenue which must first serve these properties before Old Court Road or any other major area street are reached.

5. The fifth goal is stated as being a goal to discourage premature development, and we would respectfully point out that all of the testimony in this case points to the presence of the transit use being available sometime after 1985, and there is more than adequate time to deal with the subject properties on the 1984 comprehensive zoning maps, and once again in 1988, once the exact extent of improved transportation facilities offered by the Northwest Expressway, and offered by

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

the Council made an informed decision based upon all of the evidence presented by the Alpersteins as a part of their 1980 map issue, 2-107. Indeed, the log of issues shows that the 7.01 Alperstein property drew only two comments at the County Council hearings, and a total of eight letters, of these two comments for a DR 5.5 zone for the area rather than a DR 10.5 zone as requested in this case, one supported and one opposed DR 5.5 on the 1980 maps. At the County Council a total of eight persons took the time to write to the Council in opposition, surely not an overwhelming plebiscite or pressure situation. It should be borne in mind that the Council considered the key, central 7 acre Alperstein property for DR 5.5, and after appropriate and thorough recommendations and considerations, the County Council at Mr. Huddles suggestion chose to concur with the Planning Staff and Planning Board and retain DR 2 on the property.

Furthermore, the Board is well aware of the conduct of all of the parties that appeared before the Board, and in no sense were the various residents of the area who are protesting this application unreasonable, unruly, nor did they wave signs or otherwise picket the Board, and certainly they did no such thing in 1976 to the Council or in 1980 at the Council level. Rather than being zoning by plebiscite, the Protestants respectfully submit that the Council after looking at this property in 1976, and again in 1980, found that it should remain in its present DR 2 zoning. Furthermore, it is our understanding that, in fact, Doctor Weinberg before he decided to move from the property following the death of his wife, was an opponent of a reclassification to a higher zone, and it is only since Doctor Weinberg has decided to sell his properties that he has decided to back and seek high density zoning.

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

FEB 1

SUMMARY AND CONCLUSION

In summary, while the Petitioners have cited numerous cases, they have not cited one case which is apposite either as to the facts or as to the law when applied to these properties. Furthermore, it is quite evident that the Petitioners and their Counsel have done their homework with regard to the various textual elements of the Master Plan, and the various textual elements of the Transit Station studies which have occurred over the years, but none of these studies support high density zoning for these particular properties. In fact, the Land Use Plan of the Master Plan which is the most specific as to particular properties clearly identifies all of the subject properties in area to remain in a low density, that is a density of one to four units per acre. Clearly a DR 2 zone is precisely within the low density range, and is reasonable both to the neighbors and to the landowners.

Rather than acting contrary to the Master Plan, or any element thereof, the Council's action after being specifically requested for DR 5.5 zoning on the Alperstein property in map item 2-107 in 1980, represents a reasonable and considered response to the realities of the area including the beautiful, wooded character of the area, its steep and beautifully wooded grades, the stream which passes through the property, and its isolated nature insulated by its wooded character and the natural topography of the land from the Beltway, from the Western Maryland Railway, and from Old Court Road.

We would respectfully ask this Board not to disturb the carefully considered DR 2 zoning which was placed on this property atleast twice by the Council in the 1970's, namely 1976 and 1980, but rather to defer to the Council which will again work on comprehensive maps during 1983 and 1984, and will then

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

be in a position if a change in any way is appropriate to respond to that need. By the Petitioners own evidence, the much heralded Transit Station, Northwest Expressway, and subway link, will not be open until sometime after 1985, and more likely 1986 or 1987, and thus the 1984 maps, and the 1980 comprehensive zoning maps are an appropriate time to respond in a comprehensive manner to these highway and subway changes, if indeed they do take place. For all of these reasons we respectfully request the Board to retain the well considered and very appropriate DR 2 zoning on the property, and to reject the requested reclassification to DR 10.5, or any other high density zone.

Respectfully submitted,

Newton A. Williams

Newton A. Williams
Nolan, Plumhoff & Williams,
Chartered
204 W. Pennsylvania Avenue
Towson, Maryland 21204
Telephone: (301) 823-7800

I HEREBY CERTIFY that on this 12th day of March, 1982, a copy of the foregoing Protestant's Reply Memorandum was hand delivered to Julius W. Lichter, Esquire, 113 Chesapeake Building, 305 W. Chesapeake Avenue, Towson, Maryland, 21204, Counsel for the Petitioners, Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland, 21202, John W. Hessian, II, Esquire, People's Counsel, Room 223 Court House, Towson, Maryland, 21204.

Newton A. Williams

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

Nancy Paige For
Nancy & Allen Husband

PETITION FOR RECLASSIFICATION	*	BEFORE THE
N/S OF WOODHOLME AVENUE	*	
145' W OF OLD COURT ROAD	*	COUNTY BOARD OF APPEALS
JEROME S. ALPERSTEIN	*	
MARIAN ALPERSTEIN, wife	*	FOR BALTIMORE COUNTY
BONNIE HERMAN HAMENT	*	
DENNIS HERMAN	*	
ROBERT P. WAGERS	*	CASE NO. R-82-76, Item 17
JEAN WAGERS, wife	*	CYCLE 1, April to
E. DAVID WEINBERG, M.D.	*	October 1981
Petitioners	*	

* * * * *

POST HEARING MEMORANDUM
ON BEHALF OF NANCY AND DAVID PAIGE, PROTESTANTS

I. STATEMENT

Applicants, owners of several properties which aggregate approximately 36 acres, have sought an interim rezoning of their various properties from DR2 to DR10.5. The properties in question have been zoned DR2 since the adoption of density residential zoning in Baltimore County in 1971. This zoning was most recently reaffirmed in the 1980 cyclical comprehensive rezoning. One of the properties, the Alperstein property, has been the subject of at least three other applications for rezoning. It was an issue on the 1971, 1976 and 1980 (Issue #2-107) rezoning maps. On each occasion, the request for increased density was rejected by the County Council, and the present DR2 zoning was retained.

The only bases upon which this Board has power to grant the requested zoning reclassification are upon findings, either "that there has occurred a substantial change in the character of the neighborhood in which the property is located, since the property was last classified, or that the last classification of the

Nor have the applicants carried their onerous burden of proving error in the existing zoning. The record is replete with exhibits and testimony that DR2 zoning is consistent with and appropriate to the surrounding area; the applicants themselves have offered evidence to support this contention. Mrs. Wagers and Dr. Weinberg both live in homes similar to those nearby. Both agreed that part of the attraction of their homes was the quiet rural surroundings. Dr. Weinberg testified that the beltway has detracted from the value and enjoyment of his home - but he has continued to live there for 20 years since the beltway was built. Mr. David Thaler, an expert called by the applicants, admitted that the property is physically suitable for single family homes or townhomes, and that these could have been built 3 to 5 years ago. However, the "market of the 80's", in his opinion, has made single family homes uneconomic - anywhere! His argument was not that this property is unsuitable for low density development, but that no property in Baltimore County is suitable for such development. Clearly he proves too much. If DR2 zoning is to be eliminated in Baltimore County or even this part of Baltimore County, such a radical change is a legislative judgment and should be part of a comprehensive evaluation, not piecemeal change for these properties alone.

Additionally, Mr. Thaler offered no economic detail to support this opinion. "The opinion of an expert [assuming, arguendo, Mr. Thaler's expertise on "the market of the 80's"] that there was error in the original or comprehensive rezoning is not evidence substantial or strong enough to support a finding of original error unless the reasons given by the expert as the basis of his opinion, or other supporting facts relied on by him, are in themselves substantial and strong enough to do so." Coppolino v. Bd. of Appeals, 23 Md. App. 358, 371 (1974).

property was established in error." Bill No. 46-75. Baltimore County Code § 2-58.1(j)1. The Board, in addition to finding that there was a change in the neighborhood or an error of zoning, must also find that the requested reclassification is warranted by that change or error. Id. The present zoning, retained as part of a comprehensive rezoning of Baltimore County in 1980, carries a strong presumption of validity, and the applicant, who seeks to overcome this presumption carries a heavy burden. Iverson v. Zoning Board, 22 Md. App. 265, 268 (1974); Montgomery County v. Horman, 46 Md. App. 491; 495 (1980); Stump v. The Grand Lodge of Ancient, Free and Accepted Masons of Md., 45 Md. App. 263, 269 (1980); McBee v. Balto. Co., 221 Md. 312, 316-17 (1960).

For the reasons set forth below, these protestants submit that the applicants have totally failed to meet their legal burden or to justify the change they request.

II. FACTS

The subject properties are located on Woodholme Avenue, south of the beltway and north of Old Court Road. Woodholme Avenue, a narrow, winding road, reaches a dead end at the beltway, and there is no other means of ingress and egress to any of the properties.

The subject properties form a rough arc along Woodholme Avenue. Except for a small triangle located at the corner of Woodholme Avenue and Old Court Road, the properties in question are each improved by the substantial private residences of the applicants, located on large lots.

Within the described arc is the residential development known as Woodholme Estates, which includes the homes of Dr. & Mrs. Stewart Rosenberg, Mr. & Mrs. Ronald Prihodha, and Mr. & Mrs. Simon Goldseker, protestants, and in addition, the homes of David and Nancy Blacker, and David and Nancy Paige, who are also protestants.

The decision of the County Council to retain DR2 zoning for the subject properties, far from being erroneous, is well-supported by facts in the record. This zoning is consistent and harmonious with the surrounding community. Higher density is precluded by inadequate access. No feasible means was demonstrated for providing a second means of access, deemed necessary by the fire department for safety in higher density development. Though several imaginative suggestions were made, all required crossing property owned by others. There was no evidence that applicants had the right or could acquire the right to do this.

There was also voluminous and unrefuted testimony that because Old Court Road narrows from four to two lanes just west of the intersection of Woodholme Avenue, this intersection, as well as the entrances to Harden Lane, Woodling Way and the Paiges driveway are frequently blocked by cars waiting for the light at Greenwood and Old Court Roads. The Department of Traffic Engineering (report of March 30, 1981) estimates that at 10.5 units per acre, this site would generate 4,020 trips per day. The site presently generates 65 trips. The present residents testified that they wait many minutes to get out of their streets onto Old Court Road. Until an improvement is made in the present bottleneck, it is inconceivable to permit the addition of 4,000 more trips to this situation!

The zoning enabling act mandates that zoning maps and regulations "shall be designed to reduce congestion in the roads, streets and alleys, to promote safety from fire, panic and other dangers...." (Emphasis added). Baltimore County Code, § 22-19. The evidence presented on lack of access and traffic congestion was in itself sufficient to preclude the requested five-fold increase in density sought.

As described by several of the witnesses, particularly Dr. Paige, the subject properties are part of a geographical enclave, which is formed by the naturally wooded buffer along the Paige driveway and property on the east, the beltway on the north, the Western Maryland Railway on the west, and Old Court Road on the south. This enclave has been zoned for single family homes as long as there has been zoning in Baltimore County, and has been zoned DR2 since 1971. Not only is it zoned for single family homes, but it has been developed and occupied as individual residences for that entire time. There was no evidence of any change whatever, in the character of this intact community presented at the hearing.

The beltway, of course, has been in place for approximately 20 years. The Western Maryland Railway was there before that. According to the testimony of Ray Feinberg, one of the protestants whose property is located on Woodholme Avenue adjacent to the subject property, heavy commercial uses have existed on the far side of the railroad since before his home was built, about 20 years ago. The railroad, however, forms a natural boundary line, and the homes on the east side of the tracks are well buffered by natural wood land.

The most significant new development in this general area in recent years is Pomona, a garden apartment complex nearing completion which was constructed on the Hutzler estate lying between Reisterstown Road and the Paige property. The present zoning of Pomona was incorporated into the 1976 comprehensive zoning maps. Construction began shortly thereafter, and large portions of the development were complete as of the adoption of the 1980 comprehensive zoning map. As was discussed at great length at the hearing, Pomona was developed subject to extensive covenants between the Pine Ridge Association and various residents, including

the Paiges. The covenants, which are part of the record in this case, impose stringent restrictions on the property, most significant of these being the establishment of a buffer zone between 400 and 600 feet around the perimeter. The natural woods within the buffer along the western boundary, the boundary adjoining the Paige and Weinberg properties, are to be maintained and supplemented as necessary, and in addition, an earthen berm is required, further buffering the adjacent properties. The density of development at Pomona is restricted to approximately 7.5 units per acre, notwithstanding that the overall zoning of the entire tract would permit a higher density. (It should be noted, also, that roughly a third of the Pomona tract remains in the DR2 zoning category.) As was well illustrated by photographs offered by the protestants, because of the maintenance of a broad swath of untouched terrain along Old Court Road and sweeping uphill adjacent to the Paige property, the development of Pomona has stabilized and preserved the rural character of the area surrounding the neighborhood of the subject properties, and further emphasized the geographical limits of this neighborhood.

Thus, as described by Dr. Paige, the subject properties, and their neighbors, form a natural and consistent enclave of high quality homes, many on large multi-acre lots, geographically and visually separated from surrounding properties and development.

III. ARGUMENT

A. "Change or Mistake"

As noted above, the requested rezoning is subject to the so-called "change or mistake rule." There is no serious claim of change in this neighborhood. Indeed that is no basis for such a claim - the neighborhood in which the subject properties are located has been virtually the same for at least 10 years, and perhaps longer.

FEB 1 '82

Rezoning to high density would be classic illegal spot zoning, i.e., "arbitrary and unreasonable devotion of [a] small area to a use inconsistent with the uses to which the rest of the district is restricted, and made for the sole benefit of the private interests of the owner." Hewitt v. Baltimore Co., 220 Md. 48, 58 (1958). Mrs. Wagers, herself, testified that she had opposed prior applications for an increase in density on the Alperstein property for this reason. Whereas the existing zoning pattern has defined boundaries, there is no demarcation between the subject properties and neighboring homes which would continue to be zoned DR2. The requested change discriminates against adjacent properties including those on Woodholme Avenue which are not part of the application and would be arbitrarily excluded from the change. Numerous witnesses on behalf of the protestants testified to depreciation of the value and detraction from use and enjoyment of their homes by inconsistent development of the adjacent properties. If the subject properties were developed at the requested 10.5 density, the Paiges, the Blackers, the Goldsekers, the Feinbergs, the Prihodas, the Tuckers, as well as their neighbors who did not testify, would look from the wooded quiet surroundings of their respective homes into an urban density development of close to 400 apartments, literally in their back yards. The photographs of the Paige property and the testimony of the other adjoining neighbors dramatize the incompatible nature of such development.

The applicants argue that they are entitled to the same zoning as Pomona, but their situation is patently different. Pomona fronts on Reisterstown Road, a highly commercial thoroughfare, and abuts the Hilton Inn at the beltway. As restricted by covenant, Pomona is oriented toward Reisterstown Road and is developed at a density substantially lower than that requested.

that the subject property has serious access problems, steep slope and a stream bed, and is totally surrounded by single homes on large lots, similar to those found on the subject property itself. All of this indicated that the subject property was appropriately zoned DR2, and should remain so zoned.

The applicant has made much of the fact that the subject property is in the general vicinity of a proposed mass transit station and has cited general language that "certain areas of the county are particularly well suited for development by their location and relation to major transportation links...", page 4, Land Use Element; that there exist "special development opportunities" in areas near mass transit stations. In the first place it should be noted that the proposed station at Old Court Road is not scheduled to be operational until 1986, two years after the next cyclical comprehensive rezoning (a fact the Council surely knew when it reached its decision on the 1980 maps).

Secondly, the only specific recommendation for zoning near mass transit stations found in the Land Use Element of the Master Plan recommends "adoption of amended zoning patterns designed to limit the dispersal of development best suited for location near mass transit stations in the fringe development area...." The subject property is not in the fringe development area, but in an existing community. Therefore, this specific recommendation doesn't apply.

The only statement cited in the Transportation Element is the general proposition that "higher density development should be encouraged in areas served by adequate mass transit service." Such a general statement can hardly be construed to constitute a prescription that any specific parcel of vacant land must be zoned for high density development. Furthermore, the Baltimore County Master Plan Land Use Map, adopted in July 1979 by the

Pomona was a farm which ended at a natural tree line which has been retained as a demarcation line between it and the community which includes the subject properties. The 600 foot setback along Old Court Road, in which improvements are totally precluded, preserves the natural character of the area. The rezoning of Pomona did not destroy the integrity of a residential enclave, as the requested rezoning would. And, in any event, a very substantial portion of Pomona along Old Court Road is still zoned DR2.

The record so strongly supports the decision that DR2 is correct zoning of this property, that the plebiscite issue raised by applicants hardly merits consideration. Correct zoning does not become invalid because it is supported by those most affected! DR2 is not erroneous; DR10.5 clearly would be.

B. Master Plan Consistency

The applicants' argument that the existing zoning is erroneous because inconsistent with the Master Plan is equally unfounded. The Master Plan for Baltimore County consists of six volumes adopted by the County Council by resolution No. 71-79, November 19, 1979: Section I Physical Development Plan, Part I, Land Use Element; Section II Physical Development Plan, Part II, Transportation Element; Section III Housing and Community Preservation Plan; Section IV Open Space and Recreation Plan; Section V Public Facilities Plan, Part I, Community Services; Section VI Public Facilities Plan, Part II Utilities.

In addition, by resolution 14-81, March 16, 1981, the County Council adopted the Pikesville Revitalization Growth Plan and incorporated it into the Master Plan. However, as shown on the plan map, the subject property is not part of the plan area. The zoning recommendations of the Pikesville Plan refer to areas along the south side of Old Court Road, nearly a half mile east of the entrance to the subject properties. Therefore, the zoning recommendations found in that plan are irrelevant to the matter before

Planning Board (but not the County Council) as part of its Master Plan resolution, and intended to reflect the policies set forth in the text, clearly delineates the subject property as low density residential. Obviously the general language referring to "areas served by adequate mass transit" was not understood by the planners to mean that the subject property should be zoned for high density development.

Mr. James Prost, an expert called by the applicants cited an expectation that residents could walk from this property to the proposed MTA station at Old Court Road, as a basis for his opinion that the property should be zoned for higher density. However, Mr. Theodore Van Buren, Assistant Director of Planning for the MTA testified that the "rule of thumb" walking distance to a transit station is 1,000 feet, and that 2,000 feet is the maximum any passengers are expected to walk. Scaling distances on the plats in the record (corroborated in part by Dr. Paige's testimony) indicates that it is between three quarters and one mile from the Weinberg property to the proposed station, and one half to three quarters of a mile from the other properties. According to their own planner, the MTA does not consider this "walking distance."

Thus, far from being inconsistent with the Master Plan, the present DR2 zoning is totally consistent with the policies and directives of the adopted Master Plan, and applicants' assignment of error for inconsistency with the master plan is unfounded.

C. Confiscation

There were virtually no facts offered by the applicants which mount up to a showing of confiscation, and what testimony was suggestive of this argument was contradicted.

The fact that the applicants, as well as their neighbors, the Feinbergs, Tuckers, and Densons, all live on Woodholme Avenue, in fine, perhaps elegant, homes, belies the contention that the

the Board. The so-called TSADAS (Transit Station Area Development and Access Study) Plan, relied on by witnesses for applicants, has never been adopted by the County Council, and therefore even if there were a specific recommendation for this property in that plan (which there is not) such a recommendation would not be binding on the County Council. Nottingham Village v. Baltimore Co., 266 Md. 339, 354 (1972).

It was agreed by witnesses for both sides that the Master Plan is not "site-specific." Rather, it is a policy statement setting forth goals and objectives which are intended to be considered in the process of the zoning of individual properties. There is absolutely no specific direction in the presently adopted Master Plan of Baltimore County dictating that the subject properties be zoned other than DR2, and none is cited by the applicants. There are numerous generalizations about the direction of growth in the County, but caveats, as well, that zoning should be consistent and harmonious with existing development.

For example, Pikesville, including the subject property, is shown as an "Existing Community" on the map entitled "Growth Areas Through 1990" found at page 10 of Volume I, Land Use Element. At page 13, the plan indicates that "these areas [i.e., "Existing Communities"] are defined on the basis of existing land use, with specific boundaries delineated using major natural or man-made barriers, such as rivers or limited access highways or boundaries of existing zoning districts that correspond to the edges of existing development areas." In the Pikesville area, the beltway is the northern boundary of the designated Existing Community, and the subject property falls within that boundary. The recommended goals for Existing Communities are also found at page 13 and include the following goals:

"To preserve and strengthen the character and identity

properties are "confiscated" if restricted to such use. Mr. Tucker just bought his home, right next door to the Herman property (part of the Application), three years ago. The Blackers bought their home, adjacent to the Alperstein property about five years ago and have spent about $75,000 on major improvements. The Paiges bought their home, which is of a similar character to Dr. Weinberg's and which abuts the Weinberg and Alperstein tracts, about eight years ago and have made improvements, including a swimming pool behind and in sight of Dr. Weinberg's home. Dr. Weinberg's rejoinder is that he has been unable to sell his $500,000 mansion, which, according to Nancy Rosenberg, a licensed real estate salesperson, was on the market for a total of 88 days!

Mrs. Rosenberg also testified as to recent sales of new homes along the beltway directly across from the Weinberg property, as well as near the beltway at Greenspring Avenue, in settings strikingly similar to that of the subject properties.

The applicants have hardly proved that they have been "deprived of all reasonable use of [their] property" by the present zoning. There is thus no showing of confiscation. Rockville v. Stone, 271 Md. 655, 662-664 (1974); Coppolino v. County Board of Appeals, supra., at p. 372.

CONCLUSION

For the foregoing reasons, the applicants have utterly failed to meet their onerous burden of proving that the existing DR2 zoning of their property is erroneous, or that there has been a change in the neighborhood such that a change to DR10.5 zoning, a more than five-fold increase in density on this property, is warranted. Therefore, the application should be denied.

Nancy E. Paige
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
233 E. Redwood Street
Baltimore, Maryland 21202
(301) 752-4567

Pro se, and as attorney for Dr.
David Paige, Protestants

of existing communities, and to assure that new development in existing communities takes form that is compatible with the present character of these communities...". (Emphasis added).

The existing DR2 zoning of the subject property is totally consistent with this planning goal, as shown by the extensive testimony of those people who live in the area adjacent to the subject property, concurred in by James Hoswell, County Community Planning expert. DR10.5 would be totally inconsistent with this Master Plan goal.

The applicants make much of the fact that the subject properties are served by public utilities, and therefore available for development. However, though the Master Plan recognizes the desirability of developing areas already served by public facilities it says that this policy "should be tempered by two considerations:

"First, the requirement of many developed areas for additional open space in order to preserve their present character; this requirement suggests that it may be appropriate to decrease densities on some of these vacant lands and to acquire others for publicly owned open space; and

"Second, the unsuitability of some remaining lands for many types of development; many undeveloped parcels have not been developed because of special site problems or environmental concerns; incentives for development of such sites could be counter-productive for both the sites and the surrounding neighborhoods and communities.

"Based upon these considerations, a detailed evaluation should be undertaken of all major vacant sites to determine their suitability for development and the types of incentives that would be required in order to induce development there." Appendix, Land Use Element, p. xviii. (Emphasis added).

Thus, the Master Plan recognizes explicitly the fact that a desire to concentrate development in any given area must be tempered by study and consideration of the specific problems and characteristics of a given site. That study is central to the zoning process, and the present DR2 zoning is presumed as a matter of law to be the result of such study, undertaken in the comprehensive rezoning of 1980. As the record shows, that study revealed

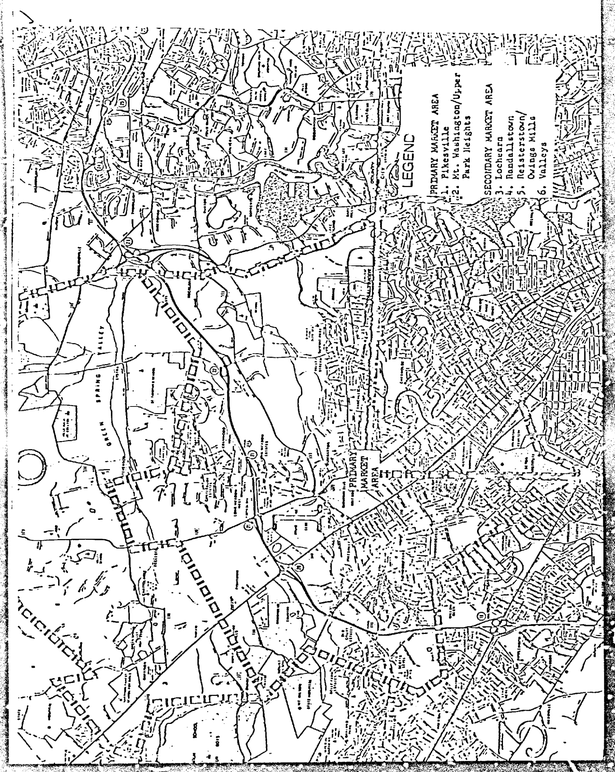
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March, 1982, a copy of the foregoing Post Hearing Memorandum on Behalf of Nancy and David Paige, Protestants was mailed first-class, postage prepaid to Julius W. Lichter, Esquire, Steinberg, Lichter, Coleman & Rogers, 113 Chesapeake Building, 305 W. Chesapeake Avenue, Towson, Maryland 21204, attorney for applicants; J. Earl Plumhoff, Esquire, and Newton Williams, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, attorneys for protestants; and John W. Hessian, II, Esquire, People's Counsel, Room 223, Court House, Towson, Maryland 21204.

Nancy E. Paige
Nancy E. Paige

RECEIVED
BALTIMORE COUNTY
MAR 16 9 1 PM '82
COUNTY BOARD
OF APPEALS
BY:

FEB 1 '82



I-B PHYSICAL CONDITIONS

Introduction, Urban Design Analysis:

Formulation of recommendations for the Pikesville Revitalization Program necessarily begin with a review of existing conditions and the factors influencing development. In addition to specialized areas of study including market conditions, parking and traffic, the environment is generally within the purview of the urban design Consultant. In bringing together the studies submitted by specialists in these related fields, the urban design process includes evaluation of the built environment, public policy, citizen concerns, economic constraints and physical factors influencing the opportunities promulgated for the future.

The urban design recommendations for Pikesville are contained in Part II of this report. The basis on which these recommendations are formulated are summarized in Part I. The urban design analysis includes:

Land use and zoning
Buildings and environmental conditions
Opportunity sites

Land Use And Zoning:

Within the Pikesville Revitalization Program area, existing land use and the zoning classifications currently assigned are in some instances inconsistent. A major recommendation of this study will be to reclassify certain areas. The zoning classification changes are suggested to either more accurately reflect the current use; or, to properly anticipate and encourage the type and scale of new development which public policy, street and mass transit improvments reasonable justify.

Existing zoning, and the recommendations for changes to zoning are discussed in Part II, Section A.

With regard to undertaking revitalization programs, Baltimore County does not have all the legal powers normally possessed by local units of government. These powers flow from the state and require legislative action to create. Without the authority to create special redevelopment districts and employ the power of eminant domain for public purpose (in addition to public use) the basic tool for control and enforcement is the Zoning Ordinance. 1/ The Zoning Ordinance is under review and eventually certain revisions applicable to revitalization programs may be adopted. For the immediate interests of Pikesville, the provisions of the existing ordinance are assumed to remain applicable. Zoning classification changes recommended herein are current

Land use types recommended in this report generally reinforce and continue existing land use and are intended to promote stabilization.

1/ Baltimore County Zoning Regulation 1975 Edition.
classifications more directly related to existing or proposed land use in the study area (See Section II A).

The exceptions are in anticipation of market pressures and prudent development practices responsive to public improvements but never the less, always in consideration of promoting stabilization. For example, the central area bounded by Old Court, Sudbrook and Reisterstown Road is recommended for more intensive development primarily for regional serving retail. The areas west of Reisterstown Road along Old Court Road and along the proposed realignment of Slade Avenue are recommended for more intensive residential development, with office potential as a special exception. Both these streets will eventually lead to the Phase II Rapid Transit System Stations and the residential development will be along improved streets.

Building And Environmental Conditions:

The focus of the open design analysis has been along the primary streets. For the most part these streets are lined with commercial buildings, institutional facilities and "open space" in the form of the golf course and the Druid Ridge Cemetary.

The commercial uses include retail buildings, restaurants, gas stations and office buildings. The retail buildings are generally one and two story structures built along the building lines or in small shopping centers facing onto the primary streets. The business corridor has been developed over a long time period as the early commercial center grew in response to the increasing settlement of the northwest County and the market demand supported additional retail establishments.

The sporadic construction of commercial buildings along the approximately two mile stretch of Reisterstown Road from the Beltway to the City/County line typifies the dilemma of older strip commercial corridors whose future is increasingly threatened by the more sophisticated planning and merchandizing of contemporary regional shopping centers. The automobile encouraged the expansion of these linear commercial corridors originally begun at important cross roads, expanded along streetcar lines and entrenched by the reliance of the automobile. After the street car disappeared, the automobile took over and has now become the nemisis.

The presence of the automobile is so pervasive in Pikesville that it dominates all and any other single aspect of the environment. While the congestion creates a sense of excitement, "... something must be going on - look at all the cars ..." Pikesville's future viability is in many ways tied to a reasonable solution for the automobile. Additional parking, better utilization of existing parking, new streets and driveways and improvements to Reisterstown Road (relocation of signals and removal of curb side parking), consolidation of curb cuts and driveways, all must be implemented as high priority activities.

Environmental Conditions:

An objective analysis of the visual quality of the environment may be undertaken by simply walking the area with an eye to the quality and maintenance of the buildings, signs, parking lots and "landscaped" areas along the public right-of-ways.

PIKESVILLE REVITALIZATION GROWTH PLAN

PART: 2 GROWTH PLAN

Prepared For:

Baltimore County Administrative Office
Baltimore County Office of Planning and Zoning
Pikesville Revitalization Task Force

Prepared By:

James L. Prost Associates
N. David O'Malley A.I.A.
Stephen G. Petersen P.E.

Recommended Zoning Classifications

In the course of this study, concern about several provisions of the applicable zoning classifications and regulations have been identified when specific circumstance have caused them to be reviewed. Those which bear most directly upon the implementation of the plan include some classifications for certain areas which should be immediately rezoned and some set back and building line regulations which should be waived or revised in the light of more specific controls recommended by the Plan.

1/

The existing and recommended zoning classifications are shown on the accompanying map. The proposed changes are shown as cross-hatched areas and include recommended changes from DR 2 to DR 16; DR 16 to BL; BL to DR 2 and DR 5.5 to DR 16. In some instances CCC District designations have also been suggested. The principal consideration in recommending these changes now is to adjust the zoning to the conditions which actually exist or are recommended by the Plan. Changes to zoning classifications is in some instances essential to implementation of the Plan.

Specific Recommendations include:

1. Changing the portion of the central area bounded by Old Court, Reisterstown and Sudbrook which is now DR 16 to BL CCC. This allows the development of shops and offices and the mixed-use development of housing above the ground floor. The BL floor area ratio of 3.0 is increased to 4.0 by the CCC district designation.

2. Certain changes west of Reisterstown Road between Old Court and Sudbrook are also recommended. Bedford Avenue is recommended to extend to Old Court and certain parcels should be classified BL to accommodate commercial development. Similarly other parcels should be reclassified DR 16 to permit more intensive residential development and office development (by special exception)

3. The present Library Site at the corner of Reisterstown and Sudbrook should be reclassified as BL to permit its redevelopment for commercial purposes.

4. Other recommended adjustments to the present zoning anticipate the rapid transit system and the realignment of Slade Avenue. Large parcels along Old Court Road and realigned Slade should be designated for future residential redevelopment and possible office use (as a Special Exception). These areas should be reclassified DR 16, and could be considered for a higher density residential designation as the public projects become more likely to occur.

1/ Source: Baltimore County Office of Zoning, Sept. 1978

REPORT OF FINDINGS & RECOMMENDATIONS

BALTIMORE COUNTY
DECEMBER 1977

TRANSIT STATION AREA DEVELOPMENT ACCESS STUDY

CHARACTER & DATA PROFILE

OLD COURT ROAD STATION

DECEMBER 1975

TRANSIT STATION AREA DEVELOPMENT AND ACCESS STUDY

TSADAS

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING. THEY DO NOT REPRESENT OFFICIAL ACTIONS THAT WILL BE TAKEN BY THE COUNTY. BEFORE THESE RECOMMENDATIONS ARE APPROVED FOR IMPLEMENTATION, AN EXTENSIVE PERIOD OF IN-HOUSE REVIEW AND ADDITIONAL PUBLIC INVOLVEMENT WILL BE REQUIRED.

STUDY OBJECTIVES

THE INITIAL GOAL OF THE TSADAS PROJECT, AS OUTLINED IN THE STUDY DESIGN APPROVED BY THE URBAN MASS TRANSIT ADMINISTRATION IN 1974, WAS THE PREPARATION OF DETAILED DEVELOPMENT AND ACCESSIBILITY PLANS FOR THE AREAS IMMEDIATELY SURROUNDING THE TRANSIT STATIONS OF THE PHASE I TRANSIT SYSTEM. THIS REMAINS THE PRIMARY OBJECTIVE OF THE PLANNING EFFORT.

AS THE PROJECT HAS EVOLVED, HOWEVER, A NUMBER OF MORE SPECIFIC OBJECTIVES HAVE BEEN DEVELOPED TO GUIDE THE PLANNING PROCESS. THOSE OBJECTIVES MOST RELEVANT TO THE BALTIMORE COUNTY TSADAS STAFF INCLUDE:

-- ENCOURAGE UTILIZATION OF THE BALTIMORE REGIONAL RAPID TRANSIT SYSTEM.
-- ENCOURAGE DEVELOPMENT AROUND TRANSIT STATIONS WHERE SUCH DEVELOPMENT IS APPROPRIATE.
-- REDUCE NEGATIVE TRANSIT-RELATED IMPACTS ON RESIDENTIAL AND COMMERCIAL COMMUNITIES.
-- ENCOURAGE THE MAINTENANCE OF EXISTING STABLE COMMUNITIES, AND WHERE NECESSARY, THE REVITALIZATION OF COMMUNITIES.

THE PLANNING TEAM CONSIDERS THAT THE RECOMMENDATIONS MADE IN THIS STUDY ARE CONSISTENT WITH THESE BASIC OBJECTIVES. IN ANY SUBSEQUENT REVIEW OF THESE RECOMMENDATIONS BY CITIZENS' GROUPS AND DECISION MAKERS THESE FUNDAMENTAL OBJECTIVES SHOULD BE MAINTAINED.

File

PETITION FOR RECLASSIFICATION : BEFORE THE
N/S OF WOODHOLME AVENUE :
145' W OF OLD COURT ROAD : COUNTY BOARD OF APPEALS
: FOR BALTIMORE COUNTY
:
JEROME S. ALPERSTEIN :
MARIAN ALPERSTEIN, wife :
BONNIE HERMAN HAMENT : CASE NO. R-82-76, Item 17
DENNIS HERMAN : CYCLE 1, April to October 1981
ROBERT P. WAGERS :
JEAN WAGERS, wife :
E. DAVID WEINBERG, M.D. :
:
Petitioners :

: : : : : : : : : : : : : : : : : :

BALTIMORE COUNTY
FEB 25 4 11 PM '82
OFFICE OF PLANNING & ZONING

MEMORANDUM

Petitioners are owners of collective acreage in the amount of 36.53 Acres more or less, binding on Woodholme Avenue north of Old Court Road. The tract comprises four separate ownership tracts. The subject tract comprises all of the land located on this section of Woodholme Avenue with the exception of two smaller parcels on the east side of Woodholme Avenue and one smaller parcel on the west side of Woodholme Avenue just north of Old Court Road. The Petitioners or their families have been long-time residents and owners of the properties which are the subject of this Petition.

The evidence submitted clearly shows that the property is bounded on the east by the "Pomona" development which is zoned DR 16 at its boundary line with the Weinberg property; that the entire northern boundary of the tract and specifically the Weinberg's and Wagers' parcels are bounded by the Baltimore Beltway, Interstate

I-695 for approximately 2,500 feet; that the tract and particularly the Wagers' and Herman's parcels are bounded on the south and west by the Western Maryland Railroad and DR 16 and ML zoning; that the tract and particularly the Herman and Alperstein and Weinberg parcels are bounded on the southeast by the subdivision known as "Woodholme Estates" which is zoned DR 2 and the development known as Pine Ridge located on the south side of Old Court Road which is zoned DR 3.5.

The testimony revealed that the Pomona tract is developed by commercial development along its border with Reisterstown Road and the balance of the tract is multi-zoned DR 16, DR 10.5 and DR 2 for an average density of 7.5 to 8 units per acre and that the protestants inclusive of Dr. and Mrs. Paige, other residents along Woodling Way and the Pine Ridge Association had entered into agreements with the developer of "Pomona" for the development of that tract at 7.5 units per acre density in addition to other agreements specified therein which are in the record as Petitioners' Exhibit 20 and 25.

The testimony and other exhibits reflect the location of the intersection of Interstate I-695 and Reisterstown Road and its proximity to the subject site. The testimony of the witnesses also indicated the fact that the Old Court Road is a four-lane roadway from Greenwood Road to Reisterstown Road. The testimony further reflects the existence of the Western Maryland Railroad right-of-way and the fact that the land to the west zoned ML is now fully developed for warehousing, offices and other commercial uses and that the DR 16 zoning to the west is developed in accordance with said zoning for garden apartments and known as the Brittany Apartments.

The testimony reflected the fact that the Northwest Expressway is now funded and under construction from I-695 (Beltway) to Dolfield Road and that the extension of the subway system from

Reisterstown Road Plaza to Owings Mills is funded for this year and under construction at the present time, inclusive of funding for equipment to be used in the Old Court Road Subway Station.

The evidence submitted during the course of the hearing overwhelmingly supported the fact that existing public facilities and services were adequate and readily available to the subject site. The testimony further reflected that the implementation of subdivision regulations would address the concerns evidenced by the protestants with regard to traffic, fire safety and access. The subdivision regulations would obviously require and demand that Woodholme Avenue be widened and that sidewalks be installed and that secondary access be provided to the site and that the traffic controls be installed at Woodholme Avenue and Old Court Road. The testimony further showed that the traffic to be generated from this site would meet the requirements of the Growth Management Basic Services legislation which was adopted to implement the Master Plan.

Mr. Thaler's testimony with regard to the specific requirements of the Code and the Regulations with regard to development requirements addressed all of the concerns raised by staff and the protestants in a most professional way and his testimony was not rebutted. Specifically with regard to the traffic concerns, protestants' traffic expert was not aware of the provisions of the Growth Management Act, Bill No. 178-79, and how its provisions impact the method of determining the adequacy of the roads in the area to handle traffic generated by this site. He concurred that the level of service at Reisterstown Road and Old Court Road would not be substantially impacted by development on this site in accordance with DR 10.5 zoning, should same be granted. The protestants' traffic expert also testified as to requirements that he might impose but that such requirements were not established by law or existing county policies.

With regard to the environmental concerns raised by the protestants and the protestants' environmental expert, I believe that it was obvious that this expert had not performed even a superficial review or examination of the property and the environmental concerns which he raised were not based upon a professional examination or sufficient information or data to be accepted or relied upon. The Petitioners' expert, Mr. Thaler, upon performing an actual examination and tests responded in every respect with regard to the traffic and environmental objections raised by the protestants.

It has been determined by the reports and reviews of the various county agencies that other basic services such as schools, water and sewer services are either in place or readily available to service the subject site should this application be approved.

MASTER PLAN, ETC.

When Baltimore County began to feel the real impact of suburban sprawl and the substantial costs associated with such sprawl, it determined that its basic objectives should be to reverse the trends toward development in the outlying or peripheral areas where public facilities and services were inadequate and to return a substantial portion of the natural growth of the county to the closer-in areas. It was then in late 1975 or early 1976 when the County began to explore methods by which growth in the county could be managed by regulating growth in some areas and correspondingly encouraging growth in other areas. The planning basis for such a system was critical to establish a sound, rational process supported by data, projections and analysis that would lead to a growth management system that is responsive to the analysis as well as to the goals and objectives of the county.

It was recognized early on: that there was a need to utilize land already served by public facilities; that the population projections indicate a rapidly expanding residential growth rate; and

the difficulty for the county of servicing new growth areas.

Baltimore County, as a chartered county, has its own basic planning, zoning, subdivision, official mapping and capital improvement programming authority derived from its own charter and code. Effective December 8, 1978, by a vote of the citizens of Baltimore County, the Baltimore County Charter, Section 523, was amended by providing a new Section 523 which defined the status of the Master Plan and of the Zoning Maps (a copy of the new Section 523 is attached). The old Section 523 mentioned the Master Plan but in no way defined same and in no way described the status of said plan other than to say that prior to taking effect as law it would have to be approved by an ordinance of the County Council (a copy of the old Section 523 is attached hereto).

Then by Resolution No. 71-79, the Baltimore County Council adopted the "Baltimore County Master Plan. 1979-1990" (copy attached). Then by Council Bill No. 46-79 Baltimore County Council adopted procedures whereby the Board of Appeals exercises original and exclusive jurisdiction over all petitions for reclassification of property (a copy of pertinent portions of said Bill attached hereto).

Then by Bill No. 178-79, the Baltimore County Council adopted the Growth Management Act (a copy of which is attached hereto).

Then by Resolution No. 14-81 the County Council adopted the Pikesville Revitalization Growth Plan and incorporated same into and made it a part of the Master Plan (copy of Resolution attached).

Baltimore County, by the Amendment to Section 523 of the Charter and the adoption of the operating legislation inclusive of the Master Plan, Growth Management Act, 1980 Comprehensive Zoning Maps and the Bill that outlined the Board of Appeals' powers in reclassification cases, set in motion a new era in Planning and Zoning for Baltimore County that has set the stage for the County to be able to more competently address the future.

The Petitioners wish to advise the members of the Board of Appeals that the aforementioned legislative enactments have changed the planning and zoning process in this County and is designed to establish a planning program that it can implement and that the citizens of this County, including the business and development communities, can rely upon to better serve the goals and objectives of the County through its government. We herein will review pertinent Maryland case law which clearly distinguishes between a Master Plan not adopted by the legislative body as compared to a Master Plan that has been legislatively adopted.

On October 13, 1975, the Baltimore County Planning Board had adopted "Baltimore County Comprehensive Plan, 1975" pursuant to the provisions of Title 22 of the Baltimore County Code. As the Board is well aware, the usefulness of the Comprehensive Plan was clouded by the fact that while it had been adopted by the Planning Board, it had not been adopted by the County Council and could not be afforded the effect of law as it was not known whether the Comprehensive Plan reflected the sentiments of the County Council. It is obvious that the citizens of Baltimore County, in adopting a new Section 523 of the Charter, wished to establish the Master Plan as the primary growth management document by providing that the County Council shall adopt the Master Plan by resolution and that it zone land within the County consistent with the Master Plan. There are numerous cases in Maryland which supported the proposition that Master Plans or Comprehensive Plans not adopted legislatively by the governing body, were merely recommendations as a guide to the legislative body in making its decision with regard to zoning. Chapman v. Montgomery County Council, 259 Md. 641 (1971), Board of County Commissioners for Prince George's County v. Edmonds, 240 Md. 680 (1965), Iverson v. Zoning Board of Howard County, 22 Md. App. 265, (1974), Nottingham Village v. Baltimore County, 266 Md. 339, (1972). In the Nottingham case, the Court stated:

"We hold, therefore, that the passage of the zoning regulations on 3 August 1970 and the adoption of the zoning map on 24 March 1971 after the 1980 guide plan had been presented and considered, could not be challenged as an invalid exercise of legislative authority because there had been no formal adoption of a Master Plan. While the County Charter, Section 523, would seem to provide that the 1980 guide plan will take effect only when approved by an Ordinance of the County Council, whether or not the guide plan is regarded as a Master Plan, the adoption of a Master Plan is nowhere made a condition precedent to the formalization of the Comprehensive Plan. The guide plan was before the Council and was only one of the elements from which the Comprehensive Plan was derived."

The Court's reference to the "Comprehensive Plan" was referring to the Comprehensive Zoning Maps adopted at that time.

And further, in quoting from the Court in the Nottingham case which in quoting Kentucky Court in Ward v. Knippenberg, 416 SW 2nd. 746, 748 (KY. 1967):

"While it is true that other jurisdictions have by statute required that zoning ordinances be in accordance with the Master Plan, Haar, In Accordance with a Comprehensive Plan, 68 Harv. L. Rev. 1154, 1157, (1955), Baltimore County has not. A Comprehensive Plan is something more than a detailed zoning map, Hewitt v. County Commissioners of Baltimore County, Supra. 220 Md. at 58, and should apply to a substantial area, be the produce of long study, and control land use consistent with public interest, Trustees of McDonogh Educational Fund and Institute v. Baltimore County, 221 Md. 550."

And to further quote from Haar, "In accordance with a Comprehensive Plan", 68 Harvard Law Review, 1154, 1157 (1955):

"Policy is the most important ingredient of the general plan. A policy is a generalized guide to conduct which, although subject to modification, does imply commitment. To me, therefore, there can be no such thing as a flexible plan, since there can be no such thing as a flexible policy in relation to physical development. A so-called "flexible" plan is no plan at all."

In the case of Norbeck Village Joint Venture vs. Montgomery County Council, 254 A. 2d 700, the Montgomery Council Council had rezoned large acreage in the Olney area and in many cases contrary to a master plan which the District Council itself had approved only a few months before. The court in reviewing the master plans stated:

"The purpose of the plan was described as promoting the physical isolation of Olney from suburban sprawl. Low density residential zoning was recommended to break the development pattern from the suburbs. The proposed zoning in the plan is in accordance with existing development. It was stated that a serious deficiency of public services would exist if the master plan was not adopted. The plan was to accomplish a staged development using the tools of zoning and sewer access to avoid the excess cost of public services. A critical element of the plan was to encourage earlier growth along the 70 S Corridor rather than on the Patuxent River Watershed thereby protecting the basin from pollution."

The court in affirming the decision of the lower court which upheld the subsequent rezoning of the property by the council in accordance with the master plan by stating that the action of the council was supported by the fact that the plan implemented the general plan and the master plan adopted by the council.

In the case of Aspen Hill Venture vs. Montgomery County Council, 289 A. 2d 303, the Court of Appeals in reviewing an application for reclassification wherein the legislative body was operating under circumstances similar to those existing in Baltimore County where there had been an approved and adopted a Master Plan. The District Council on May 4, 1971 denied the application for reclassification to the C-1 Zone which request was in accord with the land use designation recommended for the property on the recently adopted Aspen Hill and Vicinity Master Plan (approved by the District Council on December 3, 1970). The District Council recognizes that master plans are guides for its utilization and specified areas sometimes long range guides, and therefore making hasty implementation of the recommendations in a piecemeal fashion (for the sake of conformity with the plan) may well be action to the detriment of the public interest.

And further quoting from the hearing examiner's recommendations, the court quotes:

"The evidence of record includes studies by the technical staff as to the existing and proposed local commercial facilities within the Aspen Hill planning area. Testimony of lack of need for additional commercial facilities from residents of the area of the subject property, the text, maps, and tables contained within the aforementioned master plan, and

the lack of any affirmative compelling evidence from the applicant to show a need for additional commercial zoning; we, therefore, conclude that a surplusage of local commercial zoning, commercial shopping facilities to service residents of the neighborhood presently exist and that the granting of the subject application as a prelude to creating additional commercial facilities is not at the present time in the public interest."

The Court, in reviewing the facts, also reviewed the circumstance where the council had reclassified nearby property to grant C-1 commercial zoning in accordance with the master plan. The Court, at page 306, states:

"We adhere to the proposition that, although rezoning is not necessarily compelled upon a finding of change in the character of the neighborhood, none the less, legislative decision to rezone or not to rezone under such circumstances is subject to review as an exercise of the police power, in order to determine if there has been an abuse of that power by way of arbitrary, capricious or discriminatory action. It is against this background that we review these issues."

The Court in Aspen and quoting from the Supreme Court of the United States in Nectow vs. Cambridge, 277 U.S. 183, stated:

"However, the governmental power to interfere by zoning regulations with the general rights of the landowner by restricting the character of the use of his land is not unlimited, and such restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, morals or general welfare. Legislative bodies have no authority, under the guise of the police power, to impose unreasonable and unneccessary restrictions on the use of private property in pursuit of useful activities."

The Court further went on to say at page 309:

"We here note that while a zoning designation on a master plan may not support an immediate request for rezoning, as it is a guide for the future, yet, when, as here, it is accompanied by the dynamics of change, we think the designation on the master plan becomes most significant. ... Thus, the ignoring of the master plan, under the facts and circumstances of this case, serves to emphasize the lack of substantial relationship between the exercise of the police power and the public interest."

And the Court went on to say at page 310:

"In the instant case, Aspen, in proffering the Faller decisions for the consideration of the lower court, was not asking it to accept or consider additional evidence to supplement the merits of its case which it had the burden of proving, but was asking that the validity of the district council's actions appealed from be considered in light of other actions by that body based on the same evidence and within the same planning area, as indicative of arbitrary and discriminatory action. ... The action of the district

council in denying the C-1 classification to Aspen, when viewed in context with its granting of commercial zoning to the Faller tract on basically the same evidence, becomes patently arbitrary and discriminatory."

The Petitioners herein strongly suggest to the members of the Board of Appeals that the action of the County Council in the adoption of the 1980 Comprehensive Zoning Maps was specifically the same patently, arbitrary and discriminatory conduct referred to in the above captioned case when the Pomona property on the same 1980 Comprehensive Map was zoned DR 16 and DR 10.5 with other major land areas to the west zoned DR 16 and ML.

The Baltimore County Council in designating the subject property in the DR 2 zoning classification, acted in an arbitrary, capricious, and discriminatory manner in zoning the property DR 2. The County Council acted without regard for the Amendment to Section 523 of the Charter as approved by the citizens of Baltimore County and the adopted "Baltimore County Master Plan 1979-1980" totally ignoring the changes that had occurred in the laws relating to planning and zoning in Baltimore County and the changes that had occurred in the neighborhood, as well as the impact of the plans, policies, objectives and purposes of the Master Plan.

The history of the development of change in the area and the recognition of those changes by the State of Maryland, Baltimore County through its County Council, and the Office of Planning and Zoning clearly reflect the error committed by the County Council in zoning the subject property DR 2. Prior to delving into the specific provisions of the Master Plan, I wish to point out to the Board the following changes which have occurred under the auspices and under the direction of decisions made by Baltimore County pursuant to its Planning and Zoning and Development Control powers or with its concurrence:

1. The substantial land area to the west of Greenwood Road and now occupied by the Brittany Apartments which are zoned DR 16.

2. The land area lying between Greenwood Road and the

Western Maryland Railroad right-of-way on the east which is zoned ML and is now occupied by manufacturing, warehousing and office and commercial uses.

3. The location of the Western Maryland Railroad right-of-way along the western boundary of the subject tract which services industrial sites north of the subject site.

4. The Baltimore Beltway which binds the subject tract on its northernmost boundaries for approximately 2,500 feet.

5. The Interstate Highway Interchange of Reisterstown Road and I-695 the development of the Hilton Hotel complex and tennis facility between the Beltway and Naylors Lane and Old Court Road.

6. The development of the Pomona site pursuant to zoning granted in classifications DR 16 and DR 10.5 and DR 2 for an average density of between 7.5 and 8 units per acre.

7. The construction and widening of Old Court Road from Reisterstown Road to Greenwood Road to a four-lane thoroughfare.

8. The planning and funding of the Northwest Expressway from the Baltimore Beltway to Dolfield Road.

9. The planning and funding of the extension of the subway system from Reisterstown Road Plaza to Owings Mills.

The Petitioners strongly contend and believe that the evidence submitted at the time of the hearing that the County Council committed error in that the DR 2 zoning classification is not consistent with the adopted County Master Plan and good planning practices, and further, that the requested zoning of DR 10.5 would be consistent with the Master Plan, the Adopted Pikesville Revitalization Growth Plan, and good planning and zoning practices. The Master Plan provides that the plan be utilized by the Council and all other County departments and actions relating to planning, zoning and sub-division activities; and further shall consider the objectives, policies and standards of the Master Plan in preparing comprehensive zoning maps.

The Baltimore County Charter requires that zoning maps be consistant with the Master Plan.[1]

The basic premise of the Master Plan is that "certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development."[2]

The general development plan states that a centralized development pattern will: increase public transportation patronage; reduce the demand for new public school construction; and reduce the pupil transportation costs attributable to new residential growth by 38%; and provide more affordable housing.[3]

The Master Plan identifies goals and objectives which must be related to all areas of the County and implemented by various development control mechanisms inclusive of zoning as follows:

1. The pace of development in existing communities be limited if public facilities are substantially inadequate but to encourage residential and other development where appropriate and where such development would strengthen such communities.[4]

2. In its Growth Strategies, states that natural resource protection issue such as steep slopes are suitably addressed in the development review process.[5]

3. It identifies Growth and Preservation Strategies by Growth Area for Special Development Opportunities in all areas which are proximate to either Highway Interchanges and/or Mass Transit Stations.[6]

1 Resolution 71-79
2 Master Plan-Land Use Element (P.4)
3 Master Plan-Land Use Element (P.7)
4 Master Plan-Land Use Element (P. 13)
5 Master Plan-Land Use Element (P. 17)
6 Master Plan-Lane Use Element (P. 18)

4. It prescribes moderated growth in Existing Communities provided there is not recommended changes in land use controls and public investment patterns recommended as part of the Growth Management Program.[7]

5. It discourages premature development at lower density than intended under circumstances that exist with relation to the subject site.[8]

6. It identifies as a Special Development Opportunities that occur at Highway Interchanges and Mass Transit Stations in detail and directly addresses land areas that are within mirimal distances of both transportation resources as is the subject site.[9]

7. Pikesville is identified as a County Community and is prescribed as an area which includes the subject site.[10]

8. Growth Strategies by community identify Pikesville for accelerated growth to reinforce the Community Commercial Center, to take advantage of Special Development Opportunities of Highway Interchanges and Mass Transit Station.[11]

9. The Transportation Element provides for encouragement of higher density development in areas served by adequate mass transit service.[12]

10. The Community Services Element identifies the problems of decreasing enrollments as verified in the review process in the Pikesville area that additional population provided for higher density zoning on the subject site could provide.[13]

Further, the adopted Master Plan emphasizes support for existing communities, particularly the revitalization of threatened commercial core areas and Baltimore County further re-emphasized that planning goal and objective by adopting the Pikesville Revitalization Growth Plan and incorporating it into and making it a part of the Master Plan. The revitalization growth plan attempts to undertake a series of actions to stabilize and revitalize this significant

7 Master Plan-Land Use Element (P.19)
8 Master Plan-Lane Use Element (P.21)
9 Master Plan-Land Use Element (P.27 & 28)
10 Master Plan-Land Use Element (P.33 & 35)
11 Master Plan-Land Use Element (P.38 & 39)
12 Master Plan-Transportation Element (P.2)
13 Master Plan-Community Services Element (P.4)

commercial area. Specific elements and recommendations incorporated in the approved plan encourage higher density (more intensive) residential development in areas along Old Court Road, to support the existing commercial facilities. Large parcels along Old Court Road are identified for future residential development and are proposed to be reclassified to higher density residential designation.[14 & 15]

A key element in serving to revitalize Pikesville is encouragement of additional market support for the commercial community. The planning objective of encouraging higher density residential development along the area identified within the Master Plan is clearly attained through the rezoning of the subject property to a suitable intensity of development.[14 & 15]

The Transit Station Area Development and Access Study cited and supported by the adopted Baltimore County Master Plan encourages more intensive residential development surrounding the transit station areas. This TSADA study involves significant public and governmental input and was aimed at: (1) encouraging utilization of the transit system; (2) facilitating real estate development around transit station (where appropriate); (3) reducing adverse impacts on residential and commercial communities; and (4) encouraging the maintenance of stable communities. Specific recommendations for development surrounding the Old Court Road station are as follows:

1. To take advantage of transit related development opportunities for the development of under-utilized land; and

2. To help support the stabilization of existing commercial areas.

These goals and objectives are clearly in support of the adopted Master Plan.

14 Pikesville Revitalization Growth Plan
Part 1 (P.I.19 & I.20)
Part 1 (P.I.4 attachment)
15 Pikesville Revitalization Growth Plan
Part 2 (P.II.2)

The detailed TSADA evaluation identifies that relatively limited available vacant land exists within the Old Court Road station transit impact area. It is further noted that: the existing zoning pattern merely follows the current land use pattern and does not recognize the opportunities which exist for transit related developments; and measures providing for various transit and other improvements will allow for increased development opportunities.

The TSADA recommends additional development within the station area in order to encourage pedestrian access to the station and further to the development; and supports the proposal that additional housing be built and in-filled within existing development areas, on the vacant acreage associated with larger, older estates or under-utilized residential tracts. The proposed development at approximate density of 10 units per acre was noted to occur on the few undeveloped parcels in close proximity to the station area.

Development of the subject site at DR 10.5 units per acre density is clearly in conformance with the long-standing planning efforts of the County in the station area; and recognizes the limited opportunities which exist for transit related development, as encouraged by the Baltimore County Master Plan.

Encouraging high density development around the transit station will: reduce energy consumption, encourage inefficient trip making, and reduce total vehicle miles traveled. Furthermore, construction of higher intensity residential development in proximity to town centers and revitalization areas will further reduce dependence on automobile travel, and encourage additional mass transit usage and linkages to the Pikesville area.

Development at this site at higher density will reduce the general auto orientation and establish requirements for new roads and other facilities. Construction of housing in proximity to the transit station facility and the highway interchange and revitalization

efforts in such commercial areas will also serve to reduce the need for second car ownership; and hence, lead to increased income available for housing. This would also improve affordable levels of housing for Baltimore County residents.

Concentration of development on the scarce available vacant land resources in proximity to revitalization areas, mass transit stations and highway interchanges will serve to help implement the concentration emphasized in the Master Plan. As documented by the testimony of Mr. Prost, case studies performed in North America and Canadian cities indicate that such development serves to preserve existing single family neighborhoods and helps to prevent "leap-frogging" development which increases public service and infastructure requirements.

More intensive real estate development near the revitalization commercial area and the transit opportunities, promote additional shopping convenience goods trips through the provision of a local shuttle bus service.

The Court of Appeals has recognized the importance of the Master Plan in land planning. We cite Board of County Commissioners of Cecil County vs. Gerald Gaster, 401 A. 2d 666, at page 672, the court stated:

"There are three integral parts of adequate land planning, the master plan, zoning, and subdivision regulations."

Baltimore County, after having invested in excess of One Million Dollars ($1,000,000.00) in plans and studies, etc. for the development of a Master Plan pursuant to its Charter, certainly contemplated that a major change from the previously existing scheme of planning and zoning when it provided by charter amendment in Section 523 for the preparation and adoption of the Master Plan by the County Council and that all zoning maps be prepared consistent with the Master Plan. If the Master Plan is not to be a document of

FEB 1 83

substance and to be utilized and depended upon by the County and its citizens, owners of property and developers of property, then the preparation of the document will have been a waste of time and money and the desires of the citizens in approving an amendment to the Baltimore County Charter will have been subverted.

Mr. Hoswell, a respected planner for Baltimore County, testified that in his professional opinion, the adoption of the Master Plan imposed a "commitment" upon the County.

Mr. Hoswell further testified that the Office of Planning and Zoning had in fact recommended the DR 16 and DR 10.5 zoning on the Pomona tract for the 1980 Comprehensive Zoning Map. He further stated that DR 3.5 zoning would have been equally appropriate for the subject site.

Under the facts that have been presented, the County Council has undoubtedly committed error and has acted patently in a discriminatorily manner.

CONFISCATION

In the course of the hearing before the Board, the testimony adequately addressed the issue of confiscation in that the property, due to its size, configuration, location and topography, is not developable or suitable for single family detached houses as is suggested by the protestants. The testimony revealed that the applicants had attempted to market their properties for sale and were unable to obtain any prospective buyers. The Petitioners' development and professional engineer, David Thaler, testified to the effect that single family detached dwellings would not be developable on the subject site from an engineering as well as market and economic viewpoint.

The Protestants will suggest that the usual presumptions that the original comprehensive zoning plan was correct. The Petitioners

would strongly suggest such presumption has been overcome and that this determination is more liberally construed when applied when the property is being reclassified from one residential sub-category to another as opposed to a change from a commercial category to residential category or vice versa. See Tennison vs. Shomette, 379 A. 2d 187, where the Court in affirming a granted reclassification stated:

> "The mere fact that the use is somewhat different than the use as permitted under the C-1 classification does not render the use inconsistent with the comprehensive plan. ... As we previously noted the present classification of the land was inconsistent with the purposes enunciated in the comprehensive plan. Contrary to the appellant's assertion, there was also ample evidence to show that the land was rezoned due to a community's need for a motel complex of this type and not solely to benefit the appellees."

ZONING BY PLEBISCITE

In the case of Board of County Commissioners vs. Oakhill Farms, Inc., 192 A. 2d 761, the applicant for reclassification produced testimony which indicated a strong need for high density land use to meet the demand for housing facilities and to provide needed customers for the many adjacent and nearby commercial establishments and testimony to the effect that because of the nature of the terrain and the tremendous cost of removing dirt or to permit construction could be justified and supported financially only by high density use of the land and that there was real improbability, if not impossibility, of financing housing on the property in its current zoning. The petitioner also submitted testimony to the effect that this use would be in harmony with the present character and planned future of the neighboring area and would not deteriorate the value of the adjacent or nearby homes or otherwise adversely affect the welfare, health, or safety of the community. The protestants did not wish high density development to occur because they wished the country-like atmosphere that they had sought and enjoyed to be spoiled and for esthetic reasons. It also found that the attempts of the

neighboring residents establishing factual grounds were rebutted by the testimony produced by the applicant. The court in affirming the decision of the lower court granting the rezoning and quoting the lower court stated:

> "He concluded the refusal of the council to rezone was a yielding to demonstrated displeasure at the prospect of many and vocal protestants, was against the weight of the evidence, unsupported by substantial evidence and arbitrary and capricious. We agree with this finding of unsubstantiality of evidence and with its conclusion as to the arbitrariness and capriciousness."

The facts and circumstances in this case before you are exactly those facts that are set forth in the Oakhill Farms, Inc. case above. The vocal and articulate immediate residents of the area have dictated that the zoning on the "Pomona" tract at DR 16 and DR 10.5 are appropriate but that the same zoning for unsupportable reasons is not appropriate.

In exercising the zoning powers, the Council must act for the benefit of the community as a whole following a calm and deliberate consideration of the alternatives and not because of the whims of either an articulate minority or even the majority of the community. The adoption of the Master Plan is the essence of zoning. Without it, there can be no rational allocation of land use. It is the assurance that the public welfare is being served and that zoning does not become nothing more than an action by plebiscite. Moreover, the Master Plan protects the landowner from arbitrary restrictions on the use of its property which can result from the pressures which outraged voters can bring to bear on public officials.

CONCLUSION

In conclusion, the case law in Maryland has established a number of methods by which error can be established overturning zoning classifications as adopted pursuant to comprehensive rezoning and these methods are as follows:

1. When there is substantial and proven evidence to show that the assumptions or premises relied upon by the Council at the time of the rezoning were invalid; or

2. That at the time of the Comprehensive Zoning the Council failed to take into account the existing facts, projects or trends, which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension; or

3. By showing that events occurring subsequent to the comprehensive zoning which the Council could not have taken into account having proven that the Council's premises were incorrect; or

4. Council's failure to take existing facts or events reasonably forseeable of fruition into account; or

5. By showing the specific physical facts were not readily visible or discernable at the time of the comprehensive zoning; or

6. By producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it recognized as existing at the time of the comprehensive zoning; or

7. That the Council acted in a manner inconsistent with the adopted Master Plan as required by the Charter.

The evidence produced during the hearing clearly established:

1. That the environmental concerns of which the Council was advised by the Planning Staff are incorrect and without basis in that no investigation whatsoever was made as to the topography and/or the condition of the stream running through the property and the testimony of Mr. Thaler vividly disclosed the inadequate evaluation made by staff upon which the Council relied.

2. The Council was erroneously advised as to traffic concerns when in accordance with its adoption and implementation of the Growth Management Basic Services legislation the Old Court Road pursuant to standards adopted has been more than adequate and has more than sufficient capacity to accept traffic from the subject site at the

zoning density requested without impairing the health, safety and welfare of the County.

3. The Council failed to take into account the existing facts, projects and trends which were reasonably forseeable of fruition in the Master Plan in that it failed to acknowledge the existence of the highway interchange of Interstate I-695 and Reisterstown Road and the desire of the Master Plan to encourage development in such areas;

4. The Council failed to take into consideration aims, goals and objectives of the Master Plan to take advantage of existing facilities and services to prevent sprawl from other areas and to acknowledge that the subject site is served by water, sewer, transportations, schools, recreational facilities and library facilities, and that the designation of DR 2 zoning discourages rather than encourages development in this area;

5. It is now obvious that the extension of the Northwest Expressway from the Beltway to Dolfield Road and the further extension of the subway system from Reisterstown Road Plaza to Dolfield Road has been approved and will be accomplished in that construction has been initiated since the adoption of the zoning maps in accordance with the testimony provided by the representatives of the State Highway Administration and that in fact equipment has been purchased to outfit the Subway Station at Old Court Road;

6. That the development of under-developed parcels should be encouraged by applying higher density zoning to maximize the utilization of the Subway Station and to minimize the number of automobile trips and to encourage transit patronage by persons within walking distance;

7. That it failed in all respects to be consistent with the Master Plan in zoning the subject property DR 2;

8. Council failed to make provision to accommodate the projected needs and trends associated with the Pikesville revitalization, to encourage development of additional residential units within the Pikesville area, to reinforce and re-establish the vitality of Pikesville as provided in the plan.

The Petitioners, therefore, urge that the Board grant the reclassification of the subject property to DR 10.5.

Respectfully submitted,

Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
321-0600

I HEREBY CERTIFY that on this 25th day of February, 1982, a copy of the foregoing Memorandum was hand delivered to J. Earl Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, John W. Hessian, II, Esquire, People's Counsel, Room 223 Court House, Towson, Maryland 21204, Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202.

Julius W. Lichter

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 20

BILL NO. 178-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL
ENTITLED

AN ACT to implement various elements of the County's Comprehensive Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay district areas and regulations and requirements pertaining thereto; to provide for a master plan consistency determination;~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; and to provide for monitoring of development activity; by adding new Article 4A - GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, 259.3 and new definitions "~~Facilities impact use, Class A~~", "~~Facilities impact use, Class B~~", "Housing for the elderly"; "Industrial, quasi-industrial, or industry related use"; and "Nonindustrial use" to Section 101, all of the Baltimore County Zoning Regulations; ~~by repealing and re-enacting with amendments Subsections 100.1.B.2, 100.1.G., 100.4., the definition of "Farm" under Section 101, and Subsection 259.2, all of the Baltimore County Zoning Regulations;~~ by repealing Subsection 1A04.3.B.2 of said regulations; and by repealing Council Bill 177-79.

NOTE: NOTICE OF AMENDMENT TO THIS BILL.
At the time of Final Reading, the Council unanimously voted to delete pages 3 through 43 of the bill as introduced and replace them with pages 3 through 21. For purposes of clarity and economy, the deleted pages are not included.

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the County Council has adopted the Master Plan by Resolution No. 71 -79 dated ~~October 15~~ NOVEMBER 19, 1979; and

WHEREAS, pursuant to the Baltimore County Charter and Code, the County Council is responsible for the implementation of the Master Plan through the adoption or amendment of zoning maps and regulations, subdivision regulations, capital improvement programs and such other legislation, regulations, policies and programs which may be necessary; and

FEB 1 '82

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent — Towson, Maryland – 21204

Date: March 23, 1981

Mr. Walter Reiter
Chairman, Board of Appeals
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Zoning Cycle #1 March 16, 1981

RE: Item No: 17
Property Owner: Jerome S. & Marian Alperstein
Location: N/S Woodholme Ave. 145' W. of Old Court Rd.
Present Zoning: D.R. 2
Proposed Zoning: D.R. 10.5

School Situation Sept. 1980

School	Enrollment	Capacity	Over/Under
Milbrook El.	365	~~433~~ 485	- 68
Pikesville Jr.	989	1154	-165
Pikesville Senior	1013	1320	-307

Student Yield With:	Existing Zoning	And	Proposed Zoning
Elementary	24		124
Junior High	12		64
Senior High	15		81

Very truly yours,

Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

NEW

as law, be approved by legislative act of the county council. (Bill No. 83, 1978, § 2)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

ec. 523. The master plan and the zoning maps.

(a) *Definition and implementation of the master plan.* The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution.

(b) *Definition and implementation of the zoning maps.* The zoning maps shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act. (Bill No. 83, 1978, § 3)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524. Reorganization of office of planning and zoning.

Notwithstanding any other provisions of this Charter, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to define the duties of the director of said office, to establish the powers, duties and compensation of the planning board, and to establish the duties and responsibilities of the zoning commissioner and deputy zoning commissioner, so that planning and zoning functions shall be conducted in the best interests of the county and its future development and growth. (Bill No. 83, 1978, § 1)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524.1. People's counsel.

(a) Repealed by Bill No. 83, 1978, § 4.

(2) *Rem*
time
and
plus
estal

(3) *Pow*
follo

A. 1

of director of

director of the
administrative
office. He shall
r who shall be

formulation of
trative officer
this Charter;
of each office,
of the county
ive officer of
h other duties
administrative

he director of
to his qualifi-
directly to the

dministration
Article IX of

CHARTER § 523

this Charter, and the director of central services shall act as county purchasing agent. Unless otherwise provided by public general law, the office of central services shall also be responsible for the making, renewal and cancellation of all contracts of insurance in which the county, or any office, department, institution, board, commission, or other agency of the county government is named as insured; for the maintenance, operation and management of all land and buildings owned or operated by the county and all other functions heretofore performed by the superintendent of buildings; and for making available to the other offices, departments, boards, institutions and agencies of the county such duplicating, stenographic, mail, messenger, stores, transportation, central garage, automotive maintenance or other central services as may be assigned thereto from time to time by directive of the county administrative officer or by legislative act of the county council.

SUBDIVISION 6. OFFICE OF PLANNING AND ZONING*

Sec. 522. Organization of office and duties generally of personnel.

The office of planning and zoning shall be composed of a director of planning, a planning board, a zoning commissioner and deputy zoning commissioner. The director of planning, the zoning commissioner and deputy zoning commissioner shall be appointed by the county administrative officer, subject to confirmation by the county executive. The members of the planning board shall be appointed by the county executive. Unless and until otherwise provided by legislative act of the county council in accordance with Section 524 of this Article, the director of planning, the planning board, the zoning commissioner and deputy zoning commissioner shall have and perform such duties as are provided by law in effect at the time of the adoption of this Charter.

Editor's note—The second sentence of this Section of the Charter was rendered inoperative by Section 524.1. Section 524.1 changed the method of appointment of the director of planning, the zoning commissioner and the deputy zoning commissioner.

Sec. 523. Duties of the office.

The office of planning and zoning shall be charged with the responsibility and duty of planning for the future development and growth of the county, including the preparation and revision of a master plan and the preparation and revision from time to time of rules and regulations governing subdivisions. It shall also be responsible for the preparation and administration of a zoning map and of zoning rules and regulations which shall constitute a zoning code. All plans and maps and all rules and regulations hereafter adopted, amended or repealed by

*Code reference—Planning, zoning and subdivision control, Title 22.

the office of planning and zoning, or any board, commission or officer thereof, shall, prior to taking effect as law, be approved by ordinance of the county council. All reclassifications and all orders of the zoning commissioner may be appealed in the manner provided in Article VI of this Charter and not otherwise.

Sec. 524. Reorganization of office of planning and zoning.

To the extent hereafter permitted by law, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to provide for and define the duties of a director of planning and zoning as head of said office, to provide for his appointment in the same manner as the heads of other offices and departments in the administrative services, to fix and determine the powers, duties and compensation of the planning board, to redesignate the planning board by some other name so as more clearly to indicate the scope of its duties and functions, to redefine the duties or abolish the office of deputy zoning commissioner, and, in general, to coordinate and centralize the planning and zoning functions of the county in such manner as may be to the best interests of the county and its future development and growth.

Annotation—Writ of mandamus to test the validity of an Act of the county council passed under this section should have been dismissed in its entirety. Murray v. Director of Planning, 217 Md. 381, 143 A.2d 87 (1958).

Sec. 524.1. Appointment and removal of director and deputy director of planning, zoning commissioner, deputy zoning commissioner and people's counsel.

(a) Notwithstanding any other provision of this Charter, the county executive shall appoint the director of planning, subject, however, to confirmation by the county council, and such person so appointed shall continue to serve as director of planning until such time as he or she shall resign or be removed pursuant to the provisions of this section. The director of planning may appoint a deputy director of planning. The director of planning may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. The county executive shall appoint the zoning commissioner and deputy zoning commissioner, subject, however, to confirmation by the county council, to serve for a term which shall expire on June 1, 1963 and on June 1 of every fourth year thereafter or until their successors are appointed and confirmed. The zoning commissioner or his deputy may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. Within thirty days after the effective date of this Charter amendment the county executive shall appoint the first director of planning, the first zoning commissioner, and deputy zoning commissioner to hold office hereunder,

subject
council
amend
joint

(b)
(30)
execut
of the
howe
point
she r
tained

(1)

(2)

(3)

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 22

RESOLUTION NO. 71-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, November 19, 1979

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision, and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the Charter provides that the Office of Planning and Zoning prepare and revise a Master Plan at least every ten years, the previous such revision being accomplished in 1975; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the County Council has the responsibility to accept or modify, and then adopt by resolution, a Master Plan which it receives from the Office of Planning and Zoning; and

WHEREAS, the County Council has caused to be prepared by consultants and staff, at great expense to the taxpayers of Baltimore County, a comprehensive growth management planning study which has been accomplished over the past three years; and

WHEREAS, the elements of said planning study together comprise a Master Plan, containing objectives, policies and standards, and a composite of mapped and written proposals serving as a guide for the physical development of the County; and

WHEREAS, the Planning Board of Baltimore County has held public hearings on the Master Plan and on the elements thereof and has recommended the adoption of certain elements of that Plan; and

WHEREAS, the Office of Planning and Zoning has submitted to the County Council a Master Plan, entitled "Recommended Baltimore County Master Plan 1979-1995", with accompanying map entitled "Baltimore County Master Plan Land Use Plan"; and

WHEREAS, the County Council has held a public hearing on the Master Plan on September 11, 1979.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Master Plan submitted by the Office of Planning and Zoning and adopted by the Baltimore County Planning Board, including mapped and written proposals, are hereby amended and modified, and as so amended and modified, are hereby adopted and declared to incorporate and be comprised of the following written and mapped components, which will serve as a guide for the development of the County, and which may be subject to such further modifications as deemed advisable by the Baltimore County Council:

"Baltimore County Master Plan 1979-1990" Written Components, maps, errata and addendum thereto, as follows:

SECTION I

Baltimore County Growth Management Program Physical Development Plan, Part I, Land Use Element.

SECTION II

Baltimore County Growth Management Program Physical Development Plan, Part II, Transportation Element.

SECTION III

Baltimore County Growth Management Program Housing and Community Preservation Plan.

SECTION IV

Baltimore County Growth Management Program Open Space and Recreation Plan.

SECTION V

Baltimore County Growth Management Program Public Facilities Plan, Part I, Community Services.

SECTION VI

Baltimore County Growth Management Program Public Facilities Plan, Part II, Utilities.

BE IT FURTHER RESOLVED, that, using the Baltimore County Master Plan 1979-1990 herein adopted as a guide, the County Council intends to proceed with development of an overall growth management program for the implementation of the Master Plan, said program to include revised zoning maps, zoning rules and regulations, subdivision rules and regulations, a capital improvements program, community plans, including but not limited to Owings Mills and Whitemarsh, and such other legislation, regulations, policies and programs as may be necessary; and

BE IT FURTHER RESOLVED, that until said overall growth management program and implementation measures can be adopted, the Office of Planning and Zoning, the Baltimore County Council and all other departments, agencies and officials of the County, in the exercise of any powers, authority, duties or responsibilities related to actions impacting on land use, growth or development, including planning, zoning and subdivision activities, in the County, shall consider the objectives, policies and standards of the Master Plan.

BE IT FURTHER RESOLVED, that all programs and construction projects initiated by the County be in concert with or further the goals and objectives stated in the Master Plan adopted in this resolution, and further that the Director of the Office of Planning and Zoning make such an evaluation of each and every such project and program and forward said evaluation to the County Executive and the County Council for their consideration.

BE IT FURTHER RESOLVED, that supplementary to and in conformity with the Master Plan, the agencies of Baltimore County engage in an ongoing process which includes water, sewer, and solid waste management planning, management of the coastal zone of Baltimore County, designation of areas of critical state concern, specific area plans, and plans devoted to capital improvements and other facilities. It is intended that such plans, upon enactment by the County Council and as amended from time to time shall be incorporated in the Master Plan by reference.

BE IT FURTHER RESOLVED, that the County Council intends to approve a land use map to be part of the Master Plan concurrently with the adoption of the 1980 Comprehensive Zoning maps.

BE IT FURTHER RESOLVED, that the Planning Board forward to the Council, upon completion of the elements governing growth in each of the Growth Areas, a recommendation on the method of ensuring that all development actions made by the public and private sectors are in conformance with the master plan goals, objectives and elements as adopted by the County Council.

AND BE IT FURTHER RESOLVED, that previous Master Plans adopted by the Planning Board and/or the County Council are rescinded to the extent that they are inconsistent with the Baltimore County Master Plan 1979-1990.

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

land use element

1

WHEREAS, said Master Plan divides the County into areas for the purpose of achieving specific plan objectives related to the location, density, timing and quantity of growth and development in such areas and the appropriate distribution of population, housing units and land uses throughout the County; and

WHEREAS, said Master Plan contains objectives, policies and standards designed to assimilate full population growth by the County representing the County's share of regional growth, to insure orderly growth and development of said population in the County; to protect valuable and irreplaceable natural, agricultural and environmental land and resources; to promote economic growth; to meet the housing needs of present and future anticipated residents; to assure that new development is adequately served by public facilities and services; to correct service and facility deficiencies in existing neighborhoods; and to promote the public health, safety and welfare of all residents of the County; now, therefore

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that a new Article 4A - GROWTH MANAGEMENT, be and it is hereby added to the Baltimore County Zoning Regulations, said new article to read as follows:

ARTICLE 4A - GROWTH MANAGEMENT

Section 4A00 - Purpose and Definitions

4A00.1 - Purpose.

The purpose and intent of this Article is to implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development in all areas of the County which would result in land use patterns, location of new growth and timing of growth and development that is consistent with preservation of the quality of life in existing neighborhoods, with the ability of the County to provide necessary public facilities and services to support new development, with the ability of the County to correct existing service and facility deficiencies, with the preservation of natural, agricultural and environmental resources and with the promotion of new growth and development in appropriate areas.

intersection in a transportation mapped area on the date the designation becomes effective;

T = the number of daily peak-hour vehicle trips, based on actual traffic counts taken by the Department of Traffic Engineering, passing through the most congested arterial intersection in a transportation mapped area; and

I = the projected number of additional daily peak-hour vehicle trips to be generated by nonindustrial developments that have been approved under the provisions of this Article and have not yet been constructed and would most likely pass through that intersection. For partially completed nonindustrial developments, the amount of peak-hour vehicle trip shall be prorated based on number of completed units or square footage.

However, if N is less than zero under the formula, the reserve capacity in the area shall be zero.

3. Maximum Level of Nonindustrial Development.

a. The level of additional nonindustrial development in a mapped area as provided above, may not exceed that which would generate the number of daily peak-hour vehicle trips equal to the reserve capacity of that mapped area, based on the following assumptions:

1. Every 100 dwelling units, other than for the elderly, shall be considered to result in the generation of 85 peak-hour vehicle trips daily;

2. Every 100 dwelling units in housing for the elderly shall be considered to result in the generation of twenty-five peak-hour vehicle trips daily;

3. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to retail use shall be considered to result in the generation of 14.70 peak-hour vehicle trips daily; and

4. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to office use shall be considered to result in the generation of 2.34 peak-hour vehicle trips daily.

4A00.2 - Definitions

For the purposes of this Article, certain words and terms are defined as set forth below:

1. Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual budget, for the purchase, construction, or replacement of the physical assets of the community are included as set forth in the Baltimore County Charter. Capital Improvements Program shall refer to the existing or any subsequently adopted CIP as defined herein.

~~--------2. Development Applications. Applications to the County for nonindustrial development approval necessary prior to and including building permit applications. Includes applications for special permits, special exceptions, tentative or final subdivision approval (with or without public works agreements) and building permits when no other development approval has been required.----------~~

~~--------3. Director. The Director of the Office of Planning and Zoning of Baltimore County.---~~

-4- 2. Master Plan. The comprehensive plan for orderly development of the County, adopted by the County Council, pursuant to the Baltimore County Charter and Code, and including all parts and elements thereof which shall serve as the basis for land use regulations in the County.

Section 4A01 - Monitoring of Development Activity.

4A01.1 - Generally.

In order to insure consistency between the operation and effectiveness of the Growth Management process, including but not limited to zoning maps, zoning regulations, subdivision regulations, basic services mapping standards, PUD requirements, community plans, and capital improvement programs and the growth management objectives of the County-wide Master Plan, as adopted, development activity in the County shall be monitored on a semi-annual basis in order to reflect current trends and activities and to provide a basis for amendment to the County's Growth Management process and/or County-wide

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1981, Legislative Day No. 6

RESOLUTION NO. 14-81

Mr. Gary Huddles, Councilman

By the County Council, March 16, 1981

A RESOLUTION to incorporate the Pikesville Revitalization Growth Plan into the Baltimore County Master Plan 1979-1990.

WHEREAS, by Resolution No. 71-79, passed on November 19, 1979, the County Council of Baltimore County, Maryland adopted the Baltimore County Master Plan 1979-1990; and

WHEREAS, pursuant to provisions of the Charter and of the Baltimore County Code, the County is responsible for planning for the future growth and development of the County, including preparation of a Master Plan; and

WHEREAS, the Baltimore County Planning Board, on May 17, 1979, approved the Pikesville Revitalization Growth Plan and recommeded that it be incorporated into the Baltimore County Master Plan; and

WHEREAS, the County Council of Baltimore County, Maryland has thoroughly reviewed the Pikesville Revitalization Growth Plan.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the Pikesville Revitalization Growth Plan b and it is hereby incorporated into and made a part of the Baltimore County Master Plan 1979-1990.

commercial districts within which those areas lie. Basic service maps are hereby established to regulate residential and other nonindustrial development in those underserved areas to a degree commensurate with the availability of these facilities. Basic service maps are not permanent, and will be reviewed annually with reports to the County Council.

4A02.2 Conflicts.

In the event that there is any conflict between the provisions of this subsection-- ARTICLE and any other provisions of these zoning regulations, the provisions of this subsection- ARTICLE shall govern.

4A02.3 Adoption of Basic Services Maps.

A. The following basic services maps, which shall be in the custody of the zoning commissioner for Baltimore County, are hereby adopted and made a part of this Article:

1. Basic Service Sewerage Map, dated November 19, 1979.

2. Basic Service Water Supply Map, dated November 19, 1979.

3. Basic Service Transportation Map, dated November 19, 1979.

B. The three basic services maps shall be prepared annually in accordance with the schedule set forth below, which maps shall incorporate a delineation of adequacy and availability of water supply, sewerage, transportation services and facilities according to the standards and requirements set forth in this section.

C. The individual sewer, water supply and transportation basic services maps shall be adopted by the County Council in accordance with the procedures and requirements of this Article contrary provisions of Title 22. of the Baltimore County Code notwithstanding.

D. Boundaries as shown on the basic services maps shall be interpreted in accordance with Section 100.4 of these zoning regulations.

E. 1. Before July 31, 1980, and annually thereafter, the Planning Board shall recommend to the County Council any revisions to the basic services maps. The Planning Board need not adopt a preliminary report or hold a public hearing with respect to its recommendations, although it shall allow the public a reasonable opportunity to comment before adopting the recommendations.

2. Before October 15, 1980 and annually thereafter, the County Council shall take action on said maps with respect to----- AFTER CONSIDERATION OF the recommendations of the Planning

Hearth

Lidtor for Petitioners

PETITION FOR RECLASSIFICATION : BEFORE THE
N/S OF WOODHOLME AVENUE : COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD : FOR BALTIMORE COUNTY
:
JEROME S. ALPERSTEIN :
MARIAN ALPERSTEIN, wife : CASE NO. R-82-76, Item 17
BONNIE HERMAN HAMENT : CYCLE 1, April to October 1981
DENNIS HERMAN :
ROBERT P. WAGERS :
JEAN WAGERS, wife :
E. DAVID WEINBERG, M.D. :
Petitioners :
: : : : : : : : : : : : : : : : : :

RECEIVED BALTIMORE COUNTY Feb 25 4 12 PM '82 COUNTY BOARD OF APPEALS BY

MEMORANDUM

Petitioners are owners of collective acreage in the amount of 36.53 Acres more or less, binding on Woodholme Avenue north of Old Court Road. The tract comprises four separate ownership tracts. The subject tract comprises all of the land located on this section of Woodholme Avenue with the exception of two smaller parcels on the east side of Woodholme Avenue and one smaller parcel on the west side of Woodholme Avenue just north of Old Court Road. The Petitioners or their families have been long-time residents and owners of the properties which are the subject of this Petition.

The evidence submitted clearly shows that the property is bounded on the east by the "Pomona" development which is zoned DR 16 at its boundary line with the Weinberg property; that the entire northern boundary of the tract and specifically the Weinberg's and Wagers' parcels are bounded by the Baltimore Beltway, Interstate

or office uses shall be determined by the Department of Public Works.

4. Exception. This subparagraph does not apply to any development application relating to a structure or structures that will be situated on a lot or lots not served by a public sewerage system or which involve a residential development of no more than 3 dwelling units on a lot of record as of the effective date of this Article or to any development in a CCC district, CSA district OR RAE zone or IN a town center, other than a town center within a new development area so designated in the Master Plan.

D. Transportation.

1. Intent. The transportation standards and maps are intended to regulate nonindustrial development where it has been determined that the capacity of arterial and arterial collectors- INTERSECTIONS is less than the capacity necessary to accommodate traffic both from established uses and from uses likely to be built pursuant to this Article. Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector intersection situated within and serving the MAPPED area will, on the date the map becomes effective, be rated at level-of-service E or F under standards established by the Highway Capacity Manual, 1965, published by the Highway Research Board of the Division of Engineering and Industrial Research, National Academy of Sciences-National Research Council.

2. Determination of critical vehicle-trip number. a. For the purpose of this subparagraph, the "critical vehicle-trip number" of an intersection is determined by the formula

~~C = E - F + E~~ $\quad C = \frac{F - E}{2} + E$

in which, each letter represents a number of daily vehicle trips through a given intersection at peak hour and

C = the critical vehicle-trip number;

F = that number which if reduced by one would result in a change in the intersection's level of service from F to E; and

E = that number which if reduced by one would result in a change in the intersection's level of service from E to D.

b. Determination of reserve capacity. It is intended that the reserve capacity be determined for each district by the formula

N = C - (T+I)

in which

N = reserve capacity

C = the critical vehicle-trip number for the most congested arterial

I-695 for approximately 2,500 feet; that the tract and particularly the Wagers' and Herman's parcels are bounded on the south and west by the Western Maryland Railroad and DR 16 and ML zoning; that the tract and particularly the Herman and Alperstein and Weinberg parcels are bounded on the southeast by the subdivision known as "Woodholme Estates" which is zoned DR 2 and the development known as Pine Ridge located on the south side of Old Court Road which is zoned DR 3.5.

The testimony revealed that the Pomona tract is developed by commercial development along its border with Reisterstown Road and the balance of the tract is multi-zoned DR 16, DR 10.5 and DR 2 for an average density of 7.5 to 8 units per acre and that the protestants inclusive of Dr. and Mrs. Paige, other residents along Woodling Way and the Pine Ridge Association had entered into agreements with the developer of "Pomona" for the development of that tract at 7.5 units per acre density in addition to other agreements specified therein which are in the record as Petitioners' Exhibit 20 and 25.

(A)

The testimony and other exhibits reflect the location of the intersection of Interstate I-695 and Reisterstown Road and its proximity to the subject site. The testimony of the witnesses also indicated the fact that the Old Court Road is a four-lane road-way from Greenwood Road to Reisterstown Road. The testimony further reflects the existence of the Western Maryland Railroad right-of-way and the fact that the land to the west zoned ML is now fully developed for warehousing, offices and other commercial uses and that the DR 16 zoning to the west is developed in accordance with said zoning for garden apartments and known as the Brittany Apartments.

(B)

(C)

The testimony reflected the fact that the Northwest Expressway is now funded and under construction from I-695 (Beltway) to Dolfield Road and that the extension of the subway system from

(D)

Reisterstown Road Plaza to Owings Mills is funded for this year and under construction at the present time, inclusive of funding for equipment to be used in the Old Court Road Subway Station.

The evidence submitted during the course of the hearing overwhelmingly supported the fact that existing public facilities and services were adequate and readily available to the subject site. The testimony further reflected that the implementation of subdivision regulations would address the concerns evidenced by the protestants with regard to traffic, fire safety and access. The subdivision regulations would obviously require and demand that Woodholme Avenue be widened and that sidewalks be installed and that secondary access be provided to the site and that the traffic controls be installed at Woodholme Avenue and Old Court Road. The testimony further showed that the traffic to be generated from this site would meet the requirements of the Growth Management Basic Services legislation which was adopted to implement the Master Plan.

Mr. Thaler's testimony with regard to the specific requirements of the Code and the Regulations with regard to development requirements addressed all of the concerns raised by staff and the protestants in a most professional way and his testimony was not rebutted. Specifically with regard to the traffic concerns, protestants' traffic expert was not aware of the provisions of the Growth Management Act, Bill No. 178-79, and how its provisions impact the method of determining the adequacy of the roads in the area to handle traffic generated by this site. He concurred that the level of service at Reisterstown Road and Old Court Road would not be substantially impacted by development on this site in accordance with DR 10.5 zoning, should same be granted. The protestants' traffic expert also testified as to requirements that he might impose but that such requirements were not established by law or existing county policies.

With regard to the environmental concerns raised by the protestants and the protestants' environmental expert, I believe that it was obvious that this expert had not performed even a superficial review or examination of the property and the environmental concerns which he raised were not based upon a professional examination or sufficient information or data to be accepted or relied upon. The Petitioners' expert, Mr. Thaler, upon performing an actual examination and tests responded in every respect with regard to the traffic and environmental objections raised by the protestants.

It has been determined by the reports and reviews of the various county agencies that other basic services such as schools, water and sewer services are either in place or readily available to service the subject site should this application be approved.

MASTER PLAN, ETC.

When Baltimore County began to feel the real impact of suburban sprawl and the substantial costs associated with such sprawl, it determined that its basic objectives should be to reverse the trends toward development in the outlying or peripheral areas where public facilities and services were inadequate and to return a substantial portion of the natural growth of the county to the closer-in areas. It was then in late 1975 or early 1976 when the County began to explore methods by which growth in the county could be managed by regulating growth in some areas and correspondingly encouraging growth in other areas. The planning basis for such a system was critical to establish a sound, rational process supported by data, projections and analysis that would lead to a growth management system that is responsive to the analysis as well as to the goals and objectives of the county.

It was recognized early on: that there was a need to utilize land already served by public facilities; that the population projections indicate a rapidly expanding residential growth rate; and

the difficulty for the county of servicing new growth areas.

Baltimore County, as a chartered county, has its own basic planning, zoning, subdivision, official mapping and capital improvement programming authority derived from its own charter and code. Effective December 8, 1978, by a vote of the citizens of Baltimore County, the Baltimore County Charter, Section 523, was amended by providing a new Section 523 which defined the status of the Master Plan and of the Zoning Maps (a copy of the new Section 523 is attached). The old Section 523 mentioned the Master Plan but in no way defined same and in no way described the status of said plan other than to say that prior to taking effect as law it would have to be approved by an ordinance of the County Council (a copy of the old Section 523 is attached hereto).

Then by Resolution No. 71-79, the Baltimore County Council adopted the "Baltimore County Master Plan. 1979-1990" (copy attached). Then by Council Bill No. 46-79 Baltimore County Council adopted procedures whereby the Board of Appeals exercises original and exclusive jurisdiction over all petitions for reclassification of property (a copy of pertinent portions of said Bill attached hereto).

Then by Bill No. 179-79, the Baltimore County Council adopted the Growth Management Act (a copy of which is attached hereto).

Then by Resolution No. 14-81 the County Council adopted the Pikesville Revitalization Growth Plan and incorporated same into and made it a part of the Master Plan (copy of Resolution attached).

Baltimore County, by the Amendment to Section 523 of the Charter and the adoption of the operating legislation inclusive of the Master Plan, Growth Management Act, 1980 Comprehensive Zoning Maps and the Bill that outlined the Board of Appeals' powers in reclassification cases, set in motion a new era in Planning and Zoning for Baltimore County that has set the stage for the County to be able to more competently address the future.

The Petitioners wish to advise the members of the Board of Appeals that the aforementioned legislative enactments have changed the planning and zoning process in this County and is designed to establish a planning program that it can implement and that the citizens of this County, including the business and development communities, can rely upon to better serve the goals and objectives of the County through its government. We herein will review pertinent Maryland case law which clearly distinguishes between a Master Plan not adopted by the legislative body as compared to a Master Plan that has been legislatively adopted.

On October 13, 1975, the Baltimore County Planning Board had adopted "Baltimore County Comprehensive Plan, 1975" pursuant to the provisions of Title 22 of the Baltimore County Code. As the Board is well aware, the usefulness of the Comprehensive Plan was clouded by the fact that while it had been adopted by the Planning Board, it had not been adopted by the County Council and could not be afforded the effect of law as it was not known whether the Comprehensive Plan reflected the sentiments of the County Council. It is obvious that the citizens of Baltimore County, in adopting a new Section 523 of the Charter, wished to establish the Master Plan as the primary growth management document by providing that the County Council shall adopt the Master Plan by resolution and that it zone land within the County consistent with the Master Plan. There are numerous cases in Maryland which supported the proposition that Master Plans or Comprehensive Plans not adopted legislatively by the governing body, were merely recommendations as a guide to the legislative body in making its decision with regard to zoning. Chapman v. Montgomery County Council, 259 Md. 641 (1971), Board of County Commissioners for Prince George's County v. Edmonds, 240 Md. 680 (1965), Iverson v. Zoning Board of Howard County, 22 Md. App. 265, (1974), Nottingham Village v. Baltimore County, 266 Md. 339, (1972). In the Nottingham case, the Court stated:

"We hold, therefore, that the passage of the zoning regulations on 3 August 1970 and the adoption of the zoning map on 24 March 1971 after the 1980 guide plan had been presented and considered, could not be challenged as an invalid exercise of legislative authority because there had been no formal adoption of a Master Plan. While the County Charter, Section 523, would seem to provide that the 1980 guide plan will take effect only when approved by an Ordinance of the County Council, whether or not the guide plan is regarded as a Master Plan, the adoption of a Master Plan is nowhere made a condition precedent to the formalization of the Comprehensive Plan. The guide plan was before the Council and was only one of the elements from which the Comprehensive Plan was derived."

The Court's reference to the "Comprehensive Plan" was referring to the Comprehensive Zoning Maps adopted at that time.

And further, in quoting from the Court in the Nottingham case which in quoting Kentucky Court in Ward v. Knippenberg, 416 SW 2nd. 746, 748 (KY. 1967):

> "While it is true that other jurisdictions have by statute required that zoning ordinances be in accordance with the Master Plan, Haar, In Accordance with a Comprehensive Plan, 68 Harv. L. Rev. 1154, 1157, (1955), Baltimore County has not. A Comprehensive Plan is something more than a detailed zoning map, Hewitt v. County Commissioners of Baltimore County, Supra. 220 Md. at 58, and should apply to a substantial area, be the produce of long study, and control land use consistent with public interest, Trustees of McDonogh Educational Fund and Institute v. Baltimore County, 221 Md. 550."

And to further quote from Haar, "In accordance with a Comprehensive Plan", 68 Harvard Law Review, 1154, 1157 (1955):

> "Policy is the most important ingredient of the general plan. A policy is a generalized guide to conduct which, although subject to modification, does imply commitment. To me, therefore, there can be no such thing as a flexible plan, since there can be no such thing as a flexible policy in relation to physical development. A so-called "flexible" plan is no plan at all."

In the case of Norbeck Village Joint Venture vs. Montgomery County Council, 254 A. 2d 700, the Montgomery Council Council had rezoned large acreage in the Olney area and in many cases contrary to a master plan which the District Council itself had approved only a few months before. The court in reviewing the master plans stated:

"The purpose of the plan was described as promoting the physical isolation of Olney from suburban sprawl. Low density residential zoning was recommended to break the development pattern from the suburbs. The proposed zoning in the plan is in accordance with existing development. It was stated that a serious deficiency of public services would exist if the master plan was not adopted. The plan was to accomplish a staged development using the tools of zoning and sewer access to avoid the excess cost of public services. A critical element of the plan was to encourage earlier growth along the 70 S Corridor rather than on the farmest River watershed thereby protecting the basin from pollution."

The court in affirming the decision of the lower court which upheld the subsequent rezoning of the property by the council in accordance with the master plan by stating that the action of the council was supported by the fact that the plan implemented the general plan and the master plan adopted by the council.

In the case of Aspen Hill Venture vs. Montgomery County Council, 289 A. 2d 303, the Court of Appeals in reviewing an application for reclassification wherein the legislative body was operating under circumstances similar to those existing in Baltimore County where there had been an approved and adopted a Master Plan. The District Council on May 4, 1971 denied the application for reclassification to the C-1 Zone which request was in accord with the land use designation recommended for the property on the recently adopted Aspen Hill and Vicinity Master Plan (approved by the District Council on December 3, 1970). The District Council recognizes that master plans are guides for its utilization and specified areas sometimes long range guides, and therefore making hasty implementation of the recommendations in a piecemeal fashion (for the sake of conformity with the plan) may well be action to the detriment of the public interest.

And further quoting from the hearing examiner's recommendations, the court quotes:

> "The evidence of record includes studies by the technical staff as to the existing and proposed local commercial facilities within the Aspen Hill planning area. Testimony of lack of need for additional commercial facilities from residents of the area of the subject property, the text, maps, and tables contained within the aforementioned master plan, and

the lack of any affirmative compelling evidence from the applicant to show a need for additional commercial zoning; we, therefore, conclude that a surplusage of local commercial zoning, commercial shopping facilities to service residents of the neighborhood presently exist and that the granting of the subject application as a prelude to creating additional commercial facilities is not at the present time in the public interest."

The Court, in reviewing the facts, also reviewed the circumstance where the council had reclassified nearby property to grant C-1 commercial zoning in accordance with the master plan. The Court, at page 306, states:

> "We adhere to the proposition that, although rezoning is not necessarily compelled upon a finding of change in the character of the neighborhood, none the less, legislative decision to rezone or not to rezone under such circumstances is subject to review as an exercise of the police power, in order to determine if there has been an abuse of that power by way of arbitrary, capricious or discriminatory action. It is against this background that we review these issues."

The Court in Aspen and quoting from the Supreme Court of the United States in Nectow vs. Cambridge, 277 U.S. 183, stated:

> "However, the governmental power to interfere by zoning regulations with the general rights of the landowner by restricting the character of the use of his land is not unlimited, and such restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, morals or general welfare. Legislative bodies have no authority, under the guise of the police power, to impose unreasonable and unnecessary restrictions on the use of private property in pursuit of useful activities."

The Court further went on to say at page 309:

> "We here note that while a zoning designation on a master plan may not support an immediate request for rezoning, as it is a guide for the future, yet, when, as here, it is accompanied by the dynamics of change, we think the designation on the master plan becomes most significant. ... Thus, the ignoring of the master plan, under the facts and circumstances of this case, serves to emphasize the lack of substantial relationship between the exercise of the police power and the public interest."

And the Court went on to say at page 310:

> "In the instant case, Aspen, in proffering the Faller decisions for the consideration of the lower court, was not asking it to accept or consider additional evidence to supplement the merits of its case which it had the burden of proving, but was asking that the validity of the district council's actions appealed from be considered in light of other actions by that body based on the same evidence and within the same planning area, as indicative of arbitrary and discriminatory action. ... The action of the district

council in denying the C-1 classification to Aspen, when viewed in context with its granting of commercial zoning to the Faller tract on basically the same evidence, becomes patently arbitrary and discriminatory."

The Petitioners herein strongly suggest to the members of the Board of Appeals that the action of the County Council in the adoption of the 1980 Comprehensive Zoning Maps was specifically the same patently, arbitrary and discriminatory conduct referred to in the above captioned case when the Pomona property on the same 1980 Comprehensive Map was zoned DR 16 and DR 10.5 with other major land areas to the west zoned DR 16 and ML.

The Baltimore County Council in designating the subject property in the DR 2 zoning classification, acted in an arbitrary, capricious, and discriminatory manner in zoning the property DR 2. The County Council acted without regard for the Amendment to Section 523 of the Charter as approved by the citizens of Baltimore County and the adopted "Baltimore County Master Plan 1979-1980" totally ignoring the changes that had occurred in the laws relating to planning and zoning in Baltimore County and the changes that had occurred in the neighborhood, as well as the impact of the plans, policies, objectives and purposes of the Master Plan.

The history of the development of change in the area and the recognition of those changes by the State of Maryland, Baltimore County through its County Council, and the Office of Planning and Zoning clearly reflect the error committed by the County Council in zoning the subject property DR 2. Prior to delving into the specific provisions of the Master Plan, I wish to point out to the Board the following changes which have occurred under the auspices and under the direction of decisions made by Baltimore County pursuant to its Planning and Zoning and Development Control powers or with its concurrence:

1. The substantial land area to the west of Greenwood Road and now occupied by the Brittany Apartments which are zoned DR 16.

2. The land area lying between Greenwood Road and the

Western Maryland Railroad right-of-way on the east which is zoned ML and is now occupied by manufacturing, warehousing and office and commercial uses.

3. The location of the Western Maryland Railroad right-of-way along the western boundary of the subject tract which services industrial sites north of the subject site.

4. The Baltimore Beltway which binds the subject tract on its northernmost boundaries for approximately 2,500 feet.

5. The Interstate Highway Interchange of Reisterstown Road and I-695 the development of the Hilton Hotel complex and tennis facility between the Beltway and Naylors Lane and Old Court Road.

6. The development of the Pomona site pursuant to zoning granted in classifications DR 16 and DR 10.5 and DR 2 for an average density of between 7.5 and 8 units per acre.

7. The construction and widening of Old Court Road from Reisterstown Road to Greenwood Road to a four-lane thoroughfare.

8. The planning and funding of the Northwest Expressway from the Baltimore Beltway to Dolfield Road.

9. The planning and funding of the extension of the subway system from Reisterstown Road Plaza to Owings Mills.

The Petitioners strongly contend and believe that the evidence submitted at the time of the hearing that the County Council committed error in that the DR 2 zoning classification is not consistent with the adopted County Master Plan and good planning practices, and further, that the requested zoning of DR 10.5 would be consistent with the Master Plan, the Adopted Pikesville Revitalization Growth Plan, and good planning and zoning practices. The Master Plan provides that the plan be utilized by the Council and all other County departments and actions relating to planning, zoning and sub-division activities; and further shall consider the objectives, policies and standards of the Master Plan in preparing comprehensive zoning maps.

The detailed TSADA evaluation identifies that relatively limited available vacant land exists within the Old Court Road station transit impact area. It is further noted that: the existing zoning pattern merely follows the current land use pattern and does not recognize the opportunities which exist for transit related developments; and measures providing for various transit and other improvements will allow for increased development opportunities.

The TSADA recommends additional development within the station area in order to encourage pedestrian access to the station and further to the development; and supports the proposal that additional housing be built and in-filled within existing development areas, on the vacant acreage associated with larger, older estates or under-utilized residential tracts. The proposed development at approximate density of 10 units per acre was noted to occur on the few undeveloped parcels in close proximity to the station area.

Development of the subject site at DR 10.5 units per acre density is clearly in conformance with the long-standing planning efforts of the County in the station area; and recognizes the limited opportunities which exist for transit related development, as encouraged by the Baltimore County Master Plan.

Encouraging high density development around the transit station will: reduce energy consumption, encourage inefficient trip making, and reduce total vehicle miles traveled. Furthermore, construction of higher intensity residential development in proximity to town centers and revitalization areas will further reduce dependence on automobile travel, and encourage additional mass transit usage and linkages to the Pikesville area.

Development at this site at higher density will reduce the general auto orientation and establish requirements for new roads and other facilities. Construction of housing in proximity to the transit station facility and the highway interchange and revitalization

The Baltimore County Charter requires that zoning maps be consistent with the Master Plan.[1]

The basic premise of the Master Plan is that "certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development."[2]

The general development plan states that a centralized development pattern will: increase public transportation patronage; reduce the demand for new public school construction; and reduce the total transportation costs attributable to new residential growth by 38%; and provide more affordable housing.[3]

The Master Plan identifies goals and objectives which must be related to all areas of the County and implemented by various development control mechanisms inclusive of zoning as follows:

1. The pace of development in existing communities be limited if public facilities are substantially inadequate but to encourage residential and other development where appropriate and where such development would strengthen such communities.[4]

2. In its Growth Strategies, states that natural resource protection issue such as steep slopes are suitably addressed in the development review process.[5]

3. It identifies Growth and Preservation Strategies by Growth Area for Special Development Opportunities in all areas which are proximate to either Highway Interchanges and/or Mass Transit Stations.[6]

1 Resolution 71-79
2 Master Plan-Land Use Element (P.4)
3 Master Plan-Land Use Element (P.7)
4 Master Plan-Land Use Element (P. 13)
5 Master Plan-Land Use Element (P. 17)
6 Master Plan-Lane Use Element (P. 18)

efforts in such commercial areas will also serve to reduce the need for second car ownership; and hence, lead to increased income available for housing. This would also improve affordable levels of housing for Baltimore County residents.

Concentration of development on the [illegible] land resources in proximity to revitalization areas, mass transit stations and highway interchanges will serve to help implement the concentration emphasized in the Master Plan. [illegible] testimony of Mr. Frost, case studies [illegible] Canadian cities indicate that such development serves to preserve existing single family neighborhoods and helps to prevent "leap-frogging" development which increases public service and infrastructure requirements.

More intensive real estate development near the revitalization commercial area and the transit opportunities, promote additional shopping convenience goods trips through the provision of a local shuttle bus service.

The Court of Appeals has recognized the importance of the Master Plan in land planning. We cite Board of County Commissioners of Cecil County vs. Gerald Gaster, 401 A. 2d 466, at page 472, the court stated:

> "There are three integral parts of adequate land planning, the master plan, zoning, and subdivision regulations."

Baltimore County, after having invested in excess of One Million Dollars ($1,000,000.00) in plans and studies, etc. for the development of a Master Plan pursuant to its Charter, certainly contemplated that a major change from the previously existing scheme of planning and zoning when it provided by charter amendment in Section 523 for the preparation and adoption of the Master Plan by the County Council and that all zoning maps be prepared consistent with the Master Plan. If the Master Plan is not to be a document of

4. It prescribes moderated growth in Existing Communities provided there is not recommended changes in land use controls and public investment patterns recommended as part of the Growth Management Program.[7]

5. It discourages premature development at lower density than intended under circumstances that exist with relation to the subject site.[8]

6. It identifies as a Special Development Opportunities that occur at Highway Interchanges and Mass Transit Stations in detail and directly addresses land areas that are within minimal distances of both transportation resources as is the subject site.[9]

7. Pikesville is identified as a County Community and is prescribed as an area which includes the subject site.[10]

8. Growth Strategies by community identify Pikesville for accelerated growth to reinforce the Community Commercial Center, to take advantage of Special Development Opportunities of Highway Interchanges and Mass Transit Station.[11]

9. The Transportation Element provides for encouragement of higher density development in areas served by adequate mass transit service.[12]

10. The Community Services Element identifies the problems of decreasing enrollments as verified in the review process in the Pikesville area that additional population provided for higher density zoning on the subject site could provide.[13]

Further, the adopted Master Plan emphasizes support for existing communities, particularly the revitalization of threatened commercial core areas and Baltimore County further re-emphasized that planning goal and objective by adopting the Pikesville Revitalization Growth Plan and incorporating it into and making it a part of the Master Plan. The revitalization growth plan attempts to undertake a series of actions to stabilize and revitalize this significant

7 Master Plan-Land Use Element (P.19)
8 Master Plan-Lane Use Element (P.21)
9 Master Plan-Land Use Element (P.27 & 28)
10 Master Plan-Land Use Element (P.33 & 35)
11 Master Plan-Land Use Element (P.38 & 39)
12 Master Plan-Transportation Element (P.2)
13 Master Plan-Community Services Element (P.4)

substance and to be utilized and depended upon by the County and its citizens, owners of property and developers of property, then the preparation of the document will have been a waste of time and money and the desires of the citizens in approving an amendment to the Baltimore County Charter will have been subverted.

Mr. Boswell, a respected planner for Baltimore County, testified that in his professional opinion, the adoption of the Master Plan imposed a "commitment" upon the County.

Mr. Boswell further testified that the Office of Planning and Zoning had in fact recommended the DR 16 and DR 10.5 zoning on the Pomona tract for the 1980 Comprehensive Zoning Map. He further stated that DR 3.5 zoning would have been equally appropriate for the subject site.

Under the facts that have been presented, the County Council has undoubtedly committed error and has acted patently in a discriminatorily manner.

CONFISCATION

In the course of the hearing before the Board, the testimony adequately addressed the issue of confiscation in that the property, due to its size, configuration, location and topography, is not developable or suitable for single family detached houses as is suggested by the protestants. The testimony revealed that the applicants had attempted to market their properties for sale and were unable to obtain any prospective buyers. The Petitioners' development and professional engineer, David Thaler, testified to the effect that single family detached dwellings would not be developable on the subject site from an engineering as well as market and economic viewpoint.

The Protestants will suggest that the usual presumptions that the original comprehensive zoning plan was correct. The Petitioners

commercial area. Specific elements and recommendations incorporated in the approved plan encourage higher density (more intensive) residential development in areas along Old Court Road, to support the existing commercial facilities. Large parcels along Old Court Road are identified for future residential development and are proposed to be reclassified to higher density residential designation.[14 & 15]

A key element in serving to revitalize Pikesville is encouragement of additional market support for the commercial community. The planning objective of encouraging higher density residential development along the area identified within the Master Plan is clearly attained through the rezoning of the subject property to a suitable intensity of development.[14 & 15]

The Transit Station Area Development and Access Study cited and supported by the adopted Baltimore County Master Plan encourages more intensive residential development surrounding the transit station areas. This TSADA study involves significant public and governmental input and was aimed at: (1) encouraging utilization of the transit system; (2) facilitating real estate development around transit station (where appropriate); (3) reducing adverse impacts on residential and commercial communities; and (4) encouraging the maintenance of stable communities. Specific recommendations for development surrounding the Old Court Road station are as follows:

1. To take advantage of transit related development opportunities for the development of under-utilized land; and

2. To help support the stabilization of existing commercial areas.

These goals and objectives are clearly in support of the adopted Master Plan.

14 Pikesville Revitalization Growth Plan
Part 1 (P.I.19 & I.20)
Part 1 (P.I.4 attachment)
15 Pikesville Revitalization Growth Plan
Part 2 (P.II.2)

would strongly suggest such presumption has been overcome and that this determination is more liberally construed when applied when the property is being reclassified from one residential sub-category to another as opposed to a change from a commercial category to residential category or vice versa. See Tennison vs. Shomette, 379 A. 2d 187, where the Court in affirming a granted reclassification stated:

> "The mere fact that the use is somewhat different than the use as permitted under the C-1 classification does not render the use inconsistent with the comprehensive plan. ... As we previously noted the present classification of the land was inconsistent with the purposes enunciated in the comprehensive plan. Contrary to the appellant's assertion, there was also ample evidence to show that the land was rezoned due to a community's need for a motel complex of this type and not solely to benefit the appellees."

ZONING BY PLEBISCITE

In the case of Board of County Commissioners vs. Oaknill Farms, Inc., 192 A. 2d 761, the applicant for reclassification produced testimony which indicated a strong need for high density land use to meet the demand for housing facilities and to provide needed customers for the many adjacent and nearby commercial establishments and testimony to the effect that because of the nature of the terrain and the tremendous cost of removing dirt or to permit construction could be justified and supported financially only by high density use of the land and that there was real improbability, if not impossibility, of financing housing on the property in its current zoning. The petitioner also submitted testimony to the effect that this use would be in harmony with the present character and planned future of the neighboring area and would not deteriorate the value of the adjacent or nearby homes or otherwise adversely affect the welfare, health, or safety of the community. The protestants did not wish high density development to occur because they wished the country-like atmosphere that they had sought and enjoyed to be spoiled and for esthetic reasons. It also found that the attempts of the

FEB 1 [illegible]

neighboring residents establishing factual grounds were rebutted by the testimony produced by the applicant. The court in affirming the decision of the lower court granting the rezoning and ... ting the lower court stated:

> "He concluded the refusal of the council to rezone was a yielding to demonstrated displeasure at the prospect of many and vocal protestants, was against the weight of the evidence, unsupported by substantial evidence and arbitrary and capricious. We agree with this finding of unsubstantiality of evidence and with its conclusion as to the arbitrariness and capriciousness."

The facts and circumstances in this case before you are exactly those facts that are set forth in the Oakhill Farms, Inc. case above. The vocal and articulate immediate residents of the area have dictated that the zoning on the "Pomona" tract at DR 16 and DR 10.5 are appropriate but that the same zoning for unsupportable reasons is not appropriate.

In exercising the zoning powers, the Council must act for the benefit of the community as a whole following a calm and deliberate consideration of the alternatives and not because of the whims of either an articulate minority or even the majority of the community. The adoption of the Master Plan is the essence of zoning. Without it, there can be no rational allocation of land use. It is the assurance that the public welfare is being served and that zoning does not become nothing more than an action by plebiscite. Moreover, the Master Plan protects the landowner from arbitrary restrictions on the use of its property which can result from the pressures which outraged voters can bring to bear on public officials.

CONCLUSION

In conclusion, the case law in Maryland has established a number of methods by which error can be established overturning zoning classifications as adopted pursuant to comprehensive rezoning and these methods are as follows:

1. When there is substantial and proven evidence to show that the assumptions or premises relied upon by the Council at the time of the rezoning were invalid; or

2. That at the time of the Comprehensive Zoning the Council failed to take into account the existing facts, projects or trends, which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension; or

3. By showing that events occurring subsequent to the comprehensive zoning which the Council could not have taken into account having proven that the Council's premises were incorrect; or

4. Council's failure to take existing facts or events reasonably forseeable of fruition into account; or

5. By showing the specific physical facts were not readily visible or discernable at the time of the comprehensive zoning; or

6. By producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it recognized as existing at the time of the comprehensive zoning; or

7. That the Council acted in a manner inconsistent with the adopted Master Plan as required by the Charter.

The evidence produced during the hearing clearly established:

1. That the environmental concerns of which the Council was advised by the Planning Staff are incorrect and without basis in that no investigation whatsoever was made as to the topography and/or the condition of the stream running through the property and the testimony of Mr. Thaler vividly disclosed the inadequate evaluation made by staff upon which the Council relied.

2. The Council was erroneously advised as to traffic concerns when in accordance with its adoption and implementation of the Growth Management Basic Services legislation the Old Court Road pursuant to standards adopted has been more than adequate and has more than sufficient capacity to accept traffic from the subject site at the

zoning density requested without impairing the health, safety and welfare of the County.

3. The Council failed to take into account the existing facts, projects and trends which were reasonably forseeable of fruition in the Master Plan in that it failed to acknowledge the existence of the highway interchange of Interstate I-695 and Reisterstown Road and the desire of the Master Plan to encourage development in such areas;

4. The Council failed to take into consideration aims, goals and objectives of the Master Plan to take advantage of existing facilities and services to prevent sprawl from other areas and to acknowledge that the subject site is served by water, sewer, transportations, schools, recreational facilities and library facilities, and that the designation of DR 2 zoning discourages rather than encourages development in this area;

5. It is now obvious that the extension of the Northwest Expressway from the Beltway to Dolfield Road and the further extension of the subway system from Reisterstown Road Plaza to Dolfield Road has been approved and will be accomplished in that construction has been initiated since the adoption of the zoning maps in accordance with the testimony provided by the representatives of the State Highway Administration and that in fact equipment has been purchased to c...lit the Subway Station at Old Court Road;

6. That the development of under-developed parcels should be encouraged by applying higher density zoning to maximize the utilization of the Subway Station and to minimize the number of automobile trips and to encourage transit patronage by persons within walking distance;

7. That it failed in all respects to be consistent with the Master Plan in zoning the subject property DR 2;

8. Council failed to make provision to accommodate the projected needs and trends associated with the Pikesville revitalization, to encourage development of additional residential units within the Pikesville area, to reinforce and re-establish the vitality of Pikesville as provided in the plan.

The Petitioners, therefore, urge that the Board grant the reclassification of the subject property to DR 10.5.

Respectfully submitted,

Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
321-0600

I HEREBY CERTIFY that on this 25th day of February, 1982, a copy of the foregoing Memorandum was hand delivered to J. Earl Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, John W. Hessian, II, Esquire, People's Counsel, Room 223 Court House, Towson, Maryland 21204, Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202.

Julius W. Lichter

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 20

BILL NO. 178-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL
ENTITLED

AN ACT to implement various elements of the County's ~~Comprehensive~~ Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay district areas and regulations and requirements pertaining thereto; to provide for a master plan consistency determination;~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; and to provide for monitoring of development activity; by adding new Article 4A - GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, 259.3 -- and new definitions "~~Facilities impact use, Class A~~", "~~Facilities impact use, Class B~~", "Housing for the elderly"; "Industrial, quasi-industrial", or industry-related use"; and "Nonindustrial use" to Section 101, all of the Baltimore County Zoning Regulations; ~~by repealing and re-enacting with amendments Subsections 100.1.B.2, 100.1.C., 100.4., the definition of "Farm" under Section 101, and Subsection 259.2, all of the Baltimore County Zoning Regulations;~~ by repealing Subsection 1A04.3.B.2 of said regulations; and by repealing Council Bill 177-79.

NOTE: NOTICE OF AMENDMENT TO THIS BILL.
At the time of Final Reading, the Council unanimously voted to delete pages 3 through 43 of the bill as introduced and replace them with pages 3 through 21. For purposes of clarity and economy, the deleted pages are not included.

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the County Council has adopted the Master Plan by Resolution No. 71 -79 dated ~~October 15~~ NOVEMBER 19, 1979; and

WHEREAS, pursuant to the Baltimore County Charter and Code, the County Council is responsible for the implementation of the Master Plan through the adoption or amendment of zoning maps and regulations, subdivision regulations, capital improvement programs and such other legislation, regulations, policies and programs which may be necessary; and

WHEREAS, said Master Plan divides the County into areas for the purpose of achieving specific plan objectives related to the location, density, timing and quantity of growth and development in such areas and the appropriate distribution of population, housing units and land uses throughout the County; and

WHEREAS, said Master Plan contains objectives, policies and standards designed to assimilate full population growth by the County representing the County's share of regional growth, to insure orderly growth and development of said population in the County; to protect valuable and irreplaceable natural, agricultural and environmental land and resources; to promote economic growth; to meet the housing needs of present and future anticipated residents; to assure that new development is adequately served by public facilities and services; to correct service and facility deficiencies in existing neighborhoods; and to promote the public health, safety and welfare of all residents of the County; now, therefore

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that a new Article 4A - GROWTH MANAGEMENT, be and it is hereby added to the Baltimore County Zoning Regulations, said new article to read as follows:

ARTICLE 4A - GROWTH MANAGEMENT

Section 4A00 - Purpose and Definitions

4A00.1 - Purpose.

The purpose and intent of this Article is to implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development in all areas of the County which would result in land use patterns, location of new growth and timing of growth and development that is consistent with preservation of the quality of life in existing neighborhoods, with the ability of the County to provide necessary public facilities and services to support new development, with the ability of the County to correct existing service and facility deficiencies, with the preservation of natural, agricultural and environmental resources and with the promotion of new growth and development in appropriate areas.

4A00.2 - Definitions

For the purposes of this Article, certain words and terms are defined as set forth below:

1. Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual budget, for the purchase, construction, or replacement of the physical assets of the community are included as set forth in the Baltimore County Charter. Capital Improvements Program shall refer to the existing or any subsequently adopted CIP as defined herein.

~~2. Development Applications. Applications to the county for nonindustrial development approval necessary prior to and including building permit applications; includes applications for special permits, special exceptions, tentative or final subdivision approval (with or without public works agreements) and building permits when no other development approval has been required.~~

~~3. Director. The Director of the Office of Planning and Zoning of Baltimore County.~~

2. Master Plan. The comprehensive plan for orderly development of the County, adopted by the County Council, pursuant to the Baltimore County Charter and Code, and including all parts and elements thereof which shall serve as the basis for land use regulations in the County.

Section 4A01 - Monitoring of Development Activity.

4A01.1 - Generally.

In order to insure consistency between the operation and effectiveness of the Growth Management process, including but not limited to zoning maps, zoning regulations, subdivision regulations, basic services mapping standards, HUD requirements, community plans, and capital improvement programs and the growth management objectives of the County-wide Master Plan, as adopted, development activity in the County shall be monitored on a semi-annual basis in order to reflect current trends and activities and to provide a basis for amendment to the County's Growth Management process and/or County-wide

FEB 1 ...

commercial districts within which those areas lie. Basic service maps are hereby established to regulate ~~residential and other~~ nonindustrial development in those underserved areas to a degree commensurate with the availability of these facilities. Basic service maps are not permanent, and will be reviewed ~~ar~~ ally with reports to the County Council.

4A02.2 Conflicts.

In the event that there is any conflict between the provisions of this ~~subsection~~ ARTICLE and any other provisions of these zoning regulations, the provisions of this ~~subsection~~ ARTICLE shall govern.

4A02.3 Adoption of Basic Services Maps.

A. The following basic services maps, which shall be in the custody of the zoning commissioner for Baltimore County, are hereby adopted and made a part of this Article:

1. Basic Service Sewerage Map, dated November 19, 1979.
2. Basic Service Water Supply Map, dated November 19, 1979.
3. Basic Service Transportation Map, dated November 19, 1979.

B. The three basic services maps shall be prepared annually in accordance with the schedule set forth below, which maps shall incorporate a delineation of adequacy and availability of water supply, sewerage, transportation services and facilities according to the standards and requirements set forth in this section.

C. The individual sewer, water supply and transportation basic services maps shall be adopted by the County Council in accordance with the procedures and requirements of this Article contrary provisions of Title 22. of the Baltimore County Code notwithstanding.

D. Boundaries as shown on the basic services maps shall be interpreted in accordance with section 100.4 of these zoning regulations.

E. 1. Before July 31, 1980, and annually thereafter, the Planning Board shall recommend to the County Council any revisions to the basic services maps. The Planning Board need not adopt a preliminary report or hold a public hearing with respect to its recommendations, although it shall allow the public a reasonable opportunity to comment before adopting the recommendations.

2. Before October 15, 1980 and annually thereafter, the County Council shall take action on said maps ~~with respect to~~ AFTER CONSIDERATION OF the recommendations of the Planning

CIRCUIT COURT FOR BALTIMORE COUNTY

DOCKET 14 PAGE 278 CASE NO. 82-M-273 CATEGORY APPEAL

ADVANCE COSTS
Pltf's Atty 5.00
Clerk 60.00
Sheriff
Paid 9/8/82 Per C/A
Receipt No. 94766

ADDITIONAL COSTS
Defdt's Atty
Clerk
Sheriff

IN THE MATTER OF THE PETITION OF
JEROME S. ALPERSTEIN, ET AL
For Reclassification of Property located on the north side of Woodholme Ave. 145 feet west of Old Court Rd. 3rd District
Zoning Case No. R-82-76 Item 17

David M. Paige
Nancy E. Paige
(Appellees)

Dr. STEWART P. & NANCY ROSENBERG
JACK & ALISON TUCKER
RAYMOND & BEVERLY WEINBERG
RONALD & MARGARET PRIHODA
JOHN J. & BERTHA MAE DENSON
MARK & ILENE DOPKIN-Protestants
COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

PEOPLE'S COUNSEL for BALTIMORE COUNTY

Julius W. Lichter
115 Chesapeake Bldg.
305 W. Chesapeake Ave. (04) 321-0600

Gordon, Feinblatt, Rothman, Hoffberger & Hollander
Garrett Building
233 E. Redwood Street
Balto. (21202) 752-4567

P.P. (Protestants)
Newton A. Williams
J. Earle Plumhoff
Nolan, Plumhoff & Williams
204 W. Penna. Ave. (04)
823-7800

John W. Hessian, III
Peter Max Zimmerman

(1) Sept. 8, 1982 - Appellants Order for Appeal from the Order of the County Board of Appeals for Baltimore County fd.

(2) Sept. 14, 1982 - Certificate of Notice fd.

(3) Sept. 17, 1982-Appellants Peition pursuant to Rule B-2 fd.

(4) Sept. 23, 1982 Answer of PEOPLE'S COUNSEL FOR BALTIMORE COUNT , to Petition on Appeal fd.

(5) Oct. 1, 1982 Appellants' (JEROME S. ALPERSTEIN, et al) Petition for Extension of Time to file Transcript Proceedings and hereby ORDERED this 30th. day of September, that the time for filing in Court the Transcript of proceedings before the Board of Appeals is hereby extended until November 8, 1982 fd. (CHR)

(6) Oct. 13, 1982 Appellees' (DAVID M. PAIGE and NANCY E. PAIGE) Answer to Petition on Appeal fd. /in Proper Person

(7) Oct. 18, 1982 - Protestants' (Rosenberg, Tucker, Feinberg, Prihoda, Derson & Dopkin) Answer to Petition on Appeal fd.

(8) Nov. 5, 1982 Certified copies of Proceedings before BOARD of APPEALS of BALTIMORE COUNTY and Transcripts of Record fd.

(9) Nov. 5, 1982 Notice of Filing of Record fd.

(10) Nov. 30, 1982 Appellant's (JEROME S. ALPERSTEIN, et al) Petition for Extension of Time to file Memorandum and Order of Court that the time for filing in Court the Memorandum pursuant to Maryland Rule B12 is hereby extended until January 6, 1983, fd. (JER, JR.)

(11) Dec. 27, 1982 - Appellants Petition for Extension of Time to file Memorandum and Order of Court that the time for filing is extended until Jan. 20, 1983 fd. (JER)

DOCKET 14 PAGE 278 82-M-273 CASE NO.

or office uses shall be determined by the Department of Public Works.

4. Exception. This subparagraph does not apply to any development application relating to a structure or structures that will be situated on a lot or lots not served by a public sewerage system or which involve a residential development of no more than 3 dwelling units on a lot of record as of the effective date of this Article or to any development in a CCC district, CSA district OR RAE zone or IN a town center, other than a town center within a new development area so designated in the Master Plan.

D. Transportation.

1. Intent. The transportation standards and maps are intended to regulate nonindustrial development where it has been determined that the capacity of arterial and arterial collectors- INTERSECTIONS is less than the capacity necessary to accommodate traffic ~~bo~~ from established uses and from uses likely to be built pursuant to this Article. Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector intersection situated within ~~and serving~~ the MAPPED area will, on the date the map becomes effective, be rated at level-of-service E or F under standards established by the Highway Capacity Manual, 1965, published by the Highway Research Board of the Division of Engineering and Industrial Research, National Academy of Sciences-National Research Council.

2. Determination of critical vehicle-trip number. a. For the purpose of this subparagraph, the "critical vehicle-trip number" of an intersection is determined by the formula

~~C = E + F + I~~ $\quad C = \frac{F + E}{2} + I$

in which each letter represents a number of daily vehicle trips through a given intersection at peak hour and

C = the critical vehicle-trip number;

F = that number which if reduced by one would result in a change in the intersection's level of service from F to E; and

E = that number which if reduced by one would result in a change in the intersection's level of service from E to D.

b. Determination of reserve capacity. It is intended that the reserve capacity be determined for each district by the formula

N = C - (T+I)

in which

N = reserve capacity

C = the critical vehicle-trip number for the most congested arterial

CASE NO. 82-M-273

(12) Jan. 20, 1983 Appellants' Memorandum fd.

(13) Feb. 17, 1983 - Appellees (Nancy E. and David M. Paige) Memorandum fd.

(14) Feb. 17, 1983 - Memorandum of Appellee fd.

(15) Feb. 22, 1983 - App. of Newton A. Williams, J. Earle Plumhoff for /Protestants Appellees (Rosenberg, Tuckers, Feinbergs, Prihodas, Densons, Dopkins.) and Same Pay Protestants Memorandum fd.

April 13, 1983 Hon. A. Owen Hennegan. Hearing had. Case held sub-curia. Opinion to be filed.

(16) Aug. 5, 1983 - Memorandum and Order of Court that the decision of the Balto. Co. Bd. of Appeals is Affirmed and that the Appellants pay the costs fd. (AOH)

intersection in a transportation mapped area on the date the designation becomes effective;

T = the number of daily peak-hour vehicle trips, based on actual traffic counts taken by the Department of Traffic Engineering, passing through the most congested arterial intersection in a transportation mapped area; and

I = the projected number of additional daily peak-hour vehicle trips to be generated by nonindustrial developments that have been approved under the provisions of this Article and have not yet been constructed and would most likely pass through that intersection. For partially completed non'ndustrial developments, the amount of peak-hour vehicle trip shall be prorated based on number of completed units or square footage.

However, if N is less than zero under the formula, the reserve capacity in the area shall be zero.

3. Maximum Level of Nonindustrial Development.

a. The level of additional nonindustrial development in a mapped area as provided above, may not exceed that which would generate the number of daily peak-hour vehicle trips equal to the reserve capacity of that mapped area, based on the following assumptions:

1. Every 100 dwelling units, other than for the elderly, shall be considered to result in the generation of 85 peak-hour vehicle trips daily;

2. Every 100 dwelling units in housing for the elderly shall be considered to result in the generation of twenty-five peak-hour vehicle trips daily;

3. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to retail use shall be considered to result in the generation of 14.70 peak-hour vehicle trips daily; and

4. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to office use shall be considered to result in the generation of 2.34 peak-hour vehicle trips daily.

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT RD. 3rd District

Zoning File No. R-82-76 Item #17

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* AT LAW
* Misc. Docket No. 14
* Folio No. 278
* File No. 82-M-273

****

MEMORANDUM OPINION AND ORDER

In this appeal, Jerome S. Alperstein; Marian Alperstein, his wife; Bonnie Herman Hamet; Dennis Herman; Robert P. Wagers; Jean Wagers, his wife; and E. David Weinberg (Appellants), appeal from a decision of the County Board of Appeals filed on August 10, 1982, denying the request of the Appellants for zoning reclassification from D. R. 2 to D. R. 10.5.

The property of the Appellants, which is the subject of the request for a zoning reclassification, is the cumulative property comprising 36.53 acres, more or less, located in the Third Election District of Baltimore County on Woodholme Avenue, north of Old Court Road. The present zoning of the property is D.R. 2, and the request is that the property be zoned D. R. 10.5. The property is adjacent to the Baltimore Beltway (I-695) south of Reisterstown Road, and is bounded on the east by a development known as "Pomona" which is a garden apartment and commercial complex. The record reflects that this latter tract was the subject of a negotiated rezoning plan which was adopted by the 1976 comprehensive map wherein certain covenants were placed on the property with respect to its development as commercial and apartments including a 600 ft. buffer zone which is adjacent to and adjoins the property of the protestants to that extent. Appellants' property, on its southern and western boundaries, is bounded by the Western Maryland Railroad, an industrial and commercial office complex, and an apartment development known as "Brittany Apartments" which are located in M. L. and D. R. zones respectively. On the southeast boundary, there is a sub-division known as "Woodholme Estates" which is zoned D. R. 2, and a development known as "Pine Ridge" located on the south side of Old Court Road which is zoned D. R. 3.5.

Rec'd 8-8-83 11:15 am 1655.

FILED AUG 5 1983

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1981, Legislative Day No. 6

RESOLUTION NO. 14-81

Mr. Gary Huddles, Councilman

By the County Council, March 16, 1981

A RESOLUTION to incorporate the Pikesville Revitalization Growth Plan into the Baltimore County Master Plan 1979-1990.

WHEREAS, by Resolution No. 71-79, passed on November 19, 1979, the County Council of Baltimore County, Maryland adopted the Baltimore County Master Plan 1979-1990; and

WHEREAS, pursuant to provisions of the Charter and of the Baltimore County Code, the County is responsible for planning for the future growth and development of the County, including preparation of a Master Plan; and

WHEREAS, the Baltimore County Planning Board, on May 17, 1979, approved the Pikesville Revitalization Growth Plan and recommended that it be incorporated into the Baltimore County Master Plan; and

WHEREAS, the County Council of Baltimore County, Maryland has thoroughly reviewed the Pikesville Revitalization Growth Plan.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the Pikesville Revitalization Growth Plan be and it is hereby incorporated into and made a part of the Baltimore County Master Plan 1979-1990.

Appellants contend that the Baltimore County Council committed error when it adopted the 1980 comprehensive zoning map by classifying the subject property D. R. 2. Appellants contend that the zoning is in error and that the Baltimore County Council committed error in adopting the zoning because it is inconsistent with the Master Plan for Baltimore County which was adopted on November 19, 1979. Appellants essentially base their entire case for a change in the reclassification on the grounds that error was committed by the County Council in ignoring standards for zoning classifications for higher density (e.g. sewer, water, transportation, etc.) for which the Master Plan was designed, proposed and adopted. Accordingly, the Appellants urge that the County Council, in so designating the subject property in the D. R. 2 zoning classification, acted in a arbitrary, capricious and discriminatory manner in totally ignoring changes that occurred in the laws relating to planning and zoning in Baltimore County.

Effective December 8, 1978, Section 523 of the Baltimore County Charter was amended providing a new section which defines the status of the Master Plan and of the zoning maps. Said new Section 523 is included in the record of the case. Further, by Resolution No. 71-79, the Baltimore County Council adopted the Baltimore County Master Plan of 1979-1990, said Master Plan having been made a part of the record, and then by Bill No. 746-79, the Council adopted procedures whereby the Board of Appeals exercises original and exclusive jurisdiction over all petitions for reclassification of property. Bill No. 178-79 of Baltimore County Council adopted the Growth Management Act which is also a part of the record, and by Resolution No. 14-81 the County Council adopted the Pikesville Revitalization Growth Plan and incorporated same into the Master Plan.

Appellants urge that these legislative enactments have substantially changed the planning and zoning process in Baltimore County, that they are designed to establish a planning program that the County can implement which includes all interests of the County.

Appellants further contend that there was error in zoning the subject property D. R. 2 since the same County Council, in adopting the 1980 Comprehensive Zoning Maps, zoned the adjacent Pomona property in a D. R. 16 and D. R. 10.5 classification, and at the same time zoned other major land areas to the west of the

FEB 1

instant property D. R. 16 and M. L. Appellants argue that the Council acted without regard to the amendment to Section 523 of the County Charter, as approved by the citizens of Baltimore County, and the adopted "Baltimore County Master Plan 1979-1980," thereby totally ignoring the change that occurred in the laws relating to planning and zoning in Baltimore County, and the changes that occurred in the neighborhood, as well as the impact of the plans, policies, objectives, and purposes of the Master Plan.

In their memorandum to the Board of Appeals, Appellants referred to changes that occurred under the auspices, directions and decisions of Baltimore County pursuant to its planning, zoning, development and control powers. The changes referred to by Appellants consisted of the land area to the west of Greenwood Road occupied by Brittany Apartments zoned D. R. 16; the land area between Greenwood Road and the Western Maryland Railroad right-of-way on the east zoned M. L. and occupied by manufacturing, warehousing office and commercial uses; the location of the Western Maryland Railroad right-of-way along the western boundary of the subject property; the Baltimore Beltway on the northernmost boundary; the Interstate Highway interchange of Reisterstown Road and I-695, and the development of the Hilton Hotel complex; the development of the Pomona site; the widening of Old Court Road to a four lane thoroughfare between Reisterstown Road and Greenwood Road; the planning and funding of the Northwest Expressway from the Baltimore Beltway to Dolefield Road; and the planning and funding of the extension of the subway system from Reisterstown Road Plaza to Owings Mills.

Appellant argues that the Baltimore County Charter requires that zoning maps be consistent with the Master Plan, and that the basic premise of the Master Plan is that certain areas of the county are particularly well-suited for development due to their location in relation to major transportation links and utility extensions, and the existence of environmental and community structural conditions for development. In furtherance of their argument, Appellants identify goals and objectives of the Master Plan which must be related to areas of the county and implemented by various development control mechanisms inclusive of zoning. These goals and objectives as identified by Appellants, and which seem pertinent to the instant case, are: (1) a prescribed moderate growth in existing communities, provided there are no changes in land use controls and public investment patterns

recommended as part of the growth management program; (2) discouragement of premature development at lower density than intended under circumstances that exist with relation to the subject site; (3) the existence of special development opportunities at highway interchanges and mass transit stations which directly affect land areas that are within minimal distances of both transportation resources as is the subject site; (4) that Pikesville is identified as a county community of which the subject property is part; (5) that gross strategies identify Pikesville for accelerated growth to reinforce the community commercial center to take advantage of special development opportunities of highway interchanges and mass transit stations; (6) the transportation element provides for encouragement of higher density development in areas served by adequate mass transit service; (7) the community services element identifies the problems of decreasing enrollments as verified in the review process in the Pikesville area that additional population provided for higher density zoning on the subject site could provide. Appellants urge that the developmental history of these changes in the area, and the recognition of these changes by Baltimore County through its County Council and the Office of Planning and Zoning, clearly reflect the error committed by the County Council in zoning the subject property D. R. 2.

Appellants urge that the transit station area development for the Baltimore subway system, and the access study supported by the adopted Baltimore County Master Plan, encourage more intensive residential development surrounding the transit station areas. Appellants rely on testimony that a planned subway transit station is within a distance of approximately one mile from the subject site, and argue that development of the property would take advantage of the transit-related opportunity.

In support of its case, Appellants produced the testimony of David Thaler, an expert professional civil engineer, who testified basically that reclassifying the property D. R. 2 was essentially confiscatory in nature. He concluded that the site was not developable for single family houses because of the market change in the 1980s. He further testified with regard to the availability of sewer and water that were available to the site at the time of the adoption of the Map by the Baltimore County Council and that the Council failed to take this fact into consideration.

Mr. James L. Prost, a professional planner, also testified before the Board of Appeals on behalf of the Appellants, and the essence of his testimony was that the County Council committed error in adopting D. R. 2 classification because it was not consistent with the Master Plan.

In addition to some of the property owners, Appellants further called Richard Goodman to testify, a realtor of many years standing. He testified with regard to his efforts to sell the rather palatial and imposing homes that occupy the sites that are the subject of this Petition, and that it was impossible to find buyers in these economic times, though there had been some interest shown in the properties. It was his opinion that the properties are now substantially overbuilt, particularly that of Dr. E. David Weinberg.

For all of the foregoing, Appellants urge that the Board of Appeals erred in failing to reclassify the property.

Appellees, on the other hand, contended before the Board of Appeals that any requested rezoning must be based on either a change in the character of the neighborhood or error in the adoption of the Map. Appellees urge that there is no basis for any claim as to mistake in the adoption of the Map due to change in the character of the neighborhood inasmuch as the subject properties are located in a neighborhood which has virtually remained the same for at least ten (10) years. They cite the fact that the Beltway was opened in 1962, that the Western Maryland Railroad tracks have been existing for more years than most of the neighbors in the area can remember, and that the Pomona Tract was in fact a negotiated zone site, that is, the then owners of the Tract (known as the "Hutzler Tract"), together with the Baltimore County authorities and the neighbors in the general neighborhood, agreed to a development plan oriented to the Reisterstown Road corridor, specifically including a 400 to 600 ft. buffer zone between the property that is the subject of this Petition and the now Pomona Tract. The express purpose of this buffer zone was to insure that the subject property and that of the surrounding homes of the Appellees would remain in similar condition after the development of Pomona. Further, the Pomona Development was included in Comprehensive Rezoning Map of 1976. More specifically, Appellees argue that there has been actually no change in the character of the neighborhood since the adoption of the Master Plan in 1980.

This Court, as a matter of law, finds no change in the character of the neighborhood since the adoption of the map in 1980.

Turning to the main issue of whether the County Council committed an error in not adopting the recommendations of the Master Plan, Appellees urge that the existing D. R. 2 zoning is totally consistent with the planning goal, and further, that the Master Plan is a guide that is not to be confused with a comprehensive zoning, a zoning map or a zoning classification. Appellees argue that the County Council still retains discretion in its quadrennial consideration of the maps and in the adoption of the map pursuant to the guidelines as set out in the plan.

Appellees further argue that although the Master Plan recognizes the desirability of developing areas which are served by public facilities so as to utilize those facilities, they state that the policy is to be tempered by considering: (1) the requirement of many developed areas for additional open space in order to preserve their present character, (2) the unsuitability of some lands for many types of development due to special site problems or environmental concerns. It is argued that based on these considerations, a detailed evaluation of all major vacant sites should be undertaken to determine their suitability for development. Thus, Appellees argue that the Master Plan recognizes the fact that a desire to concentrate development in any given area must be tempered by study and consideration of the specific problems and characteristics of a given site. Appellees specifically assert that the Master Plan itself recognizes its inability to be "site-specific", and further point out that the Plan specifically shows the subject properties and other properties on both sides of Old Court Road as having a low density residential classification.

The law is well settled as to the standard of review to be used in zoning appeals. The standard was set out in Ark Readi-Mix Concrete Corp. v. Smith, 251 Md. 1 (1968) and was recently restated in the case of Montgomery County v. Orman, 46 Md. App. 491 (1980):

> Zoning is a legislative function and when reviewing the acts of zoning authorities the duty of the Courts is to decide whether such action was arbitrary, discriminatory or illegal---when a comprehensive map designed to cover a substantial area is adopted, it is entitled to the same presumption of correctness as an original zoning. Thus persons attacking the correctness of the map's classifications have a heavy burden of overcoming the presumption of their validity. This burden is heavier in the case of comprehensive zoning than in the case of a piece-meal reclassification.

Id. at 494-95, quoting from Ark Readi-Mix Concrete Corp. v. Smith, 251 Md. 1 (1968). See also J. M. C. Constr. v. Montgomery County, 54 Md. App. 1 (1983).

As the Court of Special Appeals pointed out in J. M. C. Constr. v. Montgomery County, id., it is important to distinguish between planning and zoning. Planning and zoning functions are different. As Judge Finan pointed out for the Court of Appeals in Chapman v. Montgomery County, 259 Md. 641 (1970):

> A "Master Plan" is not to be confused as a substitute for a comprehensive zoning or re-zoning map nor may it be equated with it in legal significance. The zoning as recommended or proposed in the Master Plan may well become incorporated in a comprehensive zoning map but this will not be so until it is officially adopted and designated as such by the District Council.

Id. at 643.

The recent case of Howard County v. Dorsey, 292 Md. 351 (1982) also distinguished between planning and zoning wherein Judge Davidson, speaking for the Court of Appeals, said, "[t]here is a distinction between a master plan and a comprehensive zoning or rezoning that results from a distinction between the planning function and the zoning function." Id. at 361.

In Board of County Commissioners of Carroll County v. Stephans, 286 Md. 384 (1979), the Court said,

> As we noted in Wash. Co. Taxpayers Ass'n. v. Board, 269 Md. 454, 454-56, 306 A.2d 539 (1973), some confusion exists relative to the terms planning and zoning, which are not synonymous. Zoning is concerned with the use of property but planning is broader in its concept. 1 E. Yokley, Zoning Law and Practices §1-2 (4th Ed. 1978) comments:
>
> > Expressing the matter in another way let us say that zoning is almost exclusively concerned with the use of regulation, whereas planning is a broader term and indicates the development of a community, not only with respect to the uses of lands and buildings, but also with respect to streets, parks, civic beauty, industrial and commercial undertakings, residential developments and such other matters affecting the public convenience and welfare as may be properly embraced with thepolice power.

Id. at 389, quoting Board of County Commissioners v. Gaster, 285 Md. 233, 246 (1979).

In J. M. C. Constr. v. Montgomery County, 54 Md. App. 1 (1983), the Maryland National Capitol Park and Planning Commission (the Commission) submitted to the Montgomery County District Council the Potomac Master Plan encompassing an area of 56 square miles, 98% of which was zoned residential. The Master Plan included the recommendation that the original zoning of J. M. C. Construction's 12.37 acres be changed from R-2 (minimum 2 acres per lot) to R-200 (minimum

one-half acre per lot). The District Council approved the final draft Master Plan including the above zoning change recommendation. Thereafter the Commission adopted the Master Plan but filed a sectional map amendment application with the Council. This application was a sectional zoning map containing the Master Plan's zoning recommendation on a parcel of land comprising 4,000 acres, of which J. M. C. Construction's 12.37 acres was included. Hearings were conducted and the Council amended the application set forth in the sectional zoning map so that the recommended zoning change from the original 2 acre requirement to the 1/2 acre requirement was then deleted. The effect, of course, was to continue the 2 acre requirement on J. M. C. Construction's 12.37 acres. The sectional zoning map was thereafter adopted as amended, by resolution of the Council, and instead of 1/2 acre lot requirements, the J. M. C. Construction property was left in 2 acre lots. The Circuit Court of Montgomery County approved the process as part of a comprehensive rezoning upon which there was a presumption of validity, and further held that the Appellant, J. M. C. Construction, had failed to overcome the presumption. The court further held that since the Council was acting in a legislative function, the comprehensive rezoning bore a substantial relationship to the public health, safety and general welfare, and that the Council did not act in an arbitrary and discriminatory manner in adopting the resolutions. J. M. C. Construction appealed, contended that the Council had deviated from the Commission's Master Plan without new evidence on the record to support the deviation, and, interestingly enough, also claimed that it was in the nature of zoning by plebesite.

The Court of Special Appeals agreed with the lower court's findings, and affirmed its order upholding the Council's zoning decision. The court said:

> There is no requirement that the area covered by the sectional map amendment coincide with the area of the relevant Master Plan....Nor is there any requirement, absent a statute, that the map amendment must adhere to the recommendations of the General or Master Plan. Such land use planning documents represent only a basic scheme generally outlining planning and zoning objectives in an extensive area, and are in no sense a final plan; they are continually subject to modification in the light of actual land use development and serve as a guide rather than a straight jacket.

J. M. C. Construction Corp., Inc. v. Montgomery County, 54 Md. App. 1, 12 (1983); quoting Montgomery County v. Woodward & Lothrop, Inc., 280 Md. 686, 703-04 (1977).

The Court continued, citing Stump v. Grand Lodge, 45 Md. App. 263, 269 (1980) stating:

> Comprehensive rezoning is a vital legislative function, and in making zoning decisions during the comprehensive rezoning process, a County Council is exercising what has been described as its "plenary" legislative power. The power is broad and is limited only by the constitutional restriction that the Council's action "bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare..."

Norbeck Village Joint Venture vs. Montgomery County Council, 254 Md. 59, 66, 254 A. 2d 700 (1969); Coppolino v. County Board of Appeals, 23 Md. App. 358, 370, 328 A. 2d 55 (1974).

The Court takes cognizance of the fact that the Court of Appeals has recognized with reference to sub-division regulations that it may be required that a sub-division plan comply with a Master Plan; and that if that is the case, the Master Plan is not considered a mere guidepost or a set of recommendations as in zoning matters. Maryland-National Cap. P & P vs. Washington Business Park Associates, 294 Md. 302 (1982); Coffey vs. Maryland-National Cap. P & P Commission, 293 Md. 24 (1982); The Board of County Commissioners vs. Gaster, 285 Md. 233 (1979).

As an aside, the Court also believes that the Appellants are mistaken in their belief that any traffic problem which may result by changing the zoning classification would be alleviated by their filing a sub-division plan including wider streets to accommodate the increased traffic flow. While it would not be impossible to obtain the necessary property on either side of Woodholme Avenue to make it sufficiently wide so as to accommodate a new sub-division, the Court thinks it highly improbable that the Appellants would get the required easements or conveyances since the property bordering Woodholme Avenue is owned by the Protestants in this matter.

In urging reversal of the decision of the Board of Appeals, Appellants are, in effect, requesting that this Court substitute its judgment for that of the legislative body, i.e., the Baltimore County Council. The Court notes that after extensive study by the planning authorities, and after hearings before the public, the Baltimore County Council adopted the zoning classification as recommended by the Master Plan. The Court can not exercise its judicial discretion as a substitute for that of the legislature, especially where the record reveals that at the

time of the adoption of the Master Plan and the map, one of the subject parcels of property was, in fact, considered by not only the planners, but also by the legislative representative for the district in a request for change in reclassification which was denied. The Court has previously expressed in this opinion that it has found no change in the character of the neighborhood that would justify any change in classification of this property and that the opinion of the Board of Appeals addressed itself to change or lack thereof.

The Court further notes that the issue of whether this amounted to zoning by plebesite was raised, however, it has not been stressed in argument by the Appellants. Noting that such an issue has been raised in the case, the Court finds that it is not a viable position at the present time inasmuch as it appears from the entire record that at no time, either in the past when public hearings were being conducted, nor at the hearing before the Board of Appeals, was the argument made. The Board of Appeals in its opinion specifically stated that the case was tried without extraordinary pressure or unusual threats, and that the hearing of the matter was as well tried as any case it had previously heard, held in a well-presented manner with a number of knowledgeable and well-informed witnesses including experts.

It is therefore the opinion of this Court that the Baltimore County Council, in the adoption of the Master Plan in 1980, did not err in classifying the subject property as D. R. 2 and, further, that the decision of the Board of Appeals is not arbitrary, capricious or clearly erroneous.

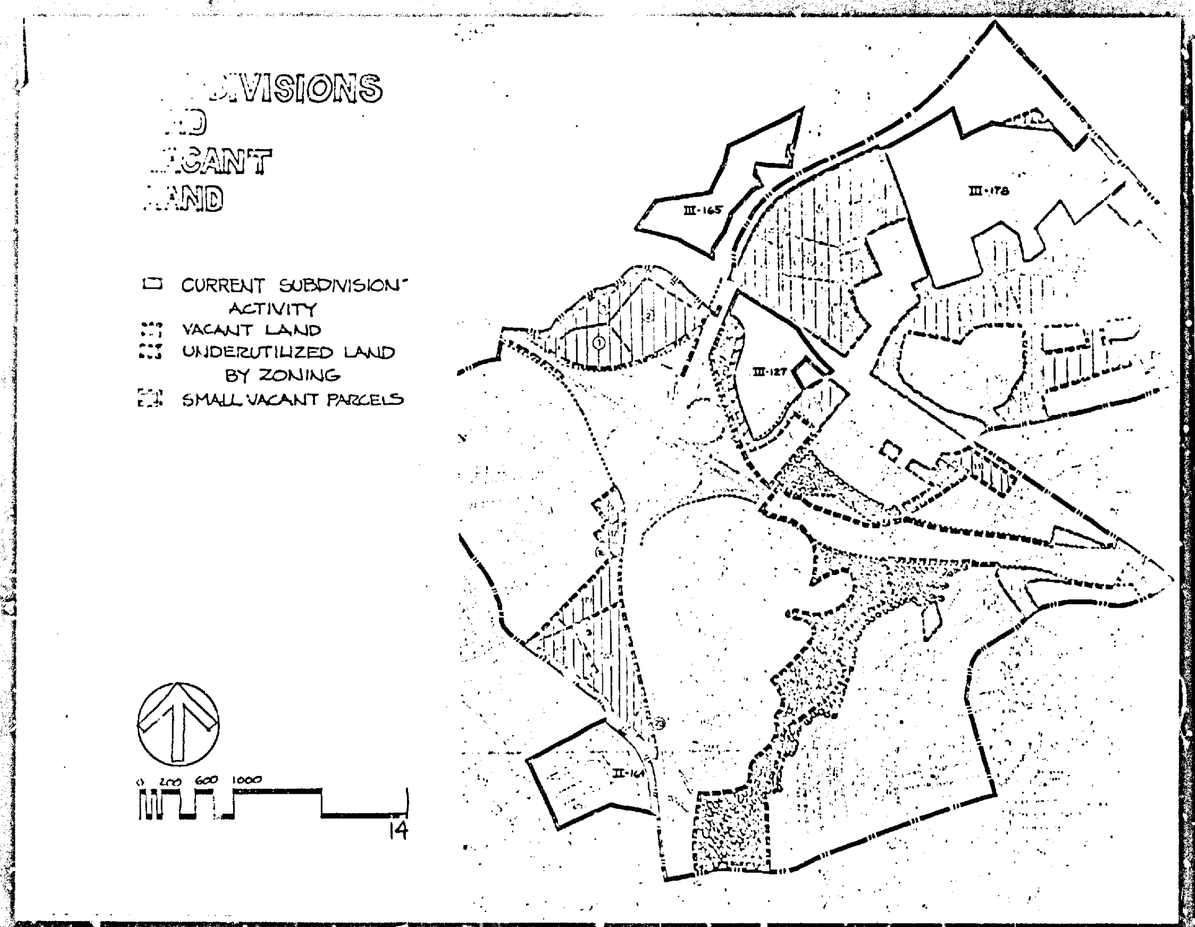
In light of the above, it is this 5th day of August, 1983, by the Circuit Court for Baltimore County,

ORDERED that the decision of the Baltimore County Board of Appeals be and is hereby affirmed, and it is further

ORDERED that the Appellants pay the costs.

A. Owen Hennegan

A. Owen Hennegan, Judge



A. ALTERNATIVE I: CONTINUATION OF EXISTING TRENDS

SIXTY-EIGHT OF THE SEVENTY ACRES IN THE OLD COURT ROAD STATION STUDY AREA SUBJECT TO DEVELOPMENT IN THE ABSENCE OF TRANSIT WOULD BE OCCUPIED BY NEW HOUSING: 63 ACRES FOR 200 LOW DENSITY UNITS, 400 PARKING SPACES AND ASSOCIATED OPEN SPACE; AND 5 ACRES FOR THE SMALL INCREMENT OF 50 MEDIUM DENSITY UNITS. RETAIL SPACE, 20,000 SQUARE FEET BUILT IN A ONE-LEVEL ARRANGEMENT, WITH 130 SURFACE PARKING SPACES AND APPROXIMATELY .4 ACRE FOR LANDSCAPED WALKWAYS AND THE LIKE, WOULD ABSORB A TOTAL OF 2 ACRES.

B. ALTERNATIVE II: WITH TRANSIT, CONTINUATION OF CURRENT TRENDS

THE IMPETUS OF TRANSIT IS LIKELY TO CONVERT 75 PERCENT OF THE 400-UNIT HOUSING POTENTIAL TO MEDIUM DENSITY, OCCUPYING 30 OF THE 61 ACRES ALLOCATED FOR RESIDENTIAL DEVELOPMENT. COMMERCIAL DEVELOPMENT WOULD CONTINUE AT A ONE-STORY LEVEL, EITHER ADJACENT TO THE NEW STATION, OR AS REPLACEMENT OF USES ELSEWHERE WITHIN THE STUDY AREA. ALL PARKING WOULD BE AT GROUND LEVEL.

C. ALTERNATIVE III: WITH TRANSIT AND INNOVATIVE POLICIES AND AND PROGRAMS

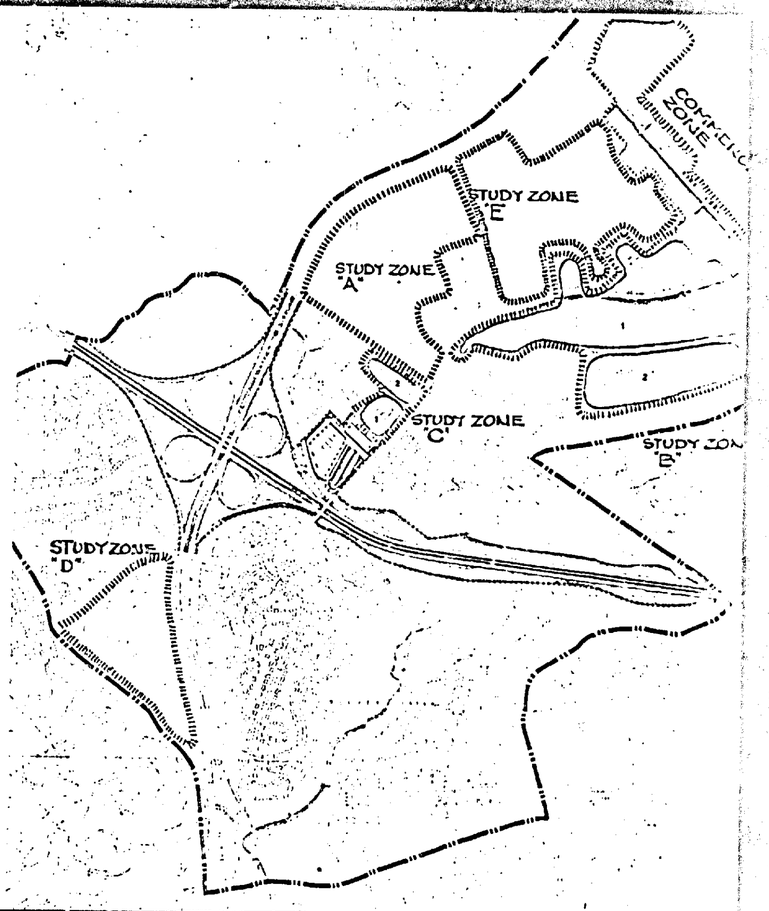
ALL HOUSING WOULD BE BUILT AT MEDIUM DENSITY; THE 600 UNITS, TOGETHER WITH 900 PARKING SPACES AND 45 ACRES OF ASSOCIATED OPEN SPACE, WOULD OCCUPY 60 ACRES. RETAIL USE, PROBABLY INCLUDING ONE OR TWO SMALL-TICKET SHOPPERS GOODS ESTABLISHMENTS, CARRYING ITEMS SUCH AS SHOES, APPAREL AND ACCESSORY, GIFTS, BOOKS AND CAMERAS, IN



EXISTING COMMUNITY
WITH RAPID TRANSIT AND EXPRESSWAY

0 200 600 1000
3

DEVELOPMENT STUDY ZONES



0 200 600 1000
21

THE ONLY RECENT MAJOR CONSTRUCTION IN THE AREA HAS BEEN THE DEVELOPMENT OF THE HILTON PLAZA, A REGIONAL HOTEL COMPLEX AT REISTERSTOWN ROAD AND THE BELTWAY. SEVERAL PUBLIC IMPROVEMENTS ARE UNDERWAY, INCLUDING A LARGE SEWER LINE ALONG THE GWYNNS FALLS, FLOOD CONTROL FOR THE GWYNNS FALLS STREAM VALLEY, AND THE UPGRADING OF MAJOR INTERSECTIONS ALONG OLD COURT ROAD AND REISTERSTOWN ROADS.

FUTURE TRANSIT-ASSOCIATED ADDITIONAL DEVELOPMENT HOLDING CAPACITIES RANGE FROM 248 HOUSING UNITS, PRIMARILY LOW DENSITY, AND 7,000 SQUARE FEET OF COMMERCIAL SPACE UNDER EXISTING ZONING, TO 568 HOUSING UNITS, PRIMARILY MEDIUM DENSITY, AND 87,000 SQUARE FEET OF COMMERCIAL SPACE IF CHANGES IN ZONING ARE EFFECTUATED. DEVELOPMENT ENVELOPES WHICH CONFORM TO FUTURE CORRIDOR GROWTH FOR THE STATION STUDY AREA RANGE FROM 250 TO 600 RESIDENTIAL UNITS, AND 20,000 TO 40,000 SQUARE FEET OF COMMERCIAL SPACE.

THERE ARE MAJOR TRANSIT-ASSOCIATED OPPORTUNITIES WITHIN THE STATION STUDY AREA FOR THE DEVELOPMENT OF UNDERUTILIZED OR INAPPROPRIATELY USED LAND, AS WELL AS FOR THE STABILIZATION OF EXISTING COMMERCIAL AREAS. ISSUES WHICH MUST BE RESOLVED INCLUDE MEETING COMMUNITY OBJECTIVES TOWARD PROTECTING AND PRESERVING EXISTING STABLE RESIDENTIAL AREAS, MAINTAINING OR REPLACING INDUSTRIAL USES CLOSE TO THE STATION, PROVIDING SUFFICIENT PARKING FOR TRANSIT PATRONS, AND INCREASING AND IMPROVING PUBLIC SERVICES AND FACILITIES TO ACCOMMODATE PROSPECTIVE GROWTH.

THE ZONING REGULATIONS OF THIS CCC DISTRICT ALLOW FOR HIGH-DENSITY DEVELOPMENT AROUND ITS LOCATION. THE CCC DISTRICT AND THE STATION AREA ARE MAJOR NODES ALONG THE EXISTING MAIN ARTERY OF OLD COURT ROAD. EVENTUALLY DEVELOPMENT WILL BE INDUCED IN THE AREA BETWEEN THEM.

STUDY ZONE "C" IS COMPRISED OF TWO SMALL PARCELS: A FIVE-ACRE PARCEL ZONED FOR 16 UNITS TO THE ACRE, WITH ONLY ONE EXISTING HOME; AND AN UNDERUTILIZED INDUSTRIAL AREA OCCUPIED BY A SMALL FAST FOOD STORE. STUDY ZONE "C's" CLOSE PROXIMITY TO THE STATION AND ITS DIRECT CONNECTION TO OLD COUR ROAD ALLOW FOR INCREASED DEVELOPMENT.

STUDY ZONE "A" IS COMPRISED OF NEW LARGE HOMES AND LARGE LOTS. DEVELOPMENT MAY OCCUR ONLY UNDER EXTREME PRESSURES.

STUDY ZONE "D" CONSISTS OF VACANT LAND, BUT MAY BE TOO DISTANT TO HAVE DIRECT STATION IMPACT. IT WAS NOT STUDIED IN THIS PROFILE BECAUSE OF DISTANCE AND THE BARRIERS CAUSED BY THE BALTIMORE BELTWAY.

STUDY ZONE "E" IS COMPRISED OF ONE LARGE ESTATE WHICH IS NOW IN SUBDIVISION AND REZONING RECLASSIFICATIONS. IF THIS DOES NOT PROCEED, STUDIES WILL BE NEEDED.

THE OLD COURT ROAD STATION IS LOCATED NORTHWEST OF PIKESVILLE AND JUST EAST OF THE FUTURE BALTIMORE BELTWAY-NORTHWEST EXPRESSWAY INTERCHANGE IN THE BALTIMORE COUNTY PORTION OF THE PHASE I RAPID TRANSIT CORRIDOR. IT IS PLANNED AS AN AT-GRADE STATION TO SERVE AN ESTIMATED 2,500 DAILY PATRONS, AND WILL PROVIDE ABOUT 400 PARKING SPACES. AUTO ACCESS WILL BE VIA OLD COURT ROAD.

THE STATION WILL SERVE A NUMBER OF EXISTING NEARBY RESIDENTIAL NEIGHBORHOODS, INCLUDING PORTIONS OF SUDBROOK PARK, WHICH HAS BEEN PLACED ON THE NATIONAL HISTORIC REGISTER TO ENSURE ITS PRESERVATION.

IN 1970, THE STATION STUDY AREA CONTAINED ABOUT 6,850 PERSONS, ALMOST ALL OF WHOM WERE WHITE. IN 1969, 57 PERCENT OF THE FAMILIES IN THE AREA HAD INCOMES RANGING BETWEEN $15,000 AND $50,000. ABOUT 65 PERCENT OF THE OWNED HOUSING UNITS WERE VALUED BETWEEN $15,000 AND $25,000.

LAND USE IN THE STATION STUDY AREA IS PREDOMINANTLY LOW-DENSITY RESIDENTIAL. COMMUNITY FACILITIES AND SERVICES WITHIN THE AREA INCLUDE A PAROCHIAL SCHOOL, A NURSING HOME AND TWO PUBLIC PARKS, AS WELL AS 59 NEIGHBORHOOD RETAIL OUTLETS ALONG REISTERSTOWN ROAD, CONTAINING OVER 350,000 SQUARE FEET OF SPACE, AND OVER 73,000 SQUARE FEET OF OFFICE SPACE. CURRENTLY, THERE ARE ONLY ABOUT 86 ACRES OF VACANT LAND WITHIN THE STATION STUDY AREA, OF WHICH 44 WILL BE USED FOR THE TRANSIT RIGHT-OF-WAY.

IN THIS SECTION, THE STUDY ZONES SUBJECT TO DEVELOPMENT CHANGE ARE DISCUSSED, ALONG WITH THE VISUAL AND ACCESS ISSUES AFFECTING THE STATION STUDY AREA. THE POTENTIAL FOR TRANSIT-SENSITIVE DEVELOPMENT (HOUSING, OFFICE AND RETAIL USES) OVER THE 1975 TO 1995 PERIOD IS ESTIMATED, FIRST IN TERMS OF HOLDING CAPACITIES UNDER REALISTIC AND OPTIMUM CONDITIONS, AND, SECOND, AS MODIFIED THROUGH AN EXAMINATION OF SOCIO-ECONOMIC AND MARKET FACTORS ACCORDING TO THREE ASSUMPTIONS OF PUBLIC SUPPORT AND CONTROL. DEVELOPMENT ENVELOPES ARE PRESENTED FOR (1) THE CONTINUATION OF SOCIO-ECONOMIC TRENDS AND PUBLIC SUPPORT LEVELS; (2) THE CONTINUATION OF TRENDS WITH THE TRANSIT SYSTEM OPERATING DURING THE PROJECT PERIOD; AND (3) AN OPERATING TRANSIT SYSTEM ACCOMPANIED BY INNOVATIVE JOINT DEVELOPMENT INITIATIVES.

A. STUDY ZONES

THERE ARE TWO ZONES SUBJECT TO DEVELOPMENT PRESSURE WITHIN THE OLD COURT ROAD STATION STUDY AREA (SEE MAP, PAGE 21). STUDY ZONE "B" CONSISTS OF EXISTING UNDERUTILIZED RESIDENTIAL LAND AND TOTALS ABOUT 82 ACRES, ON WHICH THERE ARE ONLY 24 HOMES.

BECAUSE OF EASY ACCESS TO OLD COURT ROAD AND TO THE BELTWAY, SOME INTENSIVE DEVELOPMENT MAY OCCUR CLOSE TO REISTERSTOWN ROAD. THIS DEVELOPMENT WOULD BE A FUNCTION OF THE COMMUNITY COMMERCIAL CORE (CCC) DISTRICT AT OLD COURT AND REISTERSTOWN ROADS AND NOT RELATED DIRECTLY TO THE IMMEDIATE STATION AREA.

JEROME S. ALPERSTEIN, ET AL — No. 82-76, Item #17

N/s Woodholme Ave., 145' W. of Old Court Road — 3rd District

D.R. 2 to D.R. 10.5 — 36.53 acres

Feb. 27, 1981	Petition filed
Nov. 10, "	Hearing held on petition (continued hearings on Jan. 6, 1982, and Feb. 11, 1982
Aug. 10, 1982	Order of the Board DENYING reclassification
Sept. 8, "	Order for Appeal filed in Cir. Ct. by Julius W. Lichter, Esq., for Petitioners
Nov. 5, "	Record of proceedings filed in the Circuit Court
Aug. 5, 1983	Board AFFIRMED - Judge A. Owen Hennegan 5/1/83 - Ltr. & memo to J. Kennedy & Kamenetz

the subject site and area supporting the position that error was committed by the Council. In further cross-examination by Protestant's counsel and the People's Counsel and on redirect, Mr. Prost's testimony, recognizing the applicable Baltimore County laws and regulations, clearly states that the Council committed error in adopting the D.R. 2 as not being consistent with the Master Plan (T-117, 120, 122, 123, 126, 140-146 inclusive, 149, 151, 152, 153 and 158).

Mr. David Thaler was called as an expert witness and his substantial background as a Professional Civil Engineer for builders and developers and as a builder and developer, with particularly extensive experience in Baltimore County, can be found in the record at (T-16-19 inclusive). His testimony bearing on the confiscatory nature of the D.R. 2 zoning classification can be found at (T-29, 30, 31). The testimony of Dr. Weinberg, Appellant (T-173); Mr. Richard Goodman, Realtor, (T-178-186); Mrs. Wagers, Appellant, (T-208, 209), substantiate further the confiscatory nature of the present zoning.

The Protestants and each of them without the support of any expert or professional testimony have attempted unsuccessfully to support a position that the property developable at the current zoning after having recognized that the property adjoining them immediately to the east (the Pomona development of commercial, offices and apartments with permitted high rise development of up to nine stories) was appropriate and deserved their support by entering into an agreement with the owner of that property (Petitioners' Exhibits No. 20 and 25).

The record is replete with testimony as to the substantial existence of public services, (i.e. traffic, sewer, water, schools, etc.) and of the existence of substantial development service advantages which support the Master Plan and its supporting documents and the Pikesville Plans strong emphasis for increasing the zoning

JEROME S. ALPERSTEIN, MARIAN ALPERSTEIN, wife, BONNIE HERMAN HAMENT, DENNIS HERMAN, ROBERT P. WAGERS, JEAN WAGERS, wife, E. DAVID WEINBERG — Appellants

vs.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Docket No. 14
Folio No. 278
FILE NO. 82-M-273

: : : : : : : : : : : : : : : : : :

APPELLANTS' MEMORANDUM

Jerome S. Alperstein, Marian Alperstein, his wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers, Jean Wagers, his wife, and E. David Weinberg, Appellants, pursuant to Maryland Rule B-12, files the following memorandum.

The County Board of Appeals filed its Opinion and Order on August 10, 1982 denying the request of the Appellants for zoning reclassification from D.R. 2 to D.R. 10.5. The description of the property and the neighboring area were clearly presented to the Board and the arguments pro and con relative to the Appellants' Petition were presented to the Board by memoranda filed with the Board. The Appellants' Memorandum filed with the Board is attached hereto and prayed to be incorporated herein as Appellants' Exhibit A to avoid undue repetition.

STATEMENT OF CASE

This is Appellants' Memorandum of law in support of their request for change of zoning classification on their cumulative property comprising 36.53 Acres more or less to D.R. 10.5. The property is located in the Third Election District of Baltimore County on Woodholme Avenue, North of Old Court Road and is zoned D.R. 2 but is bounded on its eastern boundary by the apartment and commercial complex known as "Pomona"; on its northern boundary by

density in the Pikesville areas. The Protestants attempt to reject the overwhelming support for greater density on the subject property by rehashing the parochial wishes of a few as to minor traffic inconveniences and unsupported environmental concerns.

The Protestants further attempt, unsuccessfully, to state a case that the subject site is not properly developable for reasons that are unrelated to the zoning on the property. The testimony as to access, traffic and environment will be and are required to be addressed by the subdivision regulations as stated in the Master Plan.

The subject site is located in an area of Baltimore County that has been the subject of development changes brought about by the fact that it lies within a corridor that has been planned for growth. Opportunities have been created, a deteriorated commercial core has been designated for revitalization and services have been substantially improved and are continuing to be improved (sewer, water and transportation) based upon demand. The area residents have over the years vociferously rejected any and all changes and have retarded the orderly accommodation of the changes that have occurred. They have acted as a legislative body accepting and rejecting attempts to develope and improve the area in accordance with the changes brought about by demand.

The zoning in the Pomona property allowing to the east commercial, office, and apartments to be developed have resulted in the same setting as the subject site pursuant to an agreement negotiated between the owner, the area residents and representatives of the Office of Planning and Zoning. There is no other conclusion that can be inferred from the fact that the subject site sits surrounded by the Beltway, the railroad, industrial, commercial, and apartment development on its boundaries. Now that the tools are available to encourage development of this site in accordance

the Baltimore Beltway, Interstate I-695; on its southern and western boundary by the Western Maryland Railroad, industrial commercial office, and apartment development known as Britany Apartments in D.R. 16 and ML zoning; and on the southeast by a subdivision known as "Woodholme Estates" which is zoned D.R. 2 and the development known as "Pine Ridge" located on the south side of Old Court Road which is zoned D.R. 3.5.

QUESTIONS PRESENTED

Did the Baltimore County Council commit error when it adopted the 1980 Comprehensive Zoning Map by classifying the subject property D.R. 2?

STATEMENT OF FACTS

A review of the record will indicate that Baltimore County in 1915 embarked upon a serious investigation of its growth and development policies on account of the serious impact of subdivision sprawl and the substantial public costs associated with such sprawl. It was determined that to better manage future development that sprawling development should be curtailed and that the maximum utilization of necessary facilities and services should be accomplished. The County, beginning in 1978, adopted major amendments to its Charter, Code, Zoning and Subdivision Regulations which the Appellants firmly state have changed the entire zoning and development process in Baltimore County. It is to the violation by Baltimore County of these major legislative amendments and the applicable prior legislation that the Appellants wish to direct to the Court's attention.

Introduced into or accepted as part of the record before the Board of Appeals are the following:

1. Baltimore County Charter Section 523 (effective December 8, 1978).
2. Baltimore County Charter Section 523 (effective prior to December 8, 1978).

with a well conceived Master Plan, the County Council, the Office of Planning and Zoning and the Planning Board, based upon unsupported evidence, continued the D.R. 2 zoning on the property.

The Appellants firmly support the position that the County Council in its deliberations ignored its obligations created pursuant to the Master Plan in subjecting the property in question to D.R. 2 zoning. That in the preparation of the 1980 Comprehensive Zoning Map, the zoning on the property should have been D.R. 10.5. The amendments adopted since the 1976 Comprehensive Zoning Maps required that the 1980 be consistent with the Master Plan. We direct the Court's attention to the case of Nottingham Village v. Baltimore County, 266 Md. 339 (1972) and Aspen Hill Venture vs. Montgomery County Council, 258 A2d 303, which cases clearly establish the dominance of the Master Plan.

CONCLUSION

Upon review of the record and the applicable legal standards, the Council and the Board have committed error in maintaining the D.R. 2 zoning on the property. The opinion of the Board of Appeals was not supported by substantial evidence and was based upon false premises and erroneous interpretations and applications of the legal standards relevant to the request for reclassification.

Respectfully submitted,

/s/
Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
321-0600

3. County Council Resolution No. 71-79.
4. Baltimore County Master Plan 1979-1990 (consisting of six volumes).
5. County Council Bill No. 178-79 (Growth Management Act).
6. County Council Resolution No. 14-81 (Pikesville Revitalization Plan).

The Appellants presented as an expert in the planning, zoning and development field, Mr. James L. Prost who had performed substantial services as a consultant to Baltimore County over a period of years in the preparation of studies and plans and has a considerable education and experience background in his fields of expertise in Baltimore County, Maryland, and other states (T-72 thru T-79). He directed the services in the preparation of the Transportation Station Area Access Development Study in the years 1975, 1976 and 1977, which studies are in the records as Petitioners' Exhibits 22, 23 and 24 and was the market analyst and the planner in charge of the preparation of the Pikesville Revitalization Growth Plan, which plan consists of three volumes and are in the record as Protestant's Exhibit C-1, C-2 and C-3. His credentials are substantial and his experience relates very specifically to the Pikesville area of Baltimore County.

Mr. Prost's expert testimony with regard to the issues (T-79 thru T-94) reflects his intimate knowledge of the subject site and the area and substantiates the position of the Appellant that the D.R. 2 classification is inconsistent with the Master Plan and amounts to error on the part of the County Council and that D.R. 10.5 zoning would be consistent with the Master Plan (T-79 thru T-94).

Mr. Prost on cross-examination by the People's Counsel (beginning T-103) and particularly in the record at (T-105-114) exhibited his substantial planning knowledge and familiarity with

I HEREBY CERTIFY that on this 20th day of January, 1983, a copy of the foregoing Appellants' Memorandum was mailed to Administrative Secretary of the County Board of Appeals, Room 200, Court House, Towson, Maryland 21204; J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202, Attorneys for Protestants; Mr. Raymond Feinberg, 1503 Woodholme Avenue, Baltimore, Maryland 21208; and to John W. Hessian, III, Esquire, and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

/s/
Julius W. Lichter

FEB 1 1983

PETITION FOR RECLASSIFICATION N/S OF WOODHOLME AVENUE 145' W OF OLD COURT ROAD	:	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY
JEROME S. ALPERSTEIN MARIAN ALPERSTEIN, wife BONNIE HERMAN HAMENT DENNIS HERMAN ROBERT P. WAGERS JEAN WAGERS, wife E. DAVID WEINBERG, M.D. Petitioners	:	CASE NO. R-82-76, Item 17 CYCLE 1, April to October 1981

: : : : : : : : : : : : : : : : : :

MEMORANDUM

Petitioners are owners of collective acreage in the amount of 36.53 Acres more or less, binding on Woodholme Avenue north of Old Court Road. The tract comprises four separate ownership tracts. The subject tract comprises all of the land located on this section of Woodholme Avenue with the exception of two smaller parcels on the east side of Woodholme Avenue and one smaller parcel on the west side of Woodholme Avenue just north of Old Court Road. The Petitioners or their families have been long-time residents and owners of the properties which are the subject of this Petition.

The evidence submitted clearly shows that the property is bounded on the east by the "Pomona" development which is zoned DR 16 at its boundary line with the Weinberg property; that the entire northern boundary of the tract and specifically the Weinberg's and Wagers' parcels are bounded by the Baltimore Beltway, Interstate

Exhibit A

I-695 for approximately 2,500 feet; that the tract and particularly the Wagers' and Herman's parcels are bounded on the south and west by the Western Maryland Railroad and DR 16 and ML zoning; that the tract and particularly the Herman and Alperstein and Weinberg parcels are bounded on the southeast by the subdivision known as "Woodholme Estates" which is zoned DR 2 and the development known as Pine Ridge located on the south side of Old Court Road which is zoned DR 3.5.

The testimony revealed that the Pomona tract is developed by commercial development along its border with Reisterstown Road and the balance of the tract is multi-zoned DR 16, DR 10.5 and DR 2 for an average density of 7.5 to 8 units per acre and that the protestants inclusive of Dr. and Mrs. Paige, other residents along Woodling Way and the Pine Ridge Association had entered into agreements with the developer of "Pomona" for the development of that tract at 7.5 units per acre density in addition to other agreements specified therein which are in the record as Petitioners' Exhibit 20 and 25.

The testimony and other exhibits reflect the location of the intersection of Interstate I-695 and Reisterstown Road and its proximity to the subject site. The testimony of the witnesses also indicated the fact that the Old Court Road is a four-lane roadway from Greenwood Road to Reisterstown Road. The testimony further reflects the existence of the Western Maryland Railroad right-of-way and the fact that the land to the west zoned ML is now fully developed for warehousing, offices and other commercial uses and that the DR 16 zoning to the west is developed in accordance with said zoning for garden apartments and known as the Brittany Apartments.

The testimony reflected the fact that the Northwest Expressway is now funded and under construction from I-695 (Beltway) to Dolfield Road and that the extension of the subway system from

Reisterstown Road Plaza to Owings Mills is funded for this year and under construction at the present time, inclusive of funding for equipment to be used in the Old Court Road Subway Station.

The evidence submitted during the course of the hearing overwhelmingly supported the fact that existing public facilities and services were adequate and readily available to the subject site. The testimony further reflected that the implementation of subdivision regulations would address the concerns evidenced by the protestants with regard to traffic, fire safety and access. The subdivision regulations would obviously require and demand that Woodholme Avenue be widened and that sidewalks be installed and that secondary access be provided to the site and that the traffic controls be installed at Woodholme Avenue and Old Court Road. The testimony further showed that the traffic to be generated from this site would meet the requirements of the Growth Management Basic Services legislation which was adopted to implement the Master Plan.

Mr. Thaler's testimony with regard to the specific requirements of the Code and the Regulations with regard to development requirements addressed all of the concerns raised by staff and the protestants in a most professional way and his testimony was not rebutted. Specifically with regard to the traffic concerns, protestants' traffic expert was not aware of the provisions of the Growth Management Act, Bill No. 178-79, and how its provisions impact the method of determining the adequacy of the roads in the area to handle traffic generated by this site. He concurred that the level of service at Reisterstown Road and Old Court Road would not be substantially impacted by development on this site in accordance with DR 10.5 zoning, should same be granted. The protestants' traffic expert also testified as to requirements that he might impose but that such requirements were not established by law or existing county policies.

With regard to the environmental concerns raised by the protestants and the protestants' environmental expert, I believe that it was obvious that this expert had not performed even a superficial review or examination of the property and the environmental concerns which he raised were not based upon a professional examination or sufficient information or data to be accepted or relied upon. The Petitioners' expert, Mr. Thaler, upon performing an actual examination and tests responded in every respect with regard to the traffic and environmental objections raised by the protestants.

It has been determined by the reports and reviews of the various county agencies that other basic services such as schools, water and sewer services are either in place or readily available to service the subject site should this application be approved.

MASTER PLAN, ETC.

When Baltimore County began to feel the real impact of suburban sprawl and the substantial costs associated with such sprawl, it determined that its basic objectives should be to reverse the trends toward development in the outlying or peripheral areas where public facilities and services were inadequate and to return a substantial portion of the natural growth of the county to the closer-in areas. It was then in late 1975 or early 1976 when the County began to explore methods by which growth in the county could be managed by regulating growth in some areas and correspondingly encouraging growth in other areas. The planning basis for such a system was critical to establish a sound, rational process supported by data, projections and analysis that would lead to a growth management system that is responsive to the analysis as well as to the goals and objectives of the county.

It was recognized early on: that there was a need to utilize land already served by public facilities; that the population projections indicate a rapidly expanding residential growth rate; and

the difficulty for the county of servicing new growth areas.

Baltimore County, as a chartered county, has its own basic planning, zoning, subdivision, official mapping and capital improvement programming authority derived from its own charter and code. Effective December 8, 1978, by a vote of the citizens of Baltimore County, the Baltimore County Charter, Section 523, was amended by providing a new Section 523 which defined the status of the Master Plan and of the Zoning Maps (a copy of the new Section 523 is attached). The old Section 523 mentioned the Master Plan but in no way defined same and in no way described the status of said plan other than to say that prior to taking effect as law it would have to be approved by an ordinance of the County Council (a copy of the old Section 523 is attached hereto).

Then by Resolution No. 71-79, the Baltimore County Council adopted the "Baltimore County Master Plan. 1979-1990" (copy attached). Then by Council Bill No. 46-79 Baltimore County Council adopted procedures whereby the Board of Appeals exercises original and exclusive jurisdiction over all petitions for reclassification of property (a copy of pertinent portions of said Bill attached hereto).

Then by Bill No. 178-79, the Baltimore County Council adopted the Growth Management Act (a copy of which is attached hereto).

Then by Resolution No. 14-81 the County Council adopted the Pikesville Revitalization Growth Plan and incorporated same into and made it a part of the Master Plan (copy of Resolution attached).

Baltimore County, by the Amendment to Section 523 of the Charter and the adoption of the operating legislation inclusive of the Master Plan, Growth Management Act, 1980 Comprehensive Zoning Maps and the Bill that outlined the Board of Appeals' powers in reclassification cases, set in motion a new era in Planning and Zoning for Baltimore County that has set the stage for the County to be able to more competently address the future.

The Petitioners wish to advise the members of the Board of Appeals that the aforementioned legislative enactments have changed the planning and zoning process in this County and is designed to establish a planning program that it can implement and that the citizens of this County, including the business and development communities, can rely upon to better serve the goals and objectives of the County through its government. We herein will review pertinent Maryland case law which clearly distinguishes between a Master Plan not adopted by the legislative body as compared to a Master Plan that has been legislatively adopted.

On October 13, 1975, the Baltimore County Planning Board had adopted "Baltimore County Comprehensive Plan, 1975" pursuant to the provisions of Title 22 of the Baltimore County Code. As the Board is well aware, the usefulness of the Comprehensive Plan was clouded by the fact that while it had been adopted by the Planning Board, it had not been adopted by the County Council and could not be afforded the effect of law as it was not known whether the Comprehensive Plan reflected the sentiments of the County Council. It is obvious that the citizens of Baltimore County, in adopting a new Section 523 of the Charter, wished to establish the Master Plan as the primary growth management document by providing that the County Council shall adopt the Master Plan by resolution and that it zone land within the County consistent with the Master Plan. There are numerous cases in Maryland which supported the proposition that Master Plans or Comprehensive Plans not adopted legislatively by the governing body, were merely recommendations as a guide to the legislative body in making its decision with regard to zoning. Chapman v. Montgomery County Council, 259 Md. 641 (1971), Board of County Commissioners for Prince George's County v. Edmonds, 240 Md. 680 (1965), Iverson v. Zoning Board of Howard County, 22 Md. App. 265, (1974), Nottingham Village v. Baltimore County, 266 Md. 339, (1972). In the Nottingham case, the Court stated:

> "We hold, therefore, that the passage of the zoning regulations on 3 August 1970 and the adoption of the zoning map on 24 March 1971 after the 1980 guide plan had been presented and considered, could not be challenged as an invalid exercise of legislative authority because there had been no formal adoption of a Master Plan. While the County Charter, Section 523, would seem to provide that the 1980 guide plan will take effect only when approved by an Ordinance of the County Council, whether or not the guide plan is regarded as a Master Plan, the adoption of a Master Plan is nowhere made a condition precedent to the formalization of the Comprehensive Plan. The guide plan was before the Council and was only one of the elements from which the Comprehensive Plan was derived."

The Court's reference to the "Comprehensive Plan" was referring to the Comprehensive Zoning Maps adopted at that time.

And further, in quoting from the Court in the Nottingham case which in quoting Kentucky Court in Ward v. Knippenberg, 416 SW 2nd. 746, 748 (KY. 1967):

> "While it is true that other jurisdictions have by statute required that zoning ordinances be in accordance with the Master Plan, Haar, In Accordance with a Comprehensive Plan, 68 Harv. L. Rev. 1154, 1157, (1955), Baltimore County has not. A Comprehensive Plan is something more than a detailed zoning map, Hewitt v. County Commissioners of Baltimore County, Supra. 220 Md. at 58, and should apply to a substantial area, be the produce of long study, and control land use consistent with public interest, Trustees of McDonogh Educational Fund and Institute v. Baltimore County, 221 Md. 550."

And to further quote from Haar, "In accordance with a Comprehensive Plan", 68 Harvard Law Review, 1154, 1157 (1955):

> "Policy is the most important ingredient of the general plan. A policy is a generalized guide to conduct which, although subject to modification, does imply commitment. To me, therefore, there can be no such thing as a flexible plan, since there can be no such thing as a flexible policy in relation to physical development. A so-called "flexible" plan is no plan at all."

In the case of Norbeck Village Joint Venture vs. Montgomery County Council, 254 A. 2d 700, the Montgomery Council Council had rezoned large acreage in the Olney area and in many cases contrary to a master plan which the District Council itself had approved only a few months before. The court in reviewing the master plans stated:

> "The purpose of the plan was described as promoting the physical isolation of Olney from suburban sprawl. Low density residential zoning was recommended to break the development pattern from the suburbs. The proposed zoning in the plan is in accordance with existing development. It was stated that a serious deficiency of public services would exist if the master plan was not adopted. The plan was to accomplish a staged development using the tools of zoning and sewer access to avoid the excess cost of public services. A critical element of the plan was to encourage earlier growth along the 70 S Corridor rather than on the Patuxent River Watershed thereby protecting the basin from pollution."

The court in affirming the decision of the lower court which upheld the subsequent rezoning of the property by the council in accordance with the master plan by stating that the action of the council was supported by the fact that the plan implemented the general plan and the master plan adopted by the council.

In the case of Aspen Hill Venture vs. Montgomery County Council, 289 A. 2d 303, the Court of Appeals in reviewing an application for reclassification wherein the legislative body was operating under circumstances similar to those existing in Baltimore County where there had been an approved and adopted a Master Plan. The District Council on May 4, 1971 denied the application for reclassification to the C-1 Zone which request was in accord with the land use designation recommended for the property on the recently adopted Aspen Hill and Vicinity Master Plan (approved by the District Council on December 3, 1970). The District Council recognizes that master plans are guides for its utilization and specified areas sometimes long range guides, and therefore making hasty implementation of the recommendations in a piecemeal fashion (for the sake of conformity with the plan) may well be action to the detriment of the public interest.

And further quoting from the hearing examiner's recommendations, the court quotes:

> "The evidence of record includes studies by the technical staff as to the existing and proposed local commercial facilities within the Aspen Hill planning area. Testimony of lack of need for additional commercial facilities from residents of the area of the subject property, the text, maps, and tables contained within the aforementioned master plan, and

the lack of any affirmative compelling evidence from the applicant to show a need for additional commercial zoning; we, therefore, conclude that a surplusage of local commercial zoning, commercial shopping facilities to service residents of the neighborhood presently exist and that the granting of the subject application as a prelude to creating additional commercial facilities is not at the present time in the public interest."

The Court, in reviewing the facts, also reviewed the circumstance where the council had reclassified nearby property to grant C-1 commercial zoning in accordance with the master plan. The Court, at page 306, states:

"We adhere to the proposition that, although rezoning is not necessarily compelled upon a finding of change in the character of the neighborhood, none the less, legislative decision to rezone or not to rezone under such circumstances is subject to review as an exercise of the police power, in order to determine if there has been an abuse of that power by way of arbitrary, capricious or discriminatory action. It is against this background that we review these issues."

The Court in Aspen and quoting from the Supreme Court of the United States in Nectow vs. Cambridge, 277 U.S. 183, stated:

"However, the governmental power to interfere by zoning regulations with the general rights of the landowner by restricting the character of the use of his land is not unlimited, and such restriction cannot be imposed if it does not bear a substantial relation to the public health, safety, morals or general welfare. Legislative bodies have no authority, under the guise of the police power, to impose unreasonable and unnecessary restrictions on the use of private property in pursuit of useful activities."

The Court further went on to say at page 309:

"We here note that while a zoning designation on a master plan may not support an immediate request for rezoning, as it is a guide for the future, yet, when, as here, it is accompanied by the dynamics of change, we think the designation on the master plan becomes most significant. ... Thus, the ignoring of the master plan, under the facts and circumstances of this case, serves to emphasize the lack of substantial relationship between the exercise of the police power and the public interest."

And the Court went on to say at page 310:

"In the instant case, Aspen, in proffering the Faller decisions for the consideration of the lower court, was not asking it to accept or consider additional evidence to supplement the merits of its case which it had the burden of proving, but was asking that the validity of the district council's actions appealed from be considered in light of other actions by that body based on the same evidence and within the same planning area, as indicative of arbitrary and discriminatory action. ... The action of the district

council in denying the C-1 classification to Aspen, when viewed in context with its granting of commercial zoning to the Faller tract on basically the same evidence, becomes patently arbitrary and discriminatory."

The Petitioners herein strongly suggest to the members of the Board of Appeals that the action of the County Council in the adoption of the 1980 Comprehensive Zoning Maps was specifically the same patently, arbitrary and discriminatory conduct referred to in the above captioned case when the Pomona property on the same 1980 Comprehensive Map was zoned DR 16 and DR 10.5 with other major land areas to the west zoned DR 16 and ML.

The Baltimore County Council in designating the subject property in the DR 2 zoning classification, acted in an arbitrary, capricious, and discriminatory manner in zoning the property DR 2. The County Council acted without regard for the Amendment to Section 523 of the Charter as approved by the citizens of Baltimore County and the adopted "Baltimore County Master Plan 1979-1980" totally ignoring the changes that had occurred in the laws relating to planning and zoning in Baltimore County and the changes that had occurred in the neighborhood, as well as the impact of the plans, policies, objectives and purposes of the Master Plan.

The history of the development of change in the area and the recognition of those changes by the State of Maryland, Baltimore County through its County Council, and the Office of Planning and Zoning clearly reflect the error committed by the County Council in zoning the subject property DR 2. Prior to delving into the specific provisions of the Master Plan, I wish to point out to the Board the following changes which have occurred under the auspices and under the direction of decisions made by Baltimore County pursuant to its Planning and Zoning and Development Control powers or with its concurrence:

1. The substantial land area to the west of Greenwood Road and now occupied by the Brittany Apartments which are zoned DR 16.

2. The land area lying between Greenwood Road and the

Western Maryland Railroad right-of-way on the east which is zoned ML and is now occupied by manufacturing, warehousing and office and commercial uses.

3. The location of the Western Maryland Railroad right-of-way along the western boundary of the subject tract which services industrial sites north of the subject site.

4. The Baltimore Beltway which binds the subject tract on its northernmost boundaries for approximately 2,500 feet.

5. The Interstate Highway Interchange of Reisterstown Road and I-695 the development of the Hilton Hotel complex and tennis facility between the Beltway and Naylors Lane and Old Court Road.

6. The development of the Pomona site pursuant to zoning granted in classifications DR 16 and DR 10.5 and DR 2 for an average density of between 7.5 and 8 units per acre.

7. The construction and widening of Old Court Road from Reisterstown Road to Greenwood Road to a four-lane thoroughfare.

8. The planning and funding of the Northwest Expressway from the Baltimore Beltway to Dolfield Road.

9. The planning and funding of the extension of the subway system from Reisterstown Road Plaza to Owings Mills.

The Petitioners strongly contend and believe that the evidence submitted at the time of the hearing that the County Council committed error in that the DR 2 zoning classification is not consistent with the adopted County Master Plan and good planning practices, and further, that the requested zoning of DR 10.5 would be consistent with the Master Plan, the Adopted Pikesville Revitalization Growth Plan, and good planning and zoning practices. The Master Plan provides that the plan be utilized by the Council and all other County departments and actions relating to planning, zoning and sub-division activities; and further shall consider the objectives, policies and standards of the Master Plan in preparing comprehensive zoning maps.

The Baltimore County Charter requires that zoning maps be consistent with the Master Plan.[1]

The basic premise of the Master Plan is that "certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development."[2]

The general development plan states that a centralized development pattern will: increase public transportation patronage; reduce the demand for new public school construction; and reduce the pupil transportation costs attributable to new residential growth by 38%; and provide more affordable housing.[3]

The Master Plan identifies goals and objectives which must be related to all areas of the County and implemented by various development control mechanisms inclusive of zoning as follows:

1. The pace of development in existing communities be limited if public facilities are substantially inadequate but to encourage residential and other development where appropriate and where such development would strengthen such communities.[4]

2. In its Growth Strategies, states that natural resource protection issue such as steep slopes are suitably addressed in the development review process.[5]

3. It identifies Growth and Preservation Strategies by Growth Area for Special Development Opportunities in all areas which are proximate to either Highway Interchanges and/or Mass Transit Stations.[6]

1 Resolution 71-79
2 Master Plan-Land Use Element (P.4)
3 Master Plan-Land Use Element (P.7)
4 Master Plan-Land Use Element (P. 13)
5 Master Plan-Land Use Element (P. 17)
6 Master Plan-Lane Use Element (P. 18)

4. It prescribes moderated growth in Existing Communities provided there is not recommended changes in land use controls and public investment patterns recommended as part of the Growth Management Program.[7]

5. It discourages premature development at lower density than intended under circumstances that exist with relation to the subject site.[8]

6. It identifies as a Special Development Opportunities that occur at Highway Interchanges and Mass Transit Stations in detail and directly addresses land areas that are within minimal distances of both transportation resources as is the subject site.[9]

7. Pikesville is identified as a County Community and is prescribed as an area which includes the subject site.[10]

8. Growth Strategies by community identify Pikesville for accelerated growth to reinforce the Community Commercial Center, to take advantage of Special Development Opportunities of Highway Interchanges and Mass Transit Station.[11]

9. The Transportation Element provides for encouragement of higher density development in areas served by adequate mass transit service.[12]

10. The Community Services Element identifies the problems of decreasing enrollments as verified in the review process in the Pikesville area that additional population provided for higher density zoning on the subject site could provide.[13]

Further, the adopted Master Plan emphasizes support for existing communities, particularly the revitalization of threatened commercial core areas and Baltimore County further re-emphasized that planning goal and objective by adopting the Pikesville Revitalization Growth Plan and incorporating it into and making it a part of the Master Plan. The revitalization growth plan attempts to undertake a series of actions to stabilize and revitalize this significant

7 Master Plan-Land Use Element (P.19)
8 Master Plan-Lane Use Element (P.21)
9 Master Plan-Land Use Element (P.27 & 28)
10 Master Plan-Land Use Element (P.33 & 35)
11 Master Plan-Land Use Element (P.38 & 39)
12 Master Plan-Transportation Element (P.2)
13 Master Plan-Community Services Element (P.4)

commercial area. Specific elements and recommendations incorporated in the approved plan encourage higher density (more intensive) residential development in areas along Old Court Road, to support the existing commercial facilities. Large parcels along Old Court Road are identified for future residential development and are proposed to be reclassified to higher density residential designation.[14 & 15]

A key element in serving to revitalize Pikesville is encouragement of additional market support for the commercial community. The planning objective of encouraging higher density residential development along the area identified within the Master Plan is clearly attained through the rezoning of the subject property to a suitable intensity of development.[14 & 15]

The Transit Station Area Development and Access Study cited and supported by the adopted Baltimore County Master Plan encourages more intensive residential development surrounding the transit station areas. This TSADA study involves significant public and governmental input and was aimed at: (1) encouraging utilization of the transit system; (2) facilitating real estate development around transit station (where appropriate); (3) reducing adverse impacts on residential and commercial communities; and (4) encouraging the maintenance of stable communities. Specific recommendations for development surrounding the Old Court Road station are as follows:

1. To take advantage of transit related development opportunities for the development of under-utilized land; and

2. To help support the stabilization of existing commercial areas.

These goals and objectives are clearly in support of the adopted Master Plan.

14 Pikesville Revitalization Growth Plan
Part 1 (P.I.19 & I.20)
Part 1 (P.1.4 attachment)
15 Pikesville Revitalization Growth Plan
Part 2 (P.II.2)

The detailed TSADA evaluation identifies that relatively limited available vacant land exists within the Old Court Road station transit impact area. It is further noted that: the existing zoning pattern merely follows the current land use pattern and does not recognize the opportunities which exist for transit related developments; and measures providing for various transit and other improvements will allow for increased development opportunities.

The TSADA recommends additional development within the station area in order to encourage pedestrian access to the station and further to the development; and supports the proposal that additional housing be built and in-filled within existing development areas, on the vacant acreage associated with larger, older estates or under-utilized residential tracts. The proposed development at approximate density of 10 units per acre was noted to occur on the few undeveloped parcels in close proximity to the station area.

Development of the subject site at DR 10.5 units per acre density is clearly in conformance with the long-standing planning efforts of the County in the station area; and recognizes the limited opportunities which exist for transit related development, as encouraged by the Baltimore County Master Plan.

Encouraging high density development around the transit station will: reduce energy consumption, encourage inefficient trip making, and reduce total vehicle miles traveled. Furthermore, construction of higher intensity residential development in proximity to town centers and revitalization areas will further reduce dependence on automobile travel, and encourage additional mass transit usage and linkages to the Pikesville area.

Development at this site at higher density will reduce the general auto orientation and establish requirements for new roads and other facilities. Construction of housing in proximity to the transit station facility and the highway interchange and revitalization

efforts in such commercial areas will also serve to reduce the need for second car ownership; and hence, lead to increased income available for housing. This would also improve affordable levels of housing for Baltimore County residents.

Concentration of development on the scarce available vacant land resources in proximity to revitalization areas, mass transit stations and highway interchanges will serve to help implement the concentration emphasized in the Master Plan. As documented by the testimony of Mr. Prost, case studies performed in North America and Canadian cities indicate that such development serves to preserve existing single family neighborhoods and helps to prevent "leap-frogging" development which increases public service and infastructure requirements.

More intensive real estate development near the revitalization commercial area and the transit opportunities, promote additional shopping convenience goods trips through the provision of a local shuttle bus service.

The Court of Appeals has recognized the importance of the Master Plan in land planning. We cite Board of County Commissioners of Cecil County vs. Gerald Gaster, 401 A. 2d 666, at page 672, the court stated:

"There are three integral parts of adequate land planning, the master plan, zoning, and subdivision regulations."

Baltimore County, after having invested in excess of One Million Dollars ($1,000,000.00) in plans and studies, etc. for the development of a Master Plan pursuant to its Charter, certainly contemplated that a major change from the previously existing scheme of planning and zoning when it provided by charter amendment in Section 523 for the preparation and adoption of the Master Plan by the County Council and that all zoning maps be prepared consistent with the Master Plan. If the Master Plan is not to be a document of

substance and to be utilized and depended upon by the County and its citizens, owners of property and developers of property, then the preparation of the document will have been a waste of time and money and the desires of the citizens in approving an amendment to the Baltimore County Charter will have been subverted.

Mr. Hoswell, a respected planner for Baltimore County, testified that in his professional opinion, the adoption of the Master Plan imposed a "commitment" upon the County.

Mr. Hoswell further testified that the Office of Planning and Zoning had in fact recommended the DR 16 and DR 10.5 zoning on the Pomona tract for the 1980 Comprehensive Zoning Map. He further stated that DR 3.5 zoning would have been equally appropriate for the subject site.

Under the facts that have been presented, the County Council has undoubtedly committed error and has acted patently in a discriminatorily manner.

CONFISCATION

In the course of the hearing before the Board, the testimony adequately addressed the issue of confiscation in that the property, due to its size, configuration, location and topography, is not developable or suitable for single family detached houses as is suggested by the protestants. The testimony revealed that the applicants had attempted to market their properties for sale and were unable to obtain any prospective buyers. The Petitioners' development and professional engineer, David Thaler, testified to the effect that single family detached dwellings would not be developable on the subject site from an engineering as well as market and economic viewpoint.

The Protestants will suggest that the usual presumptions that the original comprehensive zoning plan was correct. The Petitioners

zoning density requested without impairing the health, safety and welfare of the County.

3. The Council failed to take into account the existing facts, projects and trends which were reasonably foreseeable of fruition in the Master Plan in that it failed to acknowledge the existence of the highway interchange of Interstate I-695 and Reisterstown Road and the desire of the Master Plan to encourage development in such areas;

4. The Council failed to take into consideration aims, goals and objectives of the Master Plan to take advantage of existing facilities and services to prevent sprawl from other areas and to acknowledge that the subject site is served by water, sewer, transportations, schools, recreational facilities and library facilities, and that the designation of DR 2 zoning discourages rather than encourages development in this area;

5. It is now obvious that the extension of the Northwest Expressway from the Beltway to Dolfield Road and the further extension of the subway system from Reisterstown Road Plaza to Dolfield Road has been approved and will be accomplished in that construction has been initiated since the adoption of the zoning maps in accordance with the testimony provided by the representatives of the State Highway Administration and that in fact equipment has been purchased to outfit the Subway Station at Old Court Road;

6. That the development of under-developed parcels should be encouraged by applying higher density zoning to maximize the utilization of the Subway Station and to minimize the number of automobile trips and to encourage transit patronage by persons within walking distance;

7. That it failed in all respects to be consistent with the Master Plan in zoning the subject property DR 2;

would strongly suggest such presumption has been overcome and that this determination is more liberally construed when applied when the property is being reclassified from one residential sub-category to another as opposed to a change from a commercial category to residential category or vice versa. See Tennison vs. Shomette, 379 A. 2d 187, where the Court in affirming a granted reclassification stated:

> "The mere fact that the use is somewhat different than the use as permitted under the C-1 classification does not render the use inconsistent with the comprehensive plan. ... As we previously noted the present classification of the land was inconsistent with the purposes enunciated in the comprehensive plan. Contrary to the appellant's assertion, there was also ample evidence to show that the land was rezoned due to a community's need for a motel complex of this type and not solely to benefit the appellees."

ZONING BY PLEBISCITE

In the case of Board of County Commissioners vs. Oakhill Farms, Inc., 192 A. 2d 761, the applicant for reclassification produced testimony which indicated a strong need for high density land use .... to meet the demand for housing facilities and to provide needed customers for the many adjacent and nearby commercial establishments and testimony to the effect that because of the nature of the terrain and the tremendous cost of removing dirt or to permit construction could be justified and supported financially only by high density use of the land and that there was real improbability, if not impossibility, of financing housing on the property in its current zoning. The petitioner also submitted testimony to the effect that this use would be in harmony with the present character and planned future of the neighboring area and would not deteriorate the value of the adjacent or nearby homes or otherwise adversely affect the welfare, health, or safety of the community. The protestants did not wish high density development to occur becuase they wished the country-like atmosphere that they had sought and enjoyed to be spoiled and for esthetic reasons. It also found that the attempts of the

8. Council failed to make provision to accommodate the projected needs and trends associated with the Pikesville revitalization, to encourage development of additional residential units within the Pikesville area, to reinforce and re-establish the vitality of Pikesville as provided in the plan.

The Petitioners, therefore, urge that the Board grant the reclassification of the subject property to DR 10.5.

Respectfully submitted,

Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
321-0600

I HEREBY CERTIFY that on this day of February, 1982, a copy of the foregoing Memorandum was hand delivered to J. Earl Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, John W. Hessian, II, Esquire, People's Counsel, Room 223 Court House, Towson, Maryland 21204, Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202.

Julius W. Lichter

BALTIMORE COUNTY
JUN 21 9 25 AM '82
BY

neighboring residents establishing factual grounds were rebutted by the testimony produced by the applicant. The court in affirming the decision of the lower court granting the rezoning and quoting the lower court stated:

> "He concluded the refusal of the council to rezone was a yielding to demonstrated displeasure at the prospect of many and vocal protestants, was against the weight of the evidence, unsupported by substantial evidence and arbitrary and capricious. We agree with this finding of unsubstantiality of evidence and with its conclusion as to the arbitrariness and capriciousness."

The facts and circumstances in this case before you are exactly those facts that are set forth in the Oakhill Farms, Inc. case above. The vocal and articulate immediate residents of the area have dictated that the zoning on the "Pomona" tract at DR 16 and DR 10.5 are appropriate but that the same zoning for unsupportable reasons is not appropriate.

In exercising the zoning powers, the Council must act for the benefit of the community as a whole following a calm and deliberate consideration of the alternatives and not because of the whims of either an articulate minority or even the majority of the community. The adoption of the Master Plan is the essence of zoning. Without it, there can be no rational allocation of land use. It is the assurance that the public welfare is being served and that zoning does not become nothing more than an action by plebiscite. Moreover, the Master Plan protects the landowner from arbitrary restrictions on the use of its property which can result from the pressures which outraged voters can bring to bear on public officials.

CONCLUSION

In conclusion, the case law in Maryland has established a number of methods by which error can be established overturning zoning classifications as adopted pursuant to comprehensive rezoning and these methods are as follows:

1. When there is substantial and proven evidence to show that the assumptions or premises relied upon by the Council at the time of the rezoning were invalid; or

2. That at the time of the Comprehensive Zoning the Council failed to take into account the existing facts, projects or trends, which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension; or

3. By showing that events occurring subsequent to the comprehensive zoning which the Council could not have taken into account having proven that the Council's premises were incorrect; or

4. Council's failure to take existing facts or events reasonably forseeable of fruition into account; or

5. By showing the specific physical facts were not readily visible or discernable at the time of the comprehensive zoning; or

6. By producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it recognized as existing at the time of the comprehensive zoning; or

7. That the Council acted in a manner inconsistent with the adopted Master Plan as required by the Charter.

The evidence produced during the hearing clearly established:

1. That the environmental concerns of which the Council was advised by the Planning Staff are incorrect and without basis in that no investigation whatsoever was made as to the topography and/or the condition of the stream running through the property and the testimony of Mr. Thaler vividly disclosed the inadequate evaluation made by staff upon which the Council relied.

2. The Council was erroneously advised as to traffic concerns when in accordance with its adoption and implementation of the Growth Management Basic Services legislation the Old Court Road pursuant to standards adopted has been more than adequate and has more than sufficient capacity to accept traffic from the subject site at the

as law, be approved by legislative act of the county council. (Bill No. 83, 1978, § 2)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 523. The master plan and the zoning maps.

(a) *Definition and implementation of the master plan.* The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution.

(b) *Definition and implementation of the zoning maps.* The zoning maps shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act. (Bill No. 83, 1978, § 3)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524. Reorganization of office of planning and zoning.

Notwithstanding any other provisions of this Charter, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to define the duties of the director of said office, to establish the powers, duties and compensation of the planning board, and to establish the duties and responsibilities of the zoning commissioner and deputy zoning commissioner, so that planning and zoning functions shall be conducted in the best interests of the county and its future development and growth. (Bill No. 83, 1978, § 3)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524.1. People's counsel.

(a) Repealed by Bill No. 83, 1978, § 4.

this Charter, and the director of central services shall act as county purchasing agent. Unless otherwise provided by public general law, the office of central services shall also be responsible for the making, renewal and cancellation of all contracts of insurance in which the county, or any office, department, institution, board, commission, or other agency of the county government is named as insured; for the maintenance, operation and management of all land and buildings owned or operated by the county and all other functions heretofore performed by the superintendent of buildings; and for making available to the other offices, departments, boards, institutions and agencies of the county such duplicating, stenographic, mail, messenger, stores, transportation, central garage, automotive maintenance or other central services as may be assigned thereto from time to time by directive of the county administrative officer or by legislative act of the county council.

SUBDIVISION 6. OFFICE OF PLANNING AND ZONING*

Sec. 522. Organization of office and duties generally of personnel.

The office of planning and zoning shall be composed of a director of planning, a planning board, a zoning commissioner and deputy zoning commissioner. The director of planning, the zoning commissioner and deputy zoning commissioner shall be appointed by the county administrative officer, subject to confirmation by the county executive. The members of the planning board shall be appointed by the county executive. Unless and until otherwise provided by legislative act of the county council in accordance with Section 524 of this Article, the director of planning, the planning board, the zoning commissioner and deputy zoning commissioner shall have and perform such duties as are provided by law in effect at the time of the adoption of this Charter.

Editor's note—The second sentence of this Section of the Charter was rendered inoperative by Section 524.1. Section 524.1 changed the method of appointment of the director of planning, the zoning commissioner and the deputy zoning commissioner.

Sec. 523. Duties of the office.

The office of planning and zoning shall be charged with the responsibility and duty of planning for the future development and growth of the county, including the preparation and revision of a master plan and the preparation and revision from time to time of rules and regulations governing subdivisions. It shall also be responsible for the preparation and administration of a zoning map and of zoning rules and regulations which shall constitute a zoning code. [illegible]

*Code reference—Planning, zoning and subdivision control, Title 32.

The idea of control of growth is, of course, central to growth management. At present, the County does not have a formalized population growth policy.

Projections of likely future population have been made by the Growth Management consultants.

During the Growth Management studies, it has been determined that:

County-wide population capacity is not an issue in formulating a population growth policy for the County because the undeveloped part of the County is so large and projected growth is relatively modest;

Considerations of equity suggest that projected population should be accommodated;

The rate and location of population growth will be subject to policy influence by the rate and locations at which the County provides public services, grants zoning changes, and encourages or discourages investment;

Certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development, while other areas are less well-suited, and in some cases require specific preservation measures to limit development.

Based upon these findings, as detailed in the Technical Memoranda setting out Growth Management Background Studies, it is recommended that:

Population increase and development be encouraged in areas of the County identified during the Growth Management Program as well-suited for development, by means of a variety of incentives;

Population increase and development be reduced in areas of the County identified during the Growth Management Program as unsuited for more than very limited development, by means of a variety of disincentives.[1]

Provisions be made, County-wide, for projected levels of population growth but at a rate and in a manner consistent with the objectives of the Growth Management Program.[2]

[1]Wallace, McHarg, Roberts and Todd, Baltimore County Growth Management Program Technical Memorandum No. 16, Policy Options Summary, November 1978, page 3.

[2]Robert H. Freilich, Legal and Planning Requirements for Implementation of a Growth Management Plan in Baltimore County, Maryland, July, 1976.

I. REGIONAL SETTING

While the responsibility for determining Baltimore County's land-use pattern and other major growth management policies is clearly by law the County's responsibility, and is widely agreed to be best held by "people who are politically accountable to the citizens who must live with these policies"[1], current and proposed State and Federal legislation and regulations point to the necessity for increased cooperation between local governments and the State and Federal governments and among neighboring jurisdictions in making future land-use decisions, particularly as they affect natural resources, and major utility and transportation systems.

The County is empowered by State statute to prepare and adopt plans, ordinances, and regulations governing land use, but the State and the Region have some influence on the manner in which land is developed in the County. The State has the greater potential power, in that the power of land use control is delegated by the State to its component jurisdictions. In addition, the State has potential control of some land uses through Critical Areas legislation, Coastal Wetlands legislation, and Surface Mining and similar legislation. Finally, both the State and the Regional Planning Council have the power and responsibility of A-95 review of all applications by the County for Federal assistance to assure that these applications "shall be consistent with and further the objectives of State, Regional, and Local comprehensive planning.".[2]

A. THE REGIONAL GENERAL DEVELOPMENT PLAN

The Baltimore Regional Planning Council, in the draft General Development Plan published in late 1977, defined three alternative development patterns for the region.

Alternative regional development patterns considered in the Regional General Development Plan include:

- a centralized development pattern;
- a trend development pattern; and
- a decentralized development pattern.

The centralized regional development pattern was selected by the Regional Planning Council on the basis of a comparison of anticipated impacts of each of the alternatives.

[1] Brussat, W.K., "A-95 Review System: Can Be an Asset", ed. Scott, R.W., and Brower, D.J., Miner, D.D., Management and Control of Growth, Vol. III (Washington D.C., The Urban Land Institute, 1975).

[2] Title IV of the Intergovernmental Cooperation Act of 1968, Section 401(c).

Excerpts from the Regional General Development Plan describe the centralized regional development pattern as follows:

"The centralized development pattern would reverse recent trends toward decentralization. It emphasizes enhancement, renewal, and revitalization of existing communities. The growth of MetroCenter and nearby employment centers is emphasized more than under the trend alternative. Scattered growth in the rural countryside is virtually halted, and nearly all new development is contained within the planned 10-year service areas.

Development is compact, densities higher, and less residential land is consumed. Baltimore receives a greater share of the region's household and employment growth while the counties receive correspondingly less growth. Major growth centers receive more growth. A corollary to this scenario, however, is that communities are improved as they absorb growth. In this way, well-planned growth, coupled with adequate open space and other community amenities, will result in attractive communities for the future."[1]

The General Development Plan states that, when compared with the decentralized alternative, it was found that the centralized development pattern will:

"Reduce potential septic system failures in new residential subdivisions by 98%.

"Reduce the aggregate stormwater pollutant burden for new residential development by about one-half.

"Reduce the space heating requirements of new residential units by 25%.

"Reduce motor vehicle fuel consumption by traffic due to new growth by 1%."

"Save a cumulative total of about 30 trillion BTU's of energy over the next ten years for residential space heating of newly constructed units and motor vehicle fuel requirements.

"Reduce the aggregate air pollutant emission burden from residential space heating of newly constructed units by 24%.

"Reduce motor vehicle air pollutant emissions attributable to new growth by 10-18%.

"Reduce total residential land requirements of newly constructed units by 62% and reduce land requirements outside the planned 10 year service area by 75% and by 42% inside the service area. Reduce farmland losses by 76%.

"Reduce forest losses by 65%.

"Reduce transportation costs for solid waste collection and haulings.

"Result in fewer ground water withdrawals by individuals by individual wells in newly constructed residential subdivisions and less discharges of effluent into ground water from septic systems and seepage pits.

"Increase public transit patronage.

"Reduce traffic as measured in vehicle-miles-of-travel (VMT).

"Reduce highway congestion for most locations in the region.

"Reduce the demand for new public school construction and reduce the pupil transportation costs attributable to new residential growth by 38%.

"Provide more affordable new housing"[1].

[1] Baltimore Regional Planning Council, General Development Plan for the Baltimore Region, Baltimore, Maryland, 1977, p.2-2.

After a series of public hearings, the General Development Plan was adopted in December 1977. Changes from the draft were largely minor road changes. The only major change was deletion of a proposed oil refinery in the City of Baltimore, near Anne Arundel County. No changes were made that directly affect Baltimore County.[2]

The proposed development pattern shows the areas of Whitemarsh and Owings Mills staged in general conformance to the County Growth Management Plan.

The adopted Regional General Development Plan summarizes the policy criteria used in A-95 review by the Planning Council of all major local projects requiring Federal funding. It is therefore beneficial to Baltimore County that this General Development Plan support and confirm the County's proposed development staging and the major transportation improvements that can make this development staging work.

B. THE STATE LAND USE ELEMENT

The State of Maryland Planning Agency is presently in the process of developing a State-wide plan. Interviews with staff members outlined the following alternative land use patterns under consideration in the Land Use Element.[3]

The State Land Use Element, which is based on State Year 2000 population projections, examines four alternative land use patterns applicable to urban, suburban and rural development throughout the State as well as to Baltimore County, in addition to a trend-line projection:

[1] Ibid., p. 2-3.

[2] Telephone Interview with James Rose, Regional Planning Council, January, 1979.

[3] Telephone Interview with Marie Halka, August 1977, and meeting with State Planning Agency Staff, Stoney Fraley and Marie Halka, December 1977.

centers and centers for the elderly would be best suited for location within Town and Community Centers, particularly where located at or near a mass transit station or stop. Bonuses might be structured in the zoning overlay process in return for provision of sites by the developer within the center to community service agencies for specific community service centers required within the area serviced by the center.

B. EXISTING COMMUNITIES

Existing Communities include all areas of the County that are largely urbanized at present, excepting urbanized areas within Town and Community Centers.

These areas are defined on the basis of existing land use, with specific boundaries delineated using major natural or man-made barriers such as rivers or limited access highways or boundaries of existing zoning districts that correspond to the edges of existing development areas.

Recommended County Goals for Existing Communities are:

To limit the pace of development in communities in which existing community service and public facilities are presently substantially inadequate;

To improve community services and facilities in existing communities where these services and facilities are presently inadequate;

To preserve and strengthen the character and identity of existing communities, and to assure that new development in existing communities takes a form that is compatible with the present character of these communities; and

To encourage residential and other development or redevelopment where appropriate to existing community conditions.

To achieve these goals, it is recommended that the County adopt an overlay district applicable to these areas, requiring that any new residential development of more than four dwelling units and any major non-residential development be subject to a special Development Evaluation Review, taking into account:

Negotiation of phasing within proposed developments to correspond to a planned schedule of improvements in the area;

An analysis of the relationship of the proposed development to the surrounding community;

An evaluation of additional demands projected to be placed upon existing utility and transportation facilities and community services in the area as against the present adequacy of these facilities and services.

III. GROWTH AND PRESERVATION STRATEGIES

The Growth Management Technical Memoranda documenting the background studies prepared during the research and analysis stages of the Growth Management Program identify an encyclopedic list of facts that are of concern to future growth of the County, and of means of responding to these specific concerns.

In this Land Use Element of the Growth Management Physical Development Plan, growth strategies are described to address those factors that significantly affect the use of the land as growth occurs, and that are not either subsets of other factors or best addressed on a site-by-site basis during development review.

The factors considered here are those factors that have such a significant scale of impact that they require a large scale rather than an incremental response on the part of the County. Several examples will serve to illustrate this distinction.

In the area of natural resource protection, woodlands and wildlife habitats are certainly of critical concern. Because of the very high correlation with other natural protection factors, however, they are recommended to be treated as functional subsets of stream valleys, wetlands, the intertidal bayfront, and the drainage areas of the reservoir.

Another natural resource protection issue, steep slopes, occurs extensively throughout the entire County and is suitably addressed incrementally in the development review process, rather than as a basis for determining use suitabilities at a large scale.

The growth factors that have been identified as affecting land use at a scale that requires a specific growth strategy are grouped for the purposes of the plan into five categories:

1. Development Staging;
2. Natural Resource Protection;
3. Special Development Opportunities;
4. Special Reinforcement Needs; and
5. Land Use Conflict Resolution.

This chapter enumerates the factors within each of these categories, the growth strategy to address each factor, and the growth areas within which each growth strategy is applicable.

The description of these growth strategies is followed by a description of data collection and management tasks necessary to permit effective implementation of these growth management strategies.

GROWTH AND PRESERVATION STRATEGIES BY GROWTH AREA

Growth Strategies	Growth Areas: Town and Community Centers	Existing Communities	Fringe Development Areas	New Development Areas	Rural and Agricultural Areas
Development Staging and Timing:					
Accelerated Growth (unstaged)	X	–	–	–	–
Staged Accelerated Growth	–	–	–	X	–
Moderated Growth	–	X	X	–	X
Natural Resource Protection:					
Agricultural Preservation	–	–	–	X	X
Groundwater Protection	X	X	X	X	X
Protection of Stream Valleys, Flood-Prone Areas, Wetlands, and Reservoirs	X	X	X	X	X
Chesapeake Bay, Coastal Wetlands, and Intertidal Area Protection	X	X	X	X	X
Air Quality Protection	X	X	X	–	–
Special Development Opportunities:					
Highway Interchanges	X	X	X	X	–
Mass Transit Stations	X	X	X	X	–
Special Reinforcement or Redevelopment:					
Improvement of Community Services to Existing Development	X	X	X	–	–
Reinforcement or Redevelopment on Older Commercial Areas	X	X	–	–	–
Housing Rehabilitation	–	X	X	X	X
Land Use Conflict Resolution:					
Commerce and Residential Neighborhoods	–	X	X	–	–
Manufacturing and Residential Neighborhoods	–	X	X	–	X
Quarrying and Agriculture or Residential Neighborhoods	–	–	X	X	X

performance standards by employing the best available control technology, the new facility will not be fully controlled, and therefore, there must be a reduction in pollution emissions from another source in the area. The mechanism for accomplishing this will most probably be a permit and review process, the details of which have to be worked out.

To solve this problem as it affects major development in the southeastern and southwestern protions of the County, the County should consider working with EPA and the State to establish development or redevelopment strategy incorporating one or more of the following incentives:

Emissions fees, which would involve a charge to sources according to the amount of emissions. This would serve as inducement to a source of lower emissions.

Emissions density zoning, which could classify land areas by the amount of pollutant that could be emitted; thus the source could purchase "air rights" to enough land to cover its emissions.

3. SPECIAL DEVELOPMENT OPPORTUNITIES

Major Special Development Opportunity Strategies are designed to address opportunities that occur at:

a. Highway Interchanges; and

b. Mass Transit Stations.

Major highway interchanges and mass transit stations exist or are planned on lands categorized in all types of growth areas except Rural and Agricultural Areas.

a. Special Development Strategy for Lands at Highway Interchanges

While all of the access points to the major limited access highways which traverse the County, linking the County and the region with other major urban areas, provide opportunities for high intensity development on the lands immediately nearby, lands near interchanges of two such highways, or of a limited access highway and one of the County's major radial arterials, are especially well-suited for such development and should be treated as a valuable County resource.

All remaining vacant lands within a half-mile radius of those interchanges should be considered for zoning that permits only manufacturing, office and related uses.

Protection of these lands by means of industrial zoning will not only put the County in a very positive competitive stance for attracting high quality industry, but will also serve as a buffer between the noise and other abrasive features of the highways, and residential and commercial areas.

§ 523 BALTIMORE COUNTY CODE

the office of planning and zoning, or any board, commission or officer thereof, shall, prior to taking effect as law, be approved by ordinance of the county council. All reclassifications and all orders of the zoning commissioner may be appealed in the manner provided in Article VI of this Charter and not otherwise.

Sec. 524. Reorganization of office of planning and zoning.

To the extent hereafter permitted by law, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to provide for and define the duties of a director of planning and zoning as head of said office, to provide for his appointment in the same manner as the heads of other offices and departments in the administrative services, to fix and determine the powers, duties and compensation of the planning board, to redesignate the planning board by some other name so as more clearly to indicate the scope of its duties and functions, to redefine the duties or abolish the office of deputy zoning commissioner, and, in general, to coordinate and centralize the planning and zoning functions of the county in such manner as may be to the best interests of the county and its future development and growth.

Annotation—Writ of mandamus to test the validity of an Act of the county council passed under this section should have been dismissed in its entirety. Murray v. Director of Planning, 217 Md. 381, 143 A.2d 87 (1958).

Sec. 524.1. Appointment and removal of director and deputy director of planning, zoning commissioner, deputy zoning commissioner and people's counsel.

(a) Notwithstanding any other provision of this Charter, the county executive shall appoint the director of planning, subject, however, to confirmation by the county council, and such person so appointed shall continue to serve as director of planning until such time as he or she shall resign or be removed pursuant to the provisions of this section. The director of planning may appoint a deputy director of planning. The director of planning may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. The county executive shall appoint the zoning commissioner and deputy zoning commissioner, subject, however, to confirmation by the county council, to serve for a term which shall expire on June 1, 1963 and on June 1 of every fourth year thereafter or until their successors are appointed and confirmed. The zoning commissioner or his deputy may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. Within thirty days after the effective date of this Charter amendment the county executive shall appoint the first director of planning, the first zoning commissioner, and deputy zoning commissioner to hold office hereunder,

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 20

BILL NO. 178-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, October 15, 1979

A BILL
ENTITLED

AN ACT to implement various elements of the County's Comprehensive Master Plan, and more specifically those objectives, policies and standards relating to the assimilation, location, quantity, quality and timing of growth and development in Baltimore County, the provision of adequate public facilities to support development and the protection of agricultural and environmentally-sensitive land in the resource conservation zoning classifications, ~~and to provide for the establishment of overlay district areas and regulations and requirements pertaining thereto; to provide for a master plan consistency determination;~~ AND TO ADOPT BASIC SERVICES MAPS AND REGULATIONS AND REQUIREMENTS PERTAINING THERETO; ~~and~~ to provide for monitoring of development activity; by adding new Article 4A - GROWTH MANAGEMENT; by repealing Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. of said regulations and enacting new Subsections 1A01.2.B., 1A01.2.C., 1A01.3.B., 1A02.1, 1A03.1, 1A03.2, 1A03.4.B.1. and 2., 1A03.4.B.5. and 1A04.3.B.1. in lieu thereof; by adding Subsections 1A01.4, 1A02.4, 259.3 ~~and new definitions "Facilities impact use, Class A"; "Facilities impact use, Class B"; "Housing for the elderly"; "Industrial, quasi-industrial, or industry-related use"; and "Nonindustrial use"~~ to Section 101, all of the Baltimore County Zoning Regulations; ~~by repealing and re-enacting with amendments Subsections 100.1.B.2, 100.1.C., 100.4., the definition of "Farm" under Section 101, and Subsection 259.3, all of the Baltimore County Zoning Regulations;~~ by repealing Subsection 1A04.3.B.2 of said regulations; and by repealing Council Bill 177-79.

NOTE: NOTICE OF AMENDMENT TO THIS BILL.
At the time of Final Reading, the Council unanimously voted to delete pages 3 through 43 of the bill as introduced and replace them with pages 3 through 21. For purposes of clarity and economy, the deleted pages are not included.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 22

RESOLUTION NO. 71-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, November 19, 1979

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision, and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the Charter provides that the Office of Planning and Zoning prepare and revise a Master Plan at least every ten years, the previous such revision being accomplished in 1975; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the County Council has the responsibility to accept or modify, and then adopt by resolution, a Master Plan which it receives from the Office of Planning and Zoning; and

WHEREAS, the County Council has caused to be prepared by consultants and staff, at great expense to the taxpayers of Baltimore County, a comprehensive growth management planning study which has been accomplished over the past three years; and

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the County Council has adopted the Master Plan by Resolution No. 71-79 dated October 15 - NOVEMBER 19, 1979; and

WHEREAS, pursuant to the Baltimore County Charter and Code, the County Council is responsible for the implementation of the Master Plan through the adoption or amendment of zoning maps and regulations, subdivision regulations, capital improvement programs and such other legislation, regulations, policies and programs which may be necessary; and

WHEREAS, the elements of said planning study together comprise a Master Plan, containing objectives, policies and standards, and a composite of mapped and written proposals serving as a guide for the physical development of the County; and

WHEREAS, the Planning Board of Baltimore County has held public hearings on the Master Plan and on the elements thereof and has recommended the adoption of certain elements of that Plan; and

WHEREAS, the Office of Planning and Zoning has submitted to the County Council a Master Plan, entitled "Recommended Baltimore County Master Plan 1979-1995", with accompanying map entitled "Baltimore County Master Plan Land Use Plan"; and

WHEREAS, the County Council has held a public hearing on the Master Plan on September 11, 1979.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Master Plan submitted by the Office of Planning and Zoning and adopted by the Baltimore County Planning Board, including mapped and written proposals, are hereby amended and modified, and as so amended and modified, are hereby adopted and declared to incorporate and be comprised of the following written and mapped components, which will serve as a guide for the development of the County, and which may be subject to such further modifications as deemed advisable by the Baltimore County Council:

"Baltimore County Master Plan 1979-1990" Written Components, maps, errata and addendum thereto, as follows:

SECTION I
Baltimore County Growth Management Program Physical Development Plan, Part I, Land Use Element.

SECTION II
Baltimore County Growth Management Program Physical Development Plan, Part II, Transportation Element.

SECTION III
Baltimore County Growth Management Program Housing and Community Preservation Plan.

SECTION IV
Baltimore County Growth Management Program Open Space and Recreation Plan.

SECTION V
Baltimore County Growth Management Program Public Facilities Plan, Part I, Community Services.

SECTION VI
Baltimore County Growth Management Program Public Facilities Plan, Part II, Utilities.

BE IT FURTHER RESOLVED, that prior to the Baltimore County Master Plan 1979-1990 herein adopted as a guide, the County Council intends to proceed with development of an overall growth management program for the implementation of the Master Plan, said program to include revised zoning maps, zoning rules and regulations, subdivision rules and regulations, a capital improvements program, community plans, including but not limited to Owings Mills and Whitemarsh, and such other legislation, regulations, policies and programs as may be necessary; and

WHEREAS, said Master Plan divides the County into areas for the purpose of achieving specific plan objectives related to the location, density, timing and quantity of growth and development in such areas and the appropriate distribution of population, housing units and land uses throughout the County; and

WHEREAS, said Master Plan contains objectives, policies and standards designed to assimilate full population growth by the County representing the County's share of regional growth, to insure orderly growth and development of said population in the County; to protect valuable and irreplaceable natural, agricultural and environmental land and resources; to promote economic growth to meet the housing needs of present and future anticipated residents; to assure that new development is adequately served by public facilities and services; to correct service and facility deficiencies in existing neighborhoods; and to promote the public health, safety and welfare of all residents of the County; now, therefore

SECTION 1. Be it enacted by the County Council of Baltimore County, Maryland, that a new Article 4A - GROWTH MANAGEMENT, be and it is hereby added to the Baltimore County Zoning Regulations, said new article to read as follows:

ARTICLE 4A - GROWTH MANAGEMENT

Section 4A00 - Purpose and Definitions

4A00.1 - Purpose.

The purpose and intent of this Article is to implement the objectives of the County-wide Master Plan and to adopt standards and guidelines relative to new development in all areas of the County which would result in land use patterns, location of new growth and timing of growth and development that is consistent with preservation of the quality of life in existing neighborhoods, with the ability of the County to provide necessary public facilities and services to support new development, with the ability of the County to correct existing service and facility deficiencies, with the preservation of natural, agricultural and environmental resources and with the promotion of new growth and development in appropriate areas.

BE IT FURTHER RESOLVED, that until said overall growth management program and implementation measures can be adopted, the Office of Planning and Zoning, the Baltimore County Council and all other departments, agencies and officials of the County, in the exercise of any powers, authority, duties or responsibilities related to actions impacting on land use, growth or development, including planning, zoning and subdivision activities, in the County, shall consider the objectives, policies and standards of the Master Plan.

BE IT FURTHER RESOLVED, that all programs and construction projects initiated by the County be in concert with or further the goals and objectives stated in the Master Plan adopted in this resolution, and further that the Director of the Office of Planning and Zoning make such an evaluation of each and every such project and program and forward said evaluation to the County Executive and the County Council for their consideration.

BE IT FURTHER RESOLVED, that supplementary to and in conformity with the Master Plan, the agencies of Baltimore County engage in an ongoing process which includes water, sewer, and solid waste management planning, management of the coastal zone of Baltimore County, designation of areas of critical state concern, specific area plans, and plans devoted to capital improvements and other facilities. It is intended that such plans, upon enactment by the County Council and as amended from time to time shall be incorporated in the Master Plan by reference.

BE IT FURTHER RESOLVED, that the County Council intends to approve a land use map to be part of the Master Plan concurrently with the adoption of the 1980 Comprehensive Zoning maps.

BE IT FURTHER RESOLVED, that the Planning Board forward to the Council, upon completion of the elements governing growth in each of the Growth Areas, a recommendation on the method of ensuring that all development actions made by the public and private sectors are in conformance with the master plan goals, objectives and elements as adopted by the County Council.

AND BE IT FURTHER RESOLVED, that previous Master Plans adopted by the Planning Board and/or the County Council are rescinded to the extent that they are inconsistent with the Baltimore County Master Plan 1979-1990.

4A00.2 - Definitions

For the purposes of this Article, certain words and terms are defined as set forth below:

1. Capital Improvements Program. A proposed schedule of all future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project. All major projects requiring the expenditure of public funds, over and above the annual budget, for the purchase, construction, or replacement of the physical assets of the community are included as set forth in the Baltimore County Charter. Capital Improvements Program shall refer to the existing or any subsequently adopted CIP as defined herein.

~~2. Development Application. Applications to the County for nonindustrial development approval necessary prior to and including building permit applications; includes applications for special permits, special exceptions, tentative or final subdivision approval (with or without public works agreement) and building permits when no other development approval has been required.~~

~~3. Director. The Director of the Office of Planning and Zoning of Baltimore County.~~

4. Master Plan. The comprehensive plan for orderly development of the County, adopted by the County Council pursuant to the Baltimore County Charter and Code, and including all parts and elements thereof which shall serve as the basis for land use regulations in the County.

Section 4A01 - Monitoring of Development Activity.

4A01.1 - Generally.

In order to ~~assure consistency~~ between the operation and effectiveness of the Growth Management process, including but not limited to zoning maps, zoning regulations, subdivision regulations, basic services mapping standards, PUD requirements, community plans, and capital improvement programs and the growth management objectives of the County-wide Master Plan, as adopted, development activity in the County shall be monitored on a semi-annual basis in order to reflect current trends and activities and to provide a basis for amendment to the County's Growth Management process and/or County-wide

commercial districts within which those areas lie. Basic service maps are hereby established to regulate ~~residential and other nonindustrial~~ development in those underserved areas to a degree commensurate with the availability of these facilities. Basic service maps are not permanent, and will be reviewed annually with reports to the County Council.

4A02.2 Conflicts.

In the event that there is any conflict between the provisions of this ~~subsection~~ ARTICLE and any other provisions of these zoning regulations, the provisions of this ~~subsection~~ ARTICLE shall govern.

4A02.3 ~~Adoption of Basic Services Maps.~~

A. The following basic services maps, which shall be in the custody of the zoning commissioner for Baltimore County, are hereby adopted and made a part of this Article:

1. Basic Service Sewerage Map, dated November 19, 1979.
2. Basic Service Water Supply Map, dated November 19, 1979.
3. Basic Service Transportation Map, dated November 19, 1979.

B. The three basic services maps shall be prepared annually in accordance with the schedule set forth below, which maps shall incorporate a delineation of adequacy and availability of water supply, sewerage, transportation services and facilities according to the standards and requirements set forth in this section.

C. The individual sewer, water supply and transportation basic services maps shall be adopted by the County Council in accordance with the procedures and requirements of this Article contrary provisions of Title 22. of the Baltimore County Code notwithstanding.

D. Boundaries as shown on the basic services maps shall be interpreted in accordance with section 100.4 of these zoning regulations.

E. 1. Before July 31, 1980, and annually thereafter, the Planning Board shall recommend to the County Council any revisions to the basic services maps. The Planning Board need not adopt a preliminary report or hold a public hearing with respect to its recommendations, although it shall allow the public a reasonable opportunity to comment before adopting the recommendations.

2. Before October 15, 1980 and annually thereafter, the County Council shall take action on said maps ~~with respect to~~ AFTER CONSIDERATION OF the recommendations of the Planning

or office uses shall be determined by the Department of Public Works.

4. Exception. This subparagraph does not apply to any development application relating to a structure or structures that will be situated on a lot or lots not served by a public sewerage system or which involve a residential development of no more than 3 dwelling units on a lot of record as of the effective date of this Article or to any development in a CCC district, CSA district OR RAE zone or IN a town center, other than a town center within a new development area so designated in the Master Plan.

D. Transportation.

1. Intent. The transportation standards and maps are intended to regulate nonindustrial development where it has been determined that the capacity of arterial and arterial collectors- INTERSECTIONS is less than the capacity necessary to accommodate traffic both from established uses and from uses likely to be built pursuant to this Article. Such development is not intended to be restricted unless there is a substantial probability that an arterial and arterial collector intersection situated within ~~and serving~~ the MAPPED area will, on the date the map becomes effective, be rated at level-of-service E or F under standards established by the Highway Capacity Manual, 1965, published by the Highway Research Board of the Division of Engineering and Industrial Research, National Academy of Sciences-National Research Council.

2. Determination of critical vehicle-trip number. a. For the purpose of this subparagraph, the "critical vehicle-trip number" of an intersection is determined by the formula

$$C = \frac{F - E}{2} + E$$

in which each letter represents a number of daily vehicle trips through a given intersection at peak hour and

C = the critical vehicle-trip number;

F = that number which if reduced by one would result in a change in the intersection's level of service from F to E; and

E = that number which if reduced by one would result in a change in the intersection's level of service from E to D.

b. Determination of reserve capacity. It is intended that the reserve capacity be determined for each district by the formula

$$N = C - (T+I)$$

in which

N = reserve capacity

C = the critical vehicle-trip number for the most congested arterial

intersection in a transportation mapped area on the date the designation becomes effective;

T = the number of daily peak-hour vehicle trips, based on actual traffic counts taken by the Department of Traffic Engineering, passing through the most congested arterial intersection in a transportation mapped area; and

I = the projected number of additional daily peak-hour vehicle trips to be generated by nonindustrial developments that have been approved under the provisions of this Article and have not yet been constructed and would most likely pass through that intersection. For partially completed nonindustrial developments, the amount of peak-hour vehicle trip shall be prorated based on number of completed units or square footage.

However, if N is less than zero under the formula, the reserve capacity in the area shall be zero.

3. Maximum Level of Nonindustrial Development.

a. The level of additional nonindustrial development in a mapped area as provided above, may not exceed that which would generate the number of daily peak-hour vehicle trips equal to the reserve capacity of that mapped area, based on the following assumptions:

1. Every 100 dwelling units, other than for the elderly, shall be considered to result in the generation of 85 peak-hour vehicle trips daily;

2. Every 100 dwelling units in housing for the elderly shall be considered to result in the generation of twenty-five peak-hour vehicle trips daily;

3. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to retail use shall be considered to result in the generation of 14.70 peak-hour vehicle trips daily; and

4. Every 1000 square feet of gross floor area of a building or a part of a building devoted principally to office use shall be considered to result in the generation of 2.34 peak-hour vehicle trips daily.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1981, Legislative Day No. 6

RESOLUTION NO. 14-81

Mr. Gary Huddles, Councilman

By the County Council, March 16, 1981

A RESOLUTION to incorporate the Pikesville Revitalization Growth Plan into the Baltimore County Master Plan 1979-1990.

WHEREAS, by Resolution No. 71-79, passed on November 19, 1979, the County Council of Baltimore County, Maryland adopted the Baltimore County Master Plan 1979-1990; and

WHEREAS, pursuant to provisions of the Charter and of the Baltimore County Code, the County is responsible for planning for the future growth and development of the County, including preparation of a Master Plan; and

WHEREAS, the Baltimore County Planning Board, on May 17, 1979, approved the Pikesville Revitalization Growth Plan and recommeded that it be incorporated into the Baltimore County Master Plan; and

WHEREAS, the County Council of Baltimore County, Maryland has thoroughly reviewed the Pikesville Revitalization Growth Plan.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland that the Pikesville Revitalization Growth Plan be and it is hereby incorporated into and made a part of the Baltimore County Master Plan 1979-1990.

THE LAW OFFICES OF
STEINBERG, LICHTER, COLEMAN & ROGERS
305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD J. ROGERS

December 27, 1982

IN REPLY REFER TO:

Administrative Secretary
County Board of Appeals
Room 200
Court House
Towson, Maryland 21204

Re: Jerome S. Alperstein, et al
Petition for Rezoning, Zoning Case R-82-76
Circuit Court for Baltimore County
Misc. 14/273/82-M-273

Dear Ms. Eisenhart:

Enclosed herewith you will find a copy of Petition For Extention of Time to File Memorandum and an Order signed on December 27, 1982 by Judge Raine which extends the time for filing the Memorandum until January 20, 1983.

Very truly yours,

Julius W. Lichter

Julius W. Lichter

JWL:lsp

Enclosures

cc/enc: Nancy E. Paige, Esquire
J. Earle Plumhoff, Esquire
John W. Hessian, III, Esquire
Mr. Harvey Galinn
All other parties

BALTIMORE, MD.
Dec 28 11 11 AM '82
CO

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District	:	IN THE
	:	CIRCUIT COURT
	:	FOR
	:	BALTIMORE COUNTY
	:	AT LAW
ZONING CASE NO. R-82-76 ITEM #17	:	Misc. Docket No. 14
	:	Folio No. 278
	:	File No. 82-M-273

PETITION FOR EXTENSION OF TIME TO FILE MEMORANDUM

Jerome S. Alperstein, et al., the Appellant herein, petitions this Court for an extension of time within which to file the Memorandum pursuant to Maryland Rule B12, and in support of this Petition states:

In accordance with the previous Petition for Extension of Time, the Court has been advised that I, Julius W. Lichter, am recuperating from surgery. The previous Petition also advised the Court that I would be returning to the office during the last week of December, 1982. I have been advised by my physician that I will be able to return to the office on a part-time basis on January 3, 1983 and thereafter to resume a normal schedule on or about February 1, 1983.

WHEREFORE, the Appellant prays this Honorable Court to extend the time for filing the Memorandum until January 20, 1983, forty-five days after the Memorandum would have been due under the provisions of Maryland Rule B12, and the Order of this Honorable Court dated November 30, 1982.

Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
Attorney for Appellants
(301) 321-0600

I HEREBY CERTIFY that on this 27th day of DECEMBER, 1982, a copy of the aforegoing Petition for Extension of Time to file Memorandum was mailed to Administrative Secretary of the County Board of Appeals, Room 200, Court House, Towson, Maryland 21204; J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202; Attorneys for Protestants; Dr. Stewart P. and Nancy Rosenberg, 7 Peachtree Court, Baltimore, Maryland 21208; Mr. and Mrs. Jack Tucker, 1505 Woodholme Avenue, Baltimore, Maryland 21208; Mr. and Mrs. Raymond Feinberg, 1503 Woodholme Avenue, Baltimore, Maryland 21208; Mr. and Mrs. Ronald Prihoda, 6 Peachtree Court, Baltimore, Maryland 21208; Mr. and Mrs. John J. Denson, 1500 Woodholme Avenue, Baltimore, Maryland 21208; Mr. and Mrs. Mark Dopkin, 1335 Harden Lane, Baltimore, Maryland 21208; Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208; and to John W. Hessian, III, Esquire, and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

Julius W. Lichter
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

BALTIMORE, MD.
Dec 28 11 11 AM '82
CO

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District	:	IN THE
	:	CIRCUIT COURT
	:	FOR
	:	BALTIMORE COUNTY
	:	AT LAW
ZONING CASE NO. R-82-76 ITEM #17	:	Misc. Docket No. 14
	:	Folio No. 278
	:	File No. 82-M-273

ORDER

Upon the aforegoing Petition for Extension of Time to File Memorandum, it is hereby ORDERED this 27th day of December, 1982, that the time for filing in Court the Memorandum pursuant to Maryland Rule B12 is hereby extended until January 20, 1983.

JUDGE John E. Raine, Jr.

True Copy Test
ELMER H. KAHLINE, Jr., Clerk
Per Kate Nichols
Assistant Clerk

BALTIMORE, MD.
Dec 28 11 11 AM '82
CO

THE LAW OFFICES OF

STEINBERG, LICHTER, COLEMAN & ROGERS

305 W. CHESAPEAKE AVENUE, TOWSON, MD. 21204 (301) 321-0600

MELVIN A. STEINBERG
JULIUS W. LICHTER
EDWARD L. COLEMAN
DONALD F. ROGERS

December 2, 1982

IN REPLY REFER TO:

Administrative Secretary
County Board of Appeals
Room 200
Court House
Towson, Maryland 21204

Re: Jerome S. Alperstein, et al
Petition for Rezoning, Zoning Case R-82-76
Circuit Court for Baltimore County
Misc. 14/278/82-M-273

Dear Ms. Eisenhart:

Enclosed herewith you will find a copy of the Order signed on November 30, 1982 by Judge Raine which extends the time for filing the Memorandum required under Rule B12 until January 6, 1983.

Very truly yours,

Donald F. Rogers

Donald F. Rogers

DFR:lsp

Enclosure

cc/enc: Nancy E. Paige, Esquire
J. Earle Plumhoff, Esquire
John W. Hessian, III, Esquire
Mr. Harvey Galinn
All other parties

RECEIVED
BALTIMORE CO.
Dec 2 2 22 PM '82
COUNTY BOARD
OF APPEALS
BY: Hand delivered

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District

ZONINE CASE NO. R-82-76
ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : : :

ORDER

Upon the aforegoing Petition for Extension of Time to File Memorandum, it is hereby ORDERED this _____ day of _____, 1982, that the time for filing in Court the Memorandum pursuant to Maryland Rule B12 is hereby extended until January 6, 1983.

JUDGE

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District

ZONINE CASE NO. R-82-76
ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : : :

ORDER

Upon the aforegoing Petition for Extension of Time to File Memorandum, it is hereby ORDERED this 30th day of November, 1982, that the time for filing in Court the Memorandum pursuant to Maryland Rule B12 is hereby extended until January 6, 1983.

John E. Raine, Jr.
JUDGE

True Copy Test
ELMER H. KAHLINE, JR., Clerk
Per _____
Deputy Clerk

RECEIVED
BALTIMORE CO.
Dec 2 2 22 PM '82
COUNTY BOARD
OF APPEALS
BY: Hand delivered

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District

ZONING CASE NO. R-82-76
ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : : :

PETITION FOR EXTENSION OF TIME TO FILE MEMORANDUM

Jerome S. Alperstein, et al., the Appellant herein, petitions this Court for an extension of time within which to file the Memorandum pursuant to Maryland Rule B12, and in support of this Petition states:

Counsel handling this matter, Julius W. Lichter, is recovering from open heart surgery and is not expected to return to his office until the last week in December, 1982. Because of the unique nature of the case, Mr. Lichter is the only member of the firm who has the special qualifications and complete familiarity with the specifics of the instant litigation, it is deemed necessary in the best interests of the Appellants that Mr. Lichter be given the opportunity to prepare the Memorandum and continue his representation of the Appellants in this matter.

WHEREFORE, Appellant prays this Honorable Court to extend the time for filing the Memorandum until January 6, 1983, thirty days after the Memorandum would have been due under the provisions of Maryland Rule B12.

Donald F. Rogers
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
Attorneys for Appellants
(301) 321-0600

I HEREBY CERTIFY that on this 29th day of NOVEMBER, 1982, a copy of the aforegoing Petition for Extension of Time to file Memorandum was mailed to Administrative Secretary of the County Board of Appeals, Room 200, Court House, Towson, Maryland 21204; J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Nancy E. Paige, Esquire, Garrett Building, 233 E Redwood Street, Baltimore, Maryland 21202; Attorneys for Protestants; Dr. Stewart P. and Nancy Rosenberg, 7 Peachtree Court, Baltimore, Maryland 21208; Mr. and Mrs. Jack Tucker, 1505 Woodholme Avenue, Baltimore, Maryland 21208; Mr. and Mrs. Paymond Feinberg, 1503 Woodholme Avenue, Baltimore, Maryland 21209; Mr. and Mrs. Ronald Prihoda, 6 Peachtree Court, Baltimore, Maryland 21208; Mr. and Mrs. John J. Denso-, 1500 Woodholme Avenue, Baltimore, Maryland 21208; Mr. and Mrs. Mark Dopkin, 1335 Harden Lane, Baltimore, Maryland 21208; Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208; and to John W. Hessian, III, Esquire, and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

Donald F. Rogers, Esquire
Steinberg, Lichter, Coleman & Rogers
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

RECEIVED
BALTIMORE CO.
Nov 30 11 23 AM '82
COUNTY BOARD
OF APPEALS
BY: [illegible]

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District

ZONINE CASE NO. R-82-76
ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : : :

ORDER

Upon the aforegoing Petition for Extension of Time to File Memorandum, it is hereby ORDERED this _____ day of _____, 1982, that the time for filing in Court the Memorandum pursuant to Maryland Rule B12 is hereby extended until January 6, 1983.

JUDGE

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT ROAD 3rd District

JEROME S. ALPERSTEIN, ET AL, PETITIONERS-APPELLANTS

Zoning File No. R-82-76

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Doc. No. 14
: Folio No. 278
: File No. 82-M-273

: :

CERTIFIED COPIES OF PROCEEDINGS BEFORE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Patricia Phipps and Keith S. Franz, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter consisting of the following certified copies or original papers on file in the office of the Board of Appeals of Baltimore County:

ENTRIES FROM DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

No. R-82-76

February 27, 1981	Petition of Jerome S. Alperstein, et al, for reclassification from a D.R. 2 to a D.R. 10.5 zone, on property located on the north side of Woodholme Ave., 145' west of Old Court Road, 3rd District, filed
	Order of William T. Hackett, Chairman, County Board of Appeals, directing advertisement and posting of property - date of hearing set for November 10, 1981, at 10 a.m.
April 29, 1981	Comments of Baltimore County Zoning Advisory Committee - filed
October 22, 1981	Certificate of Publication in newspaper - filed
October 23, 1981	Certificate of Postingof property - filed
November 10, 1981	At 10 a.m. hearing held on petition (continued hearings on Jan. 6, 1982 at 10 a.m. and Feb. 11, 1982, at 10 a.m.)

August 10, 1982	Order of the County Board of Appeals ordering that the Petition for Reclassification on the subject site from DR 2 to DR 10.5 be DENIED and that the DR 2 zoning be retained.
September 8, 1982	Order for Appeal filed in the Circuit Court for Baltimore County by Julius W. Lichter, Esq., on behalf of the Petitioners
September 14, 1982	Certificate of Notice sent to all interested parties
September 17, 1982	Petition to accompany Order for Appeal filed in the Circuit Court for Baltimore County
November 4, 1982	Transcript of testimony filed
	People's Counsel Exhibit No. 1 - Soil Survey
	Protestants' Exhibit No. A - Map of zoning suggestions
	" " " B - Affidavit, 1/6/82, Pine Ridge Assoc.
	" " " C - Pikesville Revitalization Growth Plan, Part 1 and Part 2
	" " " D - Sign-up sheet of those present at hearing
	" " " E - Fire Report, 7/29/81
	" " " F - Police Reports
	" " " G - Photos 1 to 9
	" " " H - Photo (1)
	Petitioners' Exhibit No. 1 - Deed, Weinberg property 7/11/81
	" " " 2 - Deed, Weinberg property 11/15/35
	" " " 3 - Deed, Alperstein property, 12/10/62
	" " " 4 - Deed, Herman/Hament property 8/17/79
	" " " 5 - Deed, Wagers property 8/13/75
	" " " 6 - Deed, Weinberg property 11/15/35
	" " " 7 - Parts of Balto. County Code
	" " " 8 - Resolution incorporating the PRGP into County Master Plan
	" " " 9 - PRGP, Executive Summary
	" " " 10 - Balto. County Master Plan-1979-80

	Petitioners' Exhibit No. 11 - Report and Recommendations
	" " " 12 - Map or plat of immediate area ~~(in the Bd. of Appeals closet)~~ in Ct file
	" " " 13 - Aerial photo, 4/1/77 ~~(in Bd. of Appeals closet)~~
	" " " 14 - Photo in Ct file
	" " " 15 - Photos (a to h)
	" " " 16 - Photos (a to g)
	" " " 17 - Photos (a to h)
	" " " 18 - Letter, 11/5/81, from MTA to Jules Lichter
	" " " 19 - Letter, 12/30/81, MTA
	" " " 20 - Deed & Agreement, 6/20/74
	" " " 21 - Plan of Old Ct. Rd. Station, MTA
	" " " 22 - 1975 TSADAS Report
	" " " 23 - 1976 " " (Hacwait)
	" " " 24 - 1977 TSADAS Report
	" " " 25 - Amended agreement, Straw Deed of Paige property
November 5, 1982	Record of proceedings filed in the Circuit Ct. for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Board of Appeals of Baltimore County, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

June Holmen
June Holmen
County Board of Appeals of Baltimore County

cc: Julius W. Lichter, Esq.
J. W. Hessian, Esq.
J. Earle Plumhoff, Esq.

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL PETITIONERS FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE. 145' WEST OF OLD COURT RD. 3rd DISTRICT, FROM D.R. 2 TO D.R. 10.5

ZONING FILE NO. R-82-76 Item #17

: IN THE CIRCUIT CO. :
: FOR BALTIMORE COUNTY :
: AT LAW :
: Misc. 14/278/82-M-273 :

: : : : : : :

ANSWER TO PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellee herein, answers the Petition on Appeal heretofore filed by the Appellant, viz:

1. That the Appellee denies the allegations made and contained in the first through seventh paragraphs of said Petition.

2. That the decision of the Board herein was proper and justified by the evidence before it and that the decision of the Board should therefore be sustained as being properly and legally made.

AND AS IN DUTY BOUND, etc.,

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

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

RECEIVED BALTIMORE COUNTY Sep 23 11 15 AM '82 COUNTY BOARD OF APPEALS BY:

I HEREBY CERTIFY that on this 23 day of September, 1982, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to Julius W. Lichter, Esquire, Steinberg, Lichter, Coleman & Rogers, Suite 113, 305 W. Chesapeake Avenue, Towson, Maryland 21204; Raymond Feinberg, Esquire,

IN THE MATTER OF THE PETITION OF JEROME S. ALPERSTEIN, et al FOR RECLASSIFICATION OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVENUE 145 FEET WEST OF OLD COURT ROAD 3rd DISTRICT

ZONING CASE NO. R-82-76 ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : :

O R D E R

Upon the aforegoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this _____ day of _____, 1982, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until November 8, 1982.

JUDGE

RE: ALPERSTEIN, ET AL
Ckt. Ct. Misc. 82-M-273

1503 Woodholme Avenue, Baltimore, Maryland 21208; Nancy E. Paige, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202; J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; and Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208.

Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL PETITIONERS FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE. 145' WEST OF OLD COURT RD. 3rd DISTRICT, FROM D.R. 2 TO D.R. 10.5

ZONING FILE NO. R-82-76 Item #17

* IN THE CIRCUIT COURT
* FOR BALTIMORE COUNTY
* AT LAW
* Misc. 14/278/82-M-273

* * *

RECEIVED BALTIMORE COUNTY OCT 1 10 48 AM '82 COUNTY BOARD OF APPEALS BY:

ANSWER TO PETITION ON APPEAL

David M. Paige and Nancy E. Paige, Appellees, by Nancy E. Paige, in proper person, and as attorney for David M. Paige, in answer to the Petition on Appeal say:

1. That they were protestants herein before the Board of Appeals.

2. That they are owners of property immediately adjacent to the subject property of this appeal and that the value of their property and the use and enjoyment thereof will be adversely affected if the relief sought by the appellants is granted.

3. That they deny the allegations of paragraphs 1 through 7 of the Petition on Appeal.

4. That the decision of the Board of Appeals was supported by competent evidence and is in accordance with law.

WHEREFORE, the Order of the Board of Appeals should be affirmed.

Nancy E. Paige

Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
Garrett Building
233 E. Redwood Street
Baltimore, Maryland 21202
(301) 752-4567

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of October, 1982, a copy of the foregoing Answer to Petition on Appeals was mailed first-class, postage prepaid, to the Administrative Secretary, County Board of Appeals, Room 200, Court House,

IN THE MATTER OF THE PETITION OF JEROME S. ALPERSTEIN, et al FOR RECLASSIFICATION OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVENUE 145 FEET WEST OF OLD COURT ROAD 3rd DISTRICT

ZONING CASE NO. R-82-76 ITEM #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Docket No. 14
: Folio No. 278
: File No. 82-M-273

: : : : : : : : : : : : : : : : :

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

Jerome S. Alperstein, et al., the Appellant herein, petitions this Court, pursuant to Maryland Rule B7(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

Carol Ann Beresh, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled case, has advised Appellant that because of a backlog of cases, she will need a thirty-day extension of time to prepare the transcript of proceedings.

WHEREFORE, Appellant prays this Honorable Court to extend the time for filing the transcript until November 8, 1982, 60 days after the first Petition on Appeal was filed.

RECEIVED BALTIMORE COUNTY Sep 23 1 24 PM '82 COUNTY BOARD OF APPEALS BY:

Julius W. Lichter
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600
Attorney for Appellants

Towson, Maryland 21204; Julius W. Lichter, Esquire, Steinberg, Lichter, Coleman & Rogers, Suite 113, 305 W. Chesapeake Avenue, Towson, Maryland 21204; Raymond Feinberg, Esquire, 1503 Woodholme Avenue, Baltimore, Maryland 21208; John W. Hessian, III, Esquire and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204, J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, and Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208.

Nancy E. Paige

I HEREBY CERTIFY that on this 28th day of September, 1982, a copy of the aforegoing Petition for Extension of Time to File Transcript of Proceedings was served on the Administrative Secretary of the County Board of Appeals, Room 200, Court House, Towson, Maryland 21204; and a copy thereof was mailed to J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202; Attorneys for Protestants; and to John W. Hessian, III, Esquire, Room 223 Court House, Towson, Maryland 21204, People's Counsel for Baltimore County.

Julius W. Lichter

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL PETITIONERS FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVENUE 145' WEST OF OLD COURT ROAD 3rd DISTRICT, FROM D.R. 2 TO D.R. 10.5

ZONING FILE NO. R-82-76 Item #17

* IN THE CIRCUIT COURT
* FOR BALTIMORE COUNTY
* AT LAW
* Misc. 14/278/82-M-273

* * *

RECEIVED BALTIMORE COUNTY OCT 12 2 45 PM '82 COUNTY BOARD OF APPEALS BY:

PROTESTANTS' ANSWER TO PETITION ON APPEAL

Dr. Stewart P. and Nancy Rosenberg, 7 Peachtree Court, Jack and Alison Tucker, 1505 Woodholme Avenue, Raymond and Beverly Feinberg, 1503 Woodholme Avenue, Ronald and Margaret Prihoda, 6 Peachtree Court, John J. and Bertha Mae Denson, 1500 Woodholme Avenue, Mark and Ilene Dopkin, 1335 Harden Lane,

in proper person for themselves, and other parties similarly aggrieved in the above-entitled matter in answer to the Petitioners' Petition pursuant to Rule D-2, respectfully represented follows unto this Honorable Court:

1. That the record in the above-entitled proceedings before the County Board of Appeals supports neither a finding of change in the neighborhood, nor error by the County Council in placing the subject properties in D.R. 2 zone, and quite the contrary, both the record and the Opinion and Order of the County Board of Appeals dated August 10, 1982, very thoroughly demonstrates that there was neither error by the Council in placing the property in a D.R. 2 zone, nor has there been any significant change in the neighborhood since the imposition of that zoning as recently as October of 1980.

2. That rather than being inconsistent with the adopted Baltimore County Master Plan, that in fact, the D.R. 2 zoning on the property is completely consistent with the Baltimore County Master Plan land use plan, an exhibit in these proceedings, and in fact, that plan adopted by the

Planning Board dated July 26, 1979, shows all of the subject properties in a low density residential zone, that is, zoning between one and four dwelling units per acre, and the long established D.R. 2 zoning on the property is well within the adopted range.

3. That the entire record, and the well reasoned and very thorough Opinion of the County Board of Appeals dated August 10, 1982, very fully demonstrates that D.R. 2 zoning is indeed an appropriate zone for the subject properties, and that the residential homes presently occupied by all of the Petitioners, fully demonstrates that even at a density below D.R. 2, that there are very reasonable, and very appropriate uses for the Petitioners' sumptuous homes, all of which give this section of Woodholme Avenue, a narrow and winding dead end street, a large estate, wooded character.

4. That quite the contrary, that neither the proceedings before the Board, which were marked by the utmost courtesy on the part of all participants, nor the very thorough deliberations and hearings by the Planning Board, as well as the double public hearings held in this area by the County Council as a prelude to the 1980 Comprehensive Zoning Maps, that there was never any public clamor, public threats, private threats, unruly crowds, jeering demonstrators, placard carrying protestants, or any or the other indicia which marked the Dulaney public hearing held in 1971, which was overturned as not constituting a hearing at all. Rather, on the contrary, only one of the present Petitioners even requested a change in zoning on the 1980 Zoning Maps, and in fact, some of the present Petitioners opposed that change.

5. That as the Board noted in its Opinion and Order of August 10, 1982, three full hearing days were taken by the Board, and the record fully supports the retention of the present D.R. 2 zoning on the property, and the record is replete with numerous items of evidence and numerous well supported witness statements all to the effect that D.R. 2 zoning is an appropriate zone for the property, in view of the secluded, large estate type character of the area, which has been established for more than fifty years.

6. Once again, the very thorough, and well reasoned Opinion and Order by the Board dated August 10, 1982, demonstrates that the Board very

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Jerome S. Alperstein and Marian Alperstein, 3385 N.E. 167th Street, North Miami Beach, Fla. 33160, Petitioners; Julius W. Lichter, Esq., 113 Chesapeake Bldg., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioners; John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County; Raymond Feinberg, Esq., 1503 Woodholme Ave., Baltimore, Md. 21208, Protestant; Nancy E. Paige, Garrett Building, 233 E. Redwood St., Baltimore, Md. 21202, Protestant; J. Early Plumhoff, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants (David and Nancy Paige); and Harvey Galinn, 4787 Byron Road, Baltimore, Md. 21208, on this 14th day of September, 1982.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

thoroughly weighed all items of evidence on both sides, and concluded after a number of months of deliberation that those items of evidence offered by the neighbors who are dependent upon the long established D.R. 2 character of this area was the more reasonable, and the more supportable, and hence, the Board retained the well established and very appropriate D.R. 2 zones on these properties.

7. That far from being arbitrary in any manner, the Board's hearing of this case for three full days, and then the Board's spending literally months on its deliberations, followed by the production of a very thorough and complete nine page Opinion and Order addressing every item of evidence put forward by both sides, and then concluding that D.R. 2 zoning is appropriate, is not only not arbitrary, but is in fact, correct based upon both the law and the facts.

WHEREFORE, for all of the reasons set out in this Answer, as well as for all of the reasons very fully established in the very full and complete record of these proceedings before the County Board of Appeals, your Protestants respectfully submit that there was ample evidence upon which the Board reached its well reasoned and correct conclusion to retain the existing, well established, and correct D.R. 2 zoning of the property, and therefore respectfully ask that the Court uphold the Opinion and Order of the Board of Appeals dated August 10, 1982, and affirm it for all of the reasons set out herein.

Dr. Stewart P. Feinberg
DR. STEWART P. AND NANCY RO EINBERG
7 Peachtree Court
Phone: 484-9581

Jason M. Tucker
JACK AND JASON TUCKER
1505 Woodholme Avenue
Phone: 486-4381

IN THE MATTER OF
THE APPLICATION OF
JEROME S. ALPERSTEIN, ET AL
FOR REZONING OF PROPERTY
LOCATED ON THE NORTH SIDE
OF WOODHOLME AVE. 145'
WEST OF OLD COURT RD.
3rd District

Zoning File No. R-82-76
Item #17

* IN THE
* CIRCUIT COURT
* FOR BALTIMORE COUNTY
* AT LAW
* Misc. Doc. No. 14
Folio No. 278
File No. 82-M-273

****

PETITION PURSUANT TO RULE B-2

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Jerome S. Alperstein and Marian Alperstein, his wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his wife, and E. David Weinberg, Petitioners below and Appellants herein, pursuant to Maryland Rule B-2(e) file this Petition on appeal setting forth the grounds upon which this Appeal is taken, viz:

1. The record supported a finding of error and/or change to grant the zoning designation change requested in the Comprehensive Zoning Map pursuant to Baltimore County Code Section 2-58.1(2)1.

2. The record supported a finding that the zoning on the subject property as designated on the 1980 Comprehensive Zoning Map was inconsistent with the Master Plan as required by Section 523 of the Baltimore County Charter.

3. The County Council did not designate an appropriate zoning classification on the subject property and did not provide a reasonable use of the property thereby confiscating the Appellant's property.

4. The record supported a finding that the County Council has zoned the subject property and the surrounding property by plebiscite.

5. The decision of the Board of Appeals in failing to reclassify the subject property at a greater density zoning designation was arbitrary, capricious and not based upon the substantial and legally competent evidence submitted to it.

Raymond Feinberg
Beverly Feinberg
RAYMOND AND BEVERLY FEINBERG
1503 Woodholme Avenue
Phone: 486-5775

Ronald Pritkoda
Margaret Pritkoda
RONALD AND MARGARET PRITKODA
6 Peachtree Court

John M. Denson Bertha Mae Denson
JOHN M. AND BERTHA MAE DENSON
1500 Woodholme Avenue
Phone: 484-4727

Mark Dopkin Ilene Dopkin
MARK AND ILENE DOPKIN
1335 Harden Lane
Phone: 484-0013

CERTIFICATION OF MAILING

I HEREBY CERTIFY, That on this 19th day of October, 1982, a copy of the aforegoing Protestants' Answer To Petition On Appeal was mailed first class, postage prepaid, to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, Maryland 21204; Julius W. Lichter, Esquire, Steinberg, Lichter, Coleman & Rogers, Suite 113, 305 W. Chesapeake Avenue, Towson, Maryland 21204; John W. Hessian, III, Esquire and Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204; J. Earle Plumhoff, Esquire, and Newton A. Williams, Esquire, Nolan, Plumhoff and Williams, Chartered, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; and Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208.

Raymond Feinberg
Beverly Feinberg
RAYMOND AND BEVERLY FEINBERG
1503 Woodholme Avenue
Phone: 486-5775

6. The Board of Appeals erred in failing to give proper weight to the testimony presented by the Appellants.

7. The Board of Appeals otherwise acted in an arbitrary and capricious manner and for other reasons to be set forth at the time of the hearing on this Appeal.

WHEREFORE, your Petitioners pray that the Order of the Board of Appeals dated August 10, 1982 be reversed and that the subject property be reclassified to the DR 10.5 zoning classification.

Julius W. Lichter
JULIUS W. LICHTER
STEINBERG, LICHTER, COLEMAN & ROGERS
Suite 113, 305 W. Chesapeake Avenue
Towson, Maryland 21204
321-0600
Attorney for Appellants

I HEREBY CERTIFY, that on this 17th day of September, 1982, a copy of the aforegoing Petition was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, Maryland, 21204 and a copy was mailed to John W. Hessian, Esq., Court House, Towson, Maryland 21204, People's Counsel for Baltimore County; Raymond Feinberg, Esq., 1503 Woodholme Avenue, Baltimore, Maryland 21208; Protestant; Nancy E. Paige, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202, Protestant; J. Early Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, Counsel for Protestants (David and Nancy Paige); and Harvey Galinn, 4787 Byron Road, Baltimore, Maryland 21208 on this 17th day of September, 1982.

Julius W. Lichter
JULIUS W. LICHTER

Received: Edith T. Eisenhart
Edith T. Eisenhart
Administrative Secretary
Board of Appeals of
Baltimore County
9-17-82
(Date)

BALTIMORE COUNTY, MD.
SEP 17 3 39 PM '82
CLERK OF THE CIRCUIT COURT

IN THE MATTER OF
THE APPLICATION OF
JEROME S. ALPERSTEIN, ET AL
FOR REZONING OF PROPERTY
LOCATED ON THE NORTH SIDE
OF WOODHOLME AVE., 145'
WEST OF OLD COURT RD.
3rd District

Zoning File No. R-82-76
Item #17

: IN THE
: CIRCUIT COURT
: FOR
: BALTIMORE COUNTY
: AT LAW
: Misc. Doc. No. 14
: Folio No. 278
: File No. 82-M-273

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Keith S. Franz, and Patricia Phipps, 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, Jerome S. Alperstein and Marian Alperstein, 3385 N.E. 167th Street, North Miami Beach, Fla. 33160, Petitioners; Julius W. Lichter, Esq., 113 Chesapeake Bldg., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioners; John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County; Raymond Feinberg, Esq., 1503 Woodholme Ave., Baltimore, Md. 21208, Protestant; Nancy E. Paige, Garrett Building, 233 E. Redwood St., Baltimore, Md. 21202, Protestant; J. Earle Plumhoff, Esq., 204 W. Penna. Ave., Towson, Md. 21204, Counsel for Protestants (David and Nancy Paige); and Harvey Galinn, 4787 Byron Road, Baltimore, Md. 21208, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
Telephone 494-3180

IN THE MATTER OF
THE PETITION OF
JERMOE S. ALPERSTEIN, et al
FOR RECLASSIFICATION OF
PROPERTY LOCATED ON THE
NORTH SIDE OF WOODHOLME
AVENUE 145 FEET WEST OF
OLD COURT ROAD
3rd DISTRICT
ZONING CASE NO. R-82-76
ITEM 17

* IN THE
* CIRCUIT COURT
* FOR
* BALTIMORE COUNTY
* AT LAW
* Misc Docket No. 14
* Folio No. 278
* File No. 82-M-273

* * * * * * * * * * * * * * * * *

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Circuit Court for Baltimore County from the Order of the County Board of Appeals for Baltimore County dated August 10, 1982 denying the Petition for Reclassification from DR 2 to DR 10.5 zone in the above entitled case.

Julius W. Lichter
Julius W. Lichter
113 Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204
(301) 321-0600
Attorney for Appellants

BALTIMORE COUNTY, MD.
SEP 9 1 59 PM '82
CLERK OF THE CIRCUIT COURT

VACANT LAND

IV

1. Total Vacant Land = 284.90
   Non Buildable Land = 0
   Flood Plain = 27.15
   Buildable Vacant Land = 257.75 acres

2. Eighty percent of vacant land (mostly residential with some industrial) is located in the Southwest quadrant. Apart from isolation, the rest is located in the South West quadrant.

3. All buildable vacant land is privately owned. Vacant land in flood plain is owned by State Roads Commission.

   Note - subdivision activity is under current zoning and county ordinance.

4. Average land value by
   a. average assessed value
      $5,438.97 per acre or $0.05575 per sq. ft.
   b. average land sales value
      range $1.38/sq. ft to $0.64/sq. ft. average $1.013 per sq. ft.

5. Largest vacant parcel holdings
   a. N 77-P11 - Hilstone, David deed #4327/512, 11.10 ac.
   b. N 78-P4 - Herman, Benjamin deed # 1680/465, 6.75 ac.
   c. N 78-P43- Alperstein, Jerome S. deed #4093/454, 6.58 ac.
   d. N 77-P133 - Baxter, Marie deed #1321/504, 6.42 ac.
   e. N 78-P7 - Levine, Sidney deed #1345/407, 6.18 ac.

   Note: average land sales values were taken from 1976 check thru "Cook's Baltimore County Real Estate Directory" years 1972 thru 1976.

6. Holding Capacity of Vacant Land
   (Possible Units = 257
   Subdivision = 534 units)
   a. Residential = 401 Units
   b. Commercial = 4.62 Ac. under subdivision activity

VACANT LAND OWNERSHIP

VI

LOCATION #	TAX MAP & PARCEL	OWNER	DEED #	MAP & ZONE	ACRES	POSSIBLE UNITS
1.		State Roads Commission		D.R. 1	6.57	
2.	N 77 - P. 6	State Roads Commission	5340/211	D.R. 1	12.33	48
3.	N 78 P 165	Mt. Wilson Ltd. Partnership	5295/555	D.R. 1	9.73	
4.	N 78 P 200	Rogers, Robert F.	4327/512	D.R. 2	6.27	
5.	N 78 P 200	Zito, Vernon A.	1321/504	D.R. 2	2.18	
6.	N 78 P 37	Mt. Wilson Ltd. Partnership	5340/483	D.R. 2	2.68	
7.	N 78 P 5	Patterson, Mary J.	5340/483	D.R. 2	17.66	
8.	N 78 P 434	Alperstein, Jerome S.	4093/454	D.R. 2	10.99	
9.	N 78 P 6	Herman, Benjamin	1680/465	D.R. 2	6.56	
10.	N 78 P 163	Benjamin	2018/200	D.R. 2	2.28	
11.	N 78 P 2	Wallace, Inc.	5295/555	D.R. 2	1.47	
12.	N 78 P 1	Wallace, Montgomery & Co.	5295/555	D.R. 2	0.37	
13.	N 78 P 1	Paige, David M.	5340/486	D.R. 2	2.24	
14.	N 78 P 297	-	Plat 10/11	D.R. 3.5	5.02	(3) 202 Eq Units
15.	N 78 P 296	Churchill	Plat 10/117	D.R. 3.5	4.33	15.1
16.	N 77 P 738	Alperovitz, Leonard	4093/577	D.R. 3.5	1.48	6.4
17.		Lewis Roberts Associates			1.00	4
18.	N 77 P 196	Lewis Roberts Associates	5307/111	D.R. 3.5	.15	1
19.	N 77 P 185	Zentz, George	4866/618	D.R. 3.5	5.56	19.5
20.	N 77 P 1313	Baxter, Marie	1321/504	D.R. 5.5	5.39	29.1
21.	N 77 P 159	Baxter, Marie E.	1050/202	D.R. 5.5	0.46	2.5
22.	N 77 P 11	Hilstone, David	4327/512	D.R. 16	3.38	23.4
23.	N 77 P 1379	Gem Rose, Inc.	2372/241	D.R. 16	7.11	23.4
24.	N 78 P 11	Mitchell, Gould	4454/484	D.R. 16	4.93	80.0
		Additional Developable units				
		Subdivision Units				
		Total	TOTAL		126.70	401.4
						257.01
						534
						1221 units

* Indicates Nondevelopable Land
Water (1) 2.5 Ac. 1
Wetlands (11) 28.2 Ac. 2
Other (1 owner) 6.4 Ac. 2
(9 owners) 8.4 Ac. 3.5 =

	Units
	53.32
	105.4
	5.64
	19.02
	183.4

Also Includes (24) as underlined

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

land use element

II

The idea of control of growth is, of course, central to growth management. At present, the County does not have a formalized population growth policy.

Projections of likely future population have been made by the Growth Management consultants.

During the Growth Management studies, it has been determined that:

County-wide population capacity is not an issue in formulating a population growth policy for the County because the undeveloped part of the County is so large and projected growth is relatively modest;

Considerations of equity suggest that projected population should be accommodated;

The rate and location of population growth will be subject to policy influence by the rate and locations at which the County provides public services, grants zoning changes, and encourages or discourages investment;

Certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development, while other areas are less well-suited, and in some cases require specific preservation measures to limit development.

Based upon these findings, as detailed in the Technical Memoranda setting out Growth Management Background Studies, it is recommended that:

Population increase and development be encouraged in areas of the County identified during the Growth Management Program as well-suited for development, by means of a variety of incentives;

Population increase and development be reduced in areas of the County identified during the Growth Management Program as unsuited for more than very limited development, by means of a variety of disincentives.[1]

Provisions be made, County-wide, for projected levels of population growth but at a rate and in a manner consistent with the objectives of the Growth Management Program.[2]

[1] Wallace, McHarg, Roberts and Todd, Baltimore County Growth Management Program Technical Memorandum No. 16, Policy Options Summary, November 1978, page 3.

[2] Robert H. Freilich, Legal and Planning Requirements for Implementation of a Growth Management Plan in Baltimore County, Maryland, July, 1976.

I. REGIONAL SETTING

While the responsibility for determining Baltimore County's land-use pattern and other major growth management policies is clearly by law the County's responsibility, and is widely agreed to be best held by "people who are politically accountable to the citizens who must live with these policies"[1], current and proposed State and Federal legislation and regulations point to the necessity for increased cooperation between local governments and the State and Federal governments and among neighboring jurisdictions in making future land-use decisions, particularly as they affect natural resources, and major utility and transportation systems.

The County is empowered by State statute to prepare and adopt plans, ordinances, and regulations governing land use, but the State and the Region have some influence on the manner in which land is developed in the County. The State has the greater potential power, in that the power of land use control is delegated by the State to its component jurisdictions. In addition, the State has potential control of some land uses through Critical Areas legislation, Coastal Wetlands legislation, and Surface Mining and similar legislation. Finally, both the State and the Regional Planning Council have the power and responsibility of A-95 review of all applications by the County for Federal assistance to assure that these applications "shall be consistent with and further the objectives of State, Regional, and Local comprehensive planning."[2]

A. THE REGIONAL GENERAL DEVELOPMENT PLAN

The Baltimore Regional Planning Council, in the draft General Development Plan published in late 1977, defined three alternative development patterns for the region.

Alternative regional development patterns considered in the Regional General Development Plan include:
- a centralized development pattern;
- a trend development pattern; and
- a decentralized development pattern.

The centralized regional development pattern was selected by the Regional Planning Council on the basis of a comparison of anticipated impacts of each of the alternatives.

[1] Brussat, W.K., "A-95 Review System: Can Be an Asset", ed. Scott, R.W., and Brower, D.J., Miner, D.D., Management and Control of Growth, Vol. III (Washington D.C., The Urban Land Institute, 1975).

[2] Title IV of the Intergovernmental Cooperation Act of 1968, Section 401(c).

Excerpts from the Regional General Development Plan describe the centralized regional development pattern as follows:

"The centralized development pattern would reverse recent trends toward decentralization. It emphasizes enhancement, renewal, and revitalization of existing communities. The growth of MetroCenter and nearby employment centers is emphasized more than under the trend alternative. Scattered growth in the rural countryside is virtually halted, and nearly all new development is contained within the planned 10-year service areas.

Development is compact, densities higher, and less residential land is consumed. Baltimore receives a greater share of the region's household and employment growth while the counties receive correspondingly less growth. Major growth centers receive more growth. A corollary to this scenario, however, is that communities are improved as they absorb growth. In this way, well-planned growth, coupled with adequate open space and other community amenities, will result in attractive communities for the future."[1]

The General Development Plan state that, when compared with the decentralized alternative, it was found that the centralized development pattern will:

"Reduce potential septic system failures in new residential subdivisions by 98%.

"Reduce the aggregate stormwater pollutant burden for new residential development by about one-half.

"Reduce the space heating requirements of new residential units by 25%.

"Reduce motor vehicle fuel consumption by traffic due to new growth by 17%."

"Save a cumulative total of about 30 trillion BTU's of energy over the next ten years for residential space heating of newly constructed units and motor vehicle fuel requirements.

"Reduce the aggregate air pollutant emission burden from residential space heating of newly constructed units by 24%.

"Reduce motor vehicle air pollutant emissions attributable to new growth by 10-18%.

"Reduce total residential land requirements of newly constructed units by 62% and reduce land requirements outside the planned 10 year service area by 75% and by 42% inside the service area. Reduce farmland losses by 76%.

"Reduce forest losses by 65%.

[1] Baltimore Regional Planning Council, General Development Plan for the Baltimore Region, Baltimore, Maryland, 1977, p.2-2.

"Reduce transportation costs for solid waste collection and haulings.

"Result in fewer ground water withdrawals by individuals by individual wells in newly constructed residential subdivisions and less discharges of effluent into ground water from septic systems and seepage pits.

"Increase public transit patronage.

"Reduce traffic as measured in vehicle-miles-of-travel (VMT).

"Reduce highway congestion for most locations in the region.

"Reduce the demand for new public school construction and reduce the pupil transportation costs attributable to new residential growth by 38%.

"Provide more affordable new housing"[1].

After a series of public hearings, the General Development Plan was adopted in December 1977. Changes from the draft were largely minor road changes. The only major change was deletion of a proposed oil refinery in the City of Baltimore, near Anne Arundel County. No changes were made that directly affect Baltimore County.[2]

The proposed development pattern shows the areas of Whitemarsh and Owings Mills staged in general conformance to the County Growth Management Plan.

The adopted Regional General Development Plan summarizes the policy criteria used in A-95 review by the Planning Council of all major local projects requiring Federal funding. It is therefore beneficial to Baltimore County that this General Development Plan support and confirm the County's proposed development staging and the major transportation improvements that can make this development staging work.

B. THE STATE LAND USE ELEMENT

The State of Maryland Planning Agency is presently in the process of developing a State-wide plan. Interviews with staff members outlined the following alternative land use patterns under consideration in the Land Use Element.[3]

The State Land Use Element, which is based on State Year 2000 population projections, examines four alternative land use patterns applicable to urban, suburban and rural development throughout the State as well as to Baltimore County, in addition to a trend-line projection:

[1] Ibid., p. 2-3.

[2] Telephone Interview with James Rose, Regional Planning Council, January, 1979.

[3] Telephone Interview with Marie Halka, August 1977, and meeting with State Planning Agency Staff, Stoney Fraley and Marie Halka, December 1977.

performance standards by employing the best available control technology, the new facility will not be fully controlled, and therefore, there must be a reduction in pollution emissions from another source in the area. The mechanism for accomplishing this will most probably be a permit and review process, the details of which have to be worked out.

To solve this problem as it affects major development in the southeastern and southwestern protions of the County, the County should consider working with EPA and the State to establish development or redevelopment strategy incorporating one or more of the following incentives:

Emissions fees, which would involve a charge to sources according to the amount of emissions. This would serve as inducement to a source of lower emissions.

Emissions density zoning, which could classify land areas by the amount of pollutant that could be emitted; thus the source could purchase "air rights" to enough land to cover its emissions.

3. SPECIAL DEVELOPMENT OPPORTUNITIES

Major Special Development Opportunity Strategies are designed to address opportunities that occur at:

a. Highway Interchanges; and

b. Mass Transit Stations.

Major highway interchanges and mass transit stations exist or are planned on lands categorized in all types of growth areas except Rural and Agricultural Areas.

a. Special Development Strategy for Lands at Highway Interchanges

While all of the access points to the major limited access highways which traverse the County, linking the County and the region with other major urban areas, provide opportunities for high intensity development on the lands immediately nearby, lands near interchanges of two such highways, or of a limited access highway and one of the County's major radial arterials, are especially well-suited for such development and should be treated as a valuable County resource.

All remaining vacant lands within a half-mile radius of those interchanges should be considered for zoning that permits only manufacturing, office and related uses.

Protection of these lands by means of industrial zoning will not only put the County in a very positive competitive stance for attracting high quality industry, but will also serve as a buffer between the noise and other abrasive features of the highways, and residential and commercial areas.

I HEREBY CERTIFY that on this 8th day of September, 1982, a copy of the aforegoing Order For Appeal was served on the Administrative Secretary of the County Board of Appeals, Room 219 Court House, Towson, Maryland 21204; and a copy thereof was mailed to J. Earle Plumhoff, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204; Nancy E. Paige, Esquire, Garrett Building, 233 E. Redwood Street, Baltimore, Maryland 21202; John W. Hessian, III, Esquire, Room 223 Court House, Towson, Maryland 21204, Attorneys for Protestants.

Julius W. Lichter

IN THE MATTER OF THE APPLICATION OF JEROME S. ALPERSTEIN, ET AL FOR REZONING OF PROPERTY LOCATED ON THE NORTH SIDE OF WOODHOLME AVE., 145' WEST OF OLD COURT RD. 3rd District : BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY No. R-82-76, Item 17

: : : :

Though Petitioners proposed several suggestions, all required purchase of neighboring property or easements over such property owned by others and no evidence was presented by Petitioners that such a right was anticipated to be obtained or even could be obtained for this purpose. Additionally, testimony indicated that as a result of Old Court Road narrowing from 4 lanes to 2 lanes at the intersection of Greenwood Road and Old Court Road, just west of the intersection of Old Court Road and Woodholme Avenue, the Woodholme Avenue and Woodling Way intersections with Old Court Road are frequently blocked by cars awaiting the light at Greenwood Road and Old Court Road. The Department of Traffic Engineering estimated that the proposed zoning would generate 4,020 trips per day. Given the winding and otherwise poor condition of Woodholme Avenue, such a condition would be improper and should not be permitted. Again, Petitioners were unable to demonstrate that Woodholme Avenue at the location of the Feinberg and Tucker properties could be widened so as to meet the County minimum requirements for size and condition of the road given the expected growth in travel anticipated by a change in zoning as proposed by the Petitioners.

Petitioners also argued that due to the subject property's size, configuration, location and topography, it is not developable or suitable for residential dwellings consistent with the existing zoning. Testimony by the Petitioners' expert engineer, David Thaler, as to the physical ability to develop such dwellings on the subject property from an engineering standpoint as well as from a market and economics viewpoint are not considered persuasive by the Board. The fact is that the entire neighborhood including those properties on which the Petitioners reside or own dwellings is lined with very desirable homes whose market value has been consistent with the general rise in real estate values over the past years evidenced by testimony indicating that new home owners purchase property within this community on a continual basis. The Board is of the opinion that the Petitioners have not been deprived of all reasonable use for their property and thus no showing of confiscation exists.

The final point raised by the Petitioners was a contention on their part that zoning of this property amounted to zoning by plebiscite. To this argument, the Board can simply say that no extraordinary pressure or unusual threats were recognized by this Board during, before or after the hearing of this matter from any opponents of the proposed change nor was any evidence presented at hearing indicating that such pressure or influence was demonstrated when the County Council last reviewed this matter. Additionally, it should be noted that the action taken by the County Council and this Board is consistent with that of the Planning Staff and Planning Board in retaining DR 2 zoning on the property and thus the basis for such decisions can be traced for a long period of time through the workings of this County Government. These decisions were not made in haste or based on passion or prejudice.

For all of these reasons, the Board is of the opinion that the DR 2 zoning classification for this subject property is correct and will so order.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 10th day of August, 1982, by the County Board of Appeals, ORDERED that the Petition for Reclassification on the subject site from DR 2 to DR 10.5 be DENIED and that the DR 2 zoning be retained.

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, Chairman

Keith S. Franz

Patricia Phipps

LAW OFFICES
LAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

8163

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 * COST $ .00
Cycle 1, April to October 1981 * SUMMONED 11-20 19
NON EST 19
NON SUIT 19
COPY LEFT 19
* * * * * * * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Stanley Helm, Lt. Roland Broadfoot or representative of Records and Communications Division and/or Captain Dennis M. Klein or representative of the Garrison Station, all of the Baltimore County Police Department to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Wednesday, January 6, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Division and the Baltimore County Police Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any accidents or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, as well as accident records for the intersections of Old Court Road and Reisterstown Road, Old Court Road and Woodholme Avenue, Old Court Road and Greenwood Road, as well as for Old Court Road between Reisterstown Road and the Beltway.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 18th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Associates, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201..

J. Earle Plumhoff
J. EARLE PLUMHOFF

Mr. Sheriff:

Please issue the above summons.

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

RECEIVED
BALTIMORE COUNTY
Nov 18 2 24 PM '81
COUNTY BOARD
OF APPEALS
BY:

2

LAW OFFICES
LAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

8163

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 * COST $ .00
Cycle 1, April to October 1981 * SUMMONED 11-20 19
NON EST 19
NON SUIT 19
COPY LEFT 19
* * * * * * * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Stanley Helm, Lt. Roland Broadfoot or representative of Records and Communications Division and/or Captain Dennis M. Klein or representative of the Garrison Station, all of the Baltimore County Police Department to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Wednesday, January 6, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Division and the Baltimore County Police Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any accidents or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, as well as accident records for the intersections of Old Court Road and Reisterstown Road, Old Court Road and Woodholme Avenue, Old Court Road and Greenwood Road, as well as for Old Court Road between Reisterstown Road and the Beltway.

Nov. 24, 1981

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 18th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Associates, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201..

J. Earle Plumhoff
J. EARLE PLUMHOFF

Mr. Sheriff:

Please issue the above summons.

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

RECEIVED
BALTIMORE COUNTY
Nov 18 2 24 PM '81
COUNTY BOARD
OF APPEALS
BY:

2

LAW OFFICES
LAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

8163

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 * COST $ .00
Cycle 1, April to October 1981 * SUMMONED 11-20 19
NON EST 19
NON SUIT 19
COPY LEFT 19
* * * * * * * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Stanley Helm, Lt. Roland Broadfoot or representative of Records and Communications Division and/or Captain Dennis M. Klein or representative of the Garrison Station, all of the Baltimore County Police Department to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Wednesday, January 6, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Division and the Baltimore County Police Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any accidents or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, as well as accident records for the intersections of Old Court Road and Reisterstown Road, Old Court Road and Woodholme Avenue, Old Court Road and Greenwood Road, as well as for Old Court Road between Reisterstown Road and the Beltway.

Nov. 24, 1981

8163

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 * COST $ 5.00
Cycle 1, April to October 1981 * SUMMONED 11-20 1.50
NON EST 19
NON SUIT 19
COPY LEFT 19
* * * * * * * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Stanley Helm, Lt. Roland Broadfoot or representative of Records and Communications Division and/or Captain Dennis M. Klein or representative of the Garrison Station, all of the Baltimore County Police Department to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Wednesday, January 6, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Division and the Baltimore County Police Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any accidents or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, as well as accident records for the intersections of Old Court Road and Reisterstown Road, Old Court Road and Woodholme Avenue, Old Court Road and Greenwood Road, as well as for Old Court Road between Reisterstown Road and the Beltway.

Nov. 24, 1981

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * * * * * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Stanley Helm, Lt. Roland Broadfoot or representative of Records and Communications Division and/or Captain Dennis M. Klein or representative of the Garrison Station, all of the Baltimore County Police Department to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Wednesday, January 6, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Division and the Baltimore County Police Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any accidents or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, as well as accident records for the intersections of Old Court Road and Reisterstown Road, Old Court Road and Woodholme Avenue, Old Court Road and Greenwood Road, as well as for Old Court Road between Reisterstown Road and the Beltway.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 18th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Associates, Suite 1123, Mansey Building, 7 North Calvert Street, Baltimore, Maryland 21201..

J. Earle Plumhoff
J. EARLE PLUMHOFF

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED TOWSON, MD.

RECEIVED BALTIMORE COUNTY Nov 4 2 11 PM '81 COUNTY BOARD OF APPEALS BY

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED TOWSON, MD.

Heard denied 11/9/81 - 9:30 am

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * * * * * * * *

ENTRY OF APPEARANCE

Mr. Clerk:

Please enter the appearance of J. EARLE PLUMHOFF and NOLAN, PLUMHOFF & WILLIAMS, CHARTERED, on behalf of Mr. David Paige and Nancy E. Paige, Esquire, as well as for other protestant parties aggrieved herein to be named at the time of the hearing hereon, as well as for the Pine Ridge Association.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

RECEIVED BALTIMORE COUNTY Nov 4 2 11 PM '81 COUNTY BOARD OF APPEALS BY

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the aforegoing ENTRY OF APPEARANCE was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, 21212; NANCY E PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore 21202; and ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Associatior, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21202.

J. Earle Plumhoff
J. EARLE PLUMHOFF

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS TOWSON, MD.

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Captain Joseph Kelly or Chief George Weigandt of the Fire Prevention Bureau of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Bureau and the Baltimore County Fire Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any fires or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including,

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * *

REQUEST FOR SUMMONS DUCES TECUM

11-9-81 Ned

Mr. Clerk:

Please issue a summons duces tecum directing Captain Joseph Kelly or Chief George Weigandt of the Fire Prevention Bureau of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218, Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Bureau and the Baltimore County Fire Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, as well as any fires or emergencies on Woodholme Avenue between the Beltway and Old Court Road in Pikesville, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including,

but not only, a prior Alperstein case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 6th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Associates, Suite 1123, Mansey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Mr. Sheriff:

Please issue the above summons.

Jame Holmen
Jame Holmen, Bd. of Appeals

RECEIVED BALTIMORE COUNTY Nov 6 3 55 PM '81 COUNTY BOARD OF APPEALS BY

2

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * * *

WMK

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Mr. James G. Hoswell of the Office of Planning and Zoning of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218 Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and/or intervening petition cases concerning any of the petitioned properties herein, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including, but not only, a prior Alperstein Case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS, CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS TOWSON, MD.

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Association, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

RECEIVED
BALTIMORE COUNTY
Nov 4 2 21 PM '81
COUNTY BOARD
OF APPEALS
BY: [illegible]

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Association, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

RECEIVED
BALTIMORE COUNTY
Nov 4 2 21 PM '81
COUNTY BOARD
OF APPEALS
BY: [illegible]

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Mr. James G. Hoswell of the Office of Planning and Zoning of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218 Court House, Towson Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and.or intervening petition cases concerning any of the petitioned properties herein, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including, but not only, a prior Alperstein Case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Mr. Michael S. Flanigan or Mr. C. Richard Moore of the Department of Traffic Engineering of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218 Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and.or intervening petition cases concerning any of the petitioned properties herein, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including, but not only, a prior Alperstein Case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Association, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

RECEIVED
BALTIMORE COUNTY
Nov 4 2 21 PM '81
COUNTY BOARD
OF APPEALS
BY: [illegible]

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Association, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

RECEIVED
BALTIMORE COUNTY
Nov 4 2 21 PM '81
COUNTY BOARD
OF APPEALS
BY: [illegible]

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Mr. Michael S. Flanigan or Mr. C. Richard Moore of the Department of Traffic Engineering of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218 Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and.or intervening petition cases concerning any of the petitioned properties herein, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including, but not only, a prior Alperstein Case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

I HEREBY CERTIFY, that on this 4th day of November, 1981, a copy of the foregoing REQUEST FOR SUMMONS DUCES TECUM was mailed to the following: JULIUS W. LICHTER, ESQUIRE, 113 Chesapeake Building, 305 Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners; JOHN W. HESSIAN, 3rd, ESQUIRE, People's Counsel and PETER M. ZIMMERMAN, ESQUIRE, Deputy People's Counsel, Court House, Towson, Maryland 21204; RAYMOND FEINBERG, ESQUIRE, 6310 York Road, Baltimore, Maryland 21212; NANCY E. PAIGE, ESQUIRE, Garrett Building, 233 East Redwood Street, Baltimore, Maryland 21202; and to ROBERT W. BAKER, ESQUIRE, President, Pine Ridge Association, Suite 1123, Munsey Building, 7 North Calvert Street, Baltimore, Maryland 21201.

J. Earle Plumhoff
J. EARLE PLUMHOFF

RECEIVED
BALTIMORE COUNTY
Nov 4 2 21 PM '81
COUNTY BOARD
OF APPEALS
BY: [illegible]

Mr. Sheriff:

Please issue the above summons.

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

2

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

PETITION FOR RECLASSIFICATION * BEFORE THE
N/S OF WOODHOLME AVENUE, * COUNTY BOARD OF APPEALS
145' W OF OLD COURT ROAD * FOR
JEROME S. ALPERSTEIN, et ux, * BALTIMORE COUNTY
et al., Petitioners *
Case R-82-76, Item 17 *
Cycle 1, April to October 1981 *

* * * * *** * * * *

REQUEST FOR SUMMONS DUCES TECUM

Mr. Clerk:

Please issue a summons duces tecum directing Mr. Michael S. Flanigan or Mr. C. Richard Moore of the Department of Traffic Engineering of Baltimore County to be and appear before the County Board of Appeals for Baltimore County, Room 218 Court House, Towson, Maryland, on Tuesday, November 10, 1981, at 10:00 a.m., and at such further hearing dates and times as may thereafter be set by the Board in the above captioned matter. The witness is asked to bring to and to produce at the hearing or hearings all written comments, complete files, reports, photographs, maps, statistical data, notes and other materials in possession of the witness and/or his Department concerning the above captioned matter, as well as concerning 1980 Comprehensive Map Request 2-107 concerning the Alperstein property, part of this reclassification petition, as well as any 1971, 1976 or 1980 comprehensive map requests and.or intervening petition cases concerning any of the petitioned properties herein, including properties owned by Jerome S. Alperstein, Marian Alperstein, his Wife, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers and Jean Wagers, his Wife, and E. David Weinberg, including, but not only, a prior Alperstein Case, namely, Item 9, Cycle II, October 1977 to April 1978.

J. Earle Plumhoff
J. EARLE PLUMHOFF

Nolan, Plumhoff & Williams
NOLAN, PLUMHOFF & WILLIAMS,
CHARTERED
204 W. Pennsylvania Avenue
Towson, Maryland 21204
823-7800

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS
TOWSON, MD.

COST $ 5.00
SUMMONED 11/6/81 19
NON EST 19
NON SUNT 19
COPY LEFT 19

CHARLES W. HESSEY, JR.
SHERIFF OF BALTIMORE COUNTY

FOINTS OF ERROR AND CHANGE

CONCERNING PROPERTY OF JEROME S. ALPERSTEIN, MARIAN ALPERSTEIN, HIS WIFE, BONNIE HERMAN HAMENT, DENNIS HERMAN, ROBERT P. WAGERS AND JEAN WAGERS, HIS WIFE, AND E. DAVID WEINBERG.

WOODHOLME AVENUE - THIRD ELECTION DISTRICT - BALTIMORE COUNTY

THE PETITIONERS, Jerome S. Alperstein, Marian Alperstein, Bonnie Herman Hament, Dennis Herman, Robert P. Wagers, Jean Wagers, and E. David Weinberg, by their attorneys, Julius W. Lichter and Steinberg, Lichter, Coleman & Rogers, state the Baltimore County Council committed error in classifying the subject property DR 2 in that:

1. The DR 2 zoning placed on the property is not usable and is confiscatory in its application and it was an error for the Council to assign this zone to the property.

2. The property should have been classified in a DR 10.5 or higher density zone as the property to the East and Southwest are zoned DR 16 and ML respectively, and is bounded on the Southwest by the Western Maryland Railroad Right-of-Way, and on the North by Route I-695 (Baltimore Beltway).

3. DR 2 zoning fails to encourage development in and adjacent to Pikesville Town and Community Center.

4. DR 2 zoning fails to exercise opportunities for higher density development in land area immediately serviced by the major highway interchange of Reisterstown Road and Route I-695 (Baltimore Beltway) and near existing and scheduled public transportation improvements.

5. DR 2 zoning on the property is repugnant to the medium to high density zoning provided for the area and the subject property on the mapped Master Plan and is otherwise repugnant to the Master Plan.

6. DR 2 zoning under-utilizes the existing sewer line running through the property.

FEB 1 1982

7. By designating the property with DR 2 zoning, the Council failed to recognize the decreased fuel supply and escalating fuel costs and the necessity for providing a greater number of dwelling units in and near town centers to reduce the number and distance of travel trips.

8. There is insufficient DR 10.5 zoning for residential units to adequately serve the community.

9. Due to the size, configuration, location and topography of the property, it is better suited for high density, residential use and it was an error for the Council to fail to recognize these potentials.

10. The reclassification of this 36.53 acres, more or less, of property to DR 10.5 offers Baltimore County an opportunity to provide excellent and readily accessible and adequately serviced dwelling units.

11. For such further and other reasons as may be disclosed upon more detailed review during the pendency of this Petition and further error by the Council is hereby assigned and will be presented at the time of the hearing.

12. The Petitioners reserve their right to raise the issue of "change in the neighborhood" where applicable as a basis of this Petition at such time as such changes will be available as a basis for reclassification.

Respectfully submitted,

STEINBERG, LICHTER, COLEMAN & ROGERS

JULIUS W. LICHTER

-2-

PETITION FOR RE-CLASSIFICATION
3rd DISTRICT

ZONING: Petition for Re-classification

LOCATION: North side of Woodholme Avenue, 145 ft. West of Old Court Road

DATE & TIME: Tuesday, November 10, 1981 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.

Present Zoning: D.R. 2

Proposed Zoning: D.R. 10.5

All that parcel of land in the Third District of Baltimore County

Beginning for the outline of all the properties to be reclassified at a point on the north side of Woodholme Avenue, 145 feet west of the centerline of Old Court Road and running thence along the north and east side of Woodholme Avenue, 1) North 80° 31' 10" West 397.74 feet, 2) North 52° 00' 00" West 125.00 feet, 3) North 58° 46' 10" West 340.00 feet, 4) North 44° 27' 20" West 28.29 feet, 5) thence by a curve to the right with a radius of 75.00 feet the distance of 107.93 feet, 6) thence by another curve to the left with a radius of 590.30 feet the distance of 348.06 feet, thence crossing over Woodholme Avenue to the west side of same, 7) North 85° 43' 09" West 30 feet more or less, thence along said west side, 8) by a curve to the right with a radius of 590.30 feet the distance of 334.12 feet, 9) thence by another curve to the left with a radius of 105.00 feet the distance of 65.61 feet, thence leaving said road, 10) North 47° 50'10" West 90.80 feet, 11) North 40° 20'50" East 3.20 feet, 12) North 48° 24' West 416 feet more or less to intersect the southeast right of way line of the Baltimore Beltway, thence along said southeast right of way the following, 13) North 37° 45' East 220 feet more or less, 14) North 21° 00' East 288 feet more or less, 15) North 24° 27' 41" East 135.84 feet, 16) North 42° 39' 24" East 368.34 feet, 17) South 05° 40' 52" East 113 feet more or less, 18) South 19° 08' East 30 feet more or less, 19) North 05° 40' 52" West 30 feet more or less, 20) South 80° 19' 08" East 40.00 feet, 21) North 05° 40' 52" East 30 feet more or less, 22) thence by a curve to the left with a radius of 70 feet the distance of 156 feet more or less, 23) North 42° 39' 24" East 36 feet more or less, 24) North 43° 39' 24" East 30 feet more or less, 25) North 52° 43' 09" East 187.75 feet, 26) North 74° 28' 01" East 127.49 feet, 27) North 52° 09' 40" East 749 feet more or less, thence leaving said right of way line, 28) South 12° 02' 11" East 470 feet more or less, 29) South 49° 17' 17" West 349.42 feet, 30) South 02° 47' East 431.80 feet, 31) North 73° 39' 32" East 6.54 feet, 32) South 13° 48' 30" East 134.23 feet, 33) South 81° 50' 40" West 390.00 feet, 34) South 07° 21' 20" West 280.69 feet, 35) South 79° 30' 50" East 26.00 feet, 36) South 04° 00' 50" East 416.78 feet, 37) South 37° 01' 10" East 255.72, 38) South 59° 58' 50" West 41.84 feet to the point of beginning.

Saving and Excepting therefrom the following two parcels of land: 1) All lot lot of ground containing 1.4222 Acres of land more or less which by deed dated November 28, 1978, and recorded in the Land Records of Baltimore County, Maryland in Liber E.H.K., Jr. 5965 Folio 771 was granted and conveyed by Gerald H. Herman and Shirley F. Herman his wife to Jack Tucker and L. Alison Witow his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 233.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue, North 80 degrees 31 minutes 10 seconds West 140 feet, thence for lines of division North 10 degrees 54 minutes 10 seconds East 362.70 feet, South 84 degrees 33 minutes 00 seconds East 169.90 feet, thence with the outline of the land herein referred to, South 4 degrees 00 minutes 50 seconds East 176.78 feet thence for lines of division, South 52 degrees 51 minutes 40 seconds West 103.84 feet and South 8 degrees 02 minutes 00 seconds West 140.74 feet to the place of beginning. Containing 1.4222 Acres of land more or less 2) All that lot of ground containing 0.46±6 Acres of land more or less which by deed dated August 8, 1951 and recorded in the Land Records of Baltimore County, Maryland in Liber G.L.B. 3000 Folio 384 was granted and conveyed by Benjamin C. Herman and Mollie Herman his wife to Raymond Feinberg and Beverlee Feinberg his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 115.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue, North 80 degrees 31 minutes 10 seconds West 118.00 feet thence for lines of division North 8 degrees 02 minutes 00 seconds East 140.74 feet and North 52 degrees 51 minutes 40 seconds East 108.84 feet to the outline of the land herein referred to, and thence with a part of said outline, South 37 degrees 01 minute 10 seconds East 90.00 feet, thence leaving the outline and running South 52 degrees 58 minutes 50 seconds West 56.00 feet and South 2 degrees 56 minutes 10 seconds West 100.72 feet to the place of beginning. Containing 0.4866 acres more or less. Being the property of Jerome S. Alperstein, et ux, as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, November 10, 1981 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

CERTIFICATE OF PUBLICATION

TOWSON, MD., October 22, 19 81

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~~ one time successive weeks before the 10th day of November, 19 81, the first publication appearing on the 22nd day of October, 19 81.

THE JEFFERSONIAN,

Manager.

Cost of Advertisement, $

COMMUNITY
Office of The ~~Carroll County~~ Times

Westminster, Md., October 19 81

THIS IS TO CERTIFY that the annexed Baltimore Co., Md. (I-29949) was published for one (1) successive weeks previous to the 2nd day of October 19 81, in The ~~Carroll County~~ Times a daily in Westminster, Carroll County, Maryland.

COMMUNITY
THE ~~CARROLL COUNTY~~ TIMES
Per

PETITION FOR RE-CLASSIFICATION
3rd DISTRICT

ZONING: Petition for Re-classification
LOCATION: North side of Woodholme Avenue, 145 ft. West of Old Court Rd
DATE & TIME: Tuesday, November 10, 1981 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:

Present Zoning: D.R. 2
Proposed Zoning: D.R. 10.5

All that parcel of land in the Third District of Baltimore County

Beginning for the outline of all the properties to be reclassified at a point on the north side of Woodholme Avenue, 145 feet west of the centerline of Old Court Road and running thence along the north and east side of Woodholme Avenue, 1) North 80° 31' 10" West 397.74 feet, 2) North 52° 46' 10" West 340.00 feet, 3) North 52° 00' 00" West 125.00 feet, 4) North 44° 27' 20" West 28.29 feet, 5) thence by a curve to the right with a radius of 75.00 feet the distance of 107.93 feet, 6) thence by another curve to the left with a radius of 590.30 feet the distance of 348.06 feet, thence crossing over Woodholme Avenue to the west side of same, 7) North 85° 43' 09" West 30 feet more or less, thence along said west side, 8) by a curve to the right with a radius of 590.30 feet the distance of 334.12 feet, 9) thence by another curve to the left with a radius of 105.00 feet the distance of 65.61 feet, thence leaving said road 10) North 47° 50'10" West 90.80 feet, 11) North 40° 20'50" East 3.20 feet, 12) North 48° 24' West 416 feet more or less to intersect the southeast right of way line of the Baltimore Beltway, thence along said southeast right of way the following, 13) North 37° 45' East 220 feet more or less, 14) North 21° 00' East 288 feet more or less, 15) North 24° 27' 41" East 135.84 feet, 16) North 42° 39' 24" East 368.34 feet, 17) South 05° 40' 52" East 113 feet more or less, 18) South 19° 08' East 30 feet more or less, 19) North 05° 40' 52" West 30 feet more or less, 20) South 80° 19' 08" East 40.00 feet, 21) North 05° 40' 52" East 30 feet more or less, 22) thence by a curve to the left with a radius of 70 feet the distance of 156 feet more or less, 23) North 42° 39' 24" East 36 feet more or less, 24) North 43° 39' 24" East 30 feet more or less, 25) North 52° 43' 09" East 187.75 feet, 26) North 74° 28' 01" East 127.49 feet, 27) North 52° 09' 40" East 749 feet more or less, thence leaving said right of way line, 28) South 12° 02' 11" East 470 feet more or less, 29) South 49° 17' 17" West 349.42 feet, 30) South 02° 47' East 431.80 feet 31) North 73° 39' 32" East 6.54 feet, 32) South 13° 48' 30" East 134.23 feet, 33) South 81° 50' 40" West 390.00 feet, 34) South 07° 21' 20" West 280.69 feet, 35) South 79° 30' 50" East 26.00 feet, 36) South 04° 00' 50" East 416.78 feet, 37) South 37° 01' 10" East 255.72, 38) South 59° 58' 50" West 41.84 feet to the point of beginning.

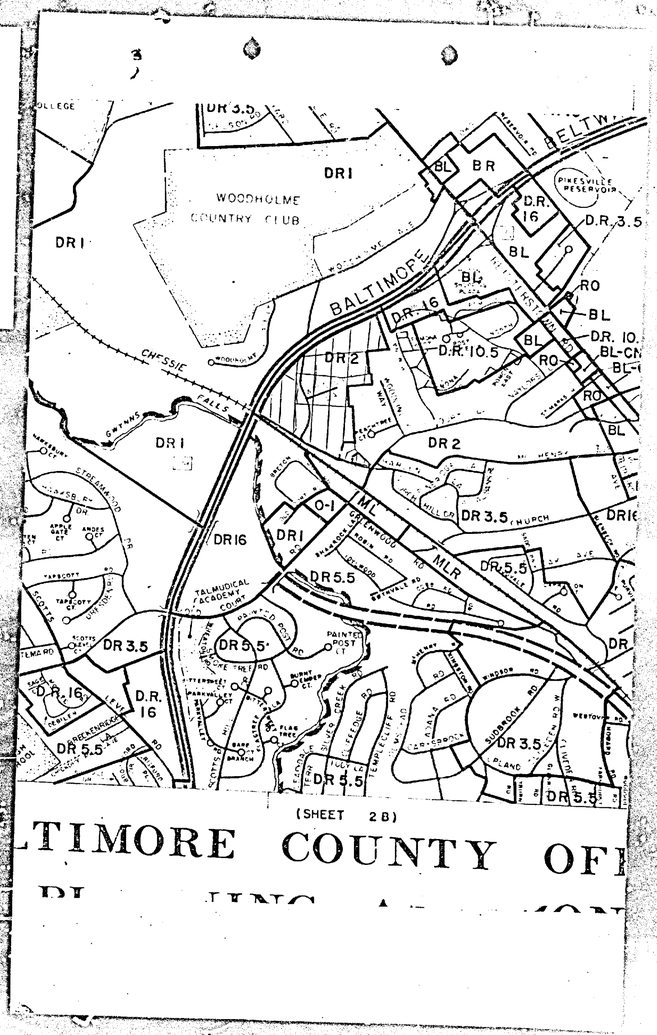
Saving and Excepting therefrom the following two parcels of land: 1) All lot lot of ground containing 1.4222 Acres of land more or less which by deed dated November 28, 1978, and recorded in the Land Records of Baltimore County, Maryland in Liber E.H.K. Jr. 5965 Folio 771 was granted and conveyed by Gerald H. Herman and Shirley F. Herman his wife to Jack Tucker and L. Alison Witow his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 233.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue, North 80 degrees 31 minutes 10 seconds West 140 feet, thence for lines of division North 10 degrees, 54 minutes 10 seconds East 362.70 feet, South 84 degrees 33 minutes 00 seconds East 169.90 feet, thence with the outline of the land herein referred to, South 4 degrees 00 minutes 50 seconds East 176.78 feet thence for lines of division, South 52 degrees 51 minutes 40 seconds West 103.84 feet and South 8 degrees 02 minutes 00 seconds West 140.74 feet to the place of beginning. Containing 1.4222 Acres of land more or less 2) All that lot of ground containing 0.46±6 Acres of land more or less which by deed dated August 8, 1951 and recorded in the Land Records of Baltimore County, Maryland in Liber G.L.B. 3000 Folio 384 was granted and conveyed by Benjamin C. Herman and Mollie Herman his wife to Raymond Feinberg and Beverlee Feinberg his wife and described as follows:

Beginning for the same on the North side of Woodholme Avenue at the distance of 115.00 feet measured Westerly along the North side of Woodholme Avenue from the beginning of and along the first line of the property first described herein and running thence and binding on the North side of Woodholme Avenue, North 80 degrees 31 minutes 10 seconds West 118.00 feet thence for lines of division North 8 degrees 02 minutes 00 seconds East 140.74 feet and North 52 degrees 51 minutes 40 seconds East 108.84 feet to the outline of the land herein referred to, and thence with a part of said outline, South 37 degrees 01 minute 10 seconds East 90.00 feet, thence leaving the outline and running South 52 degrees 58 minutes 50 seconds West 56.00 feet and South 2 degrees 56 minutes 10 seconds West 100.72 feet to the place of beginning. Containing 0.4866 acres more or less. Being the property of Jerome S. Alperstein, et ux, as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, November 10, 1981 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY



(SHEET 2B)

...LTIMORE COUNTY OFF...
PL... ...ING ...

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY R-82-76
Towson, Maryland

District 3rd Date of Posting 10-23-81

Posted for: Reclassification

Petitioner: Jerome S. Alperstein, et ux

Location of property: N/S Woodholme Ave 145' W of Old Court Rd.

Location of Signs: #1 N/S Woodholme Ave 145' W of Old Court Rd - #2 N/S Woodholme Ave approx 600' W of Old Court Rd #3 approx 1600' W of Old Court Rd facing Balto. Beltway

Remarks:

Posted by L. J. Rusta (Signature) Date of return: 10-30-81

Number of Signs: 3

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 102607

DATE 11/9/81 ACCOUNT 01-662

AMOUNT $50.00

RECEIVED FROM: Julius W. Lichter

FOR: Filing Fee for Case #R-82-76 (Alperstein)

B 351##A 9 50.00 PMC

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 85077

DATE 5/27/81 ACCOUNT 01.712

AMOUNT $3.50

RECEIVED FROM: Copies of documents from File - (Alperstein) Item #17

FOR:

B 800#######3501# 8275F

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 85111

DATE Sept. 23, 1982 ACCOUNT 01.712

AMOUNT $ 18.00

RECEIVED FROM: Julius W. Lichter, Esq., 305 W. Chesapeake Ave. (21204)

FOR: certified documents, Case No. R-82-76, Jerome S. Alperstein, et al, N/S Woodholme Ave., 145' W. of Old Court Road

B 8249######1.001# 8238F

VALIDATION OR SIGNATURE OF CASHIER

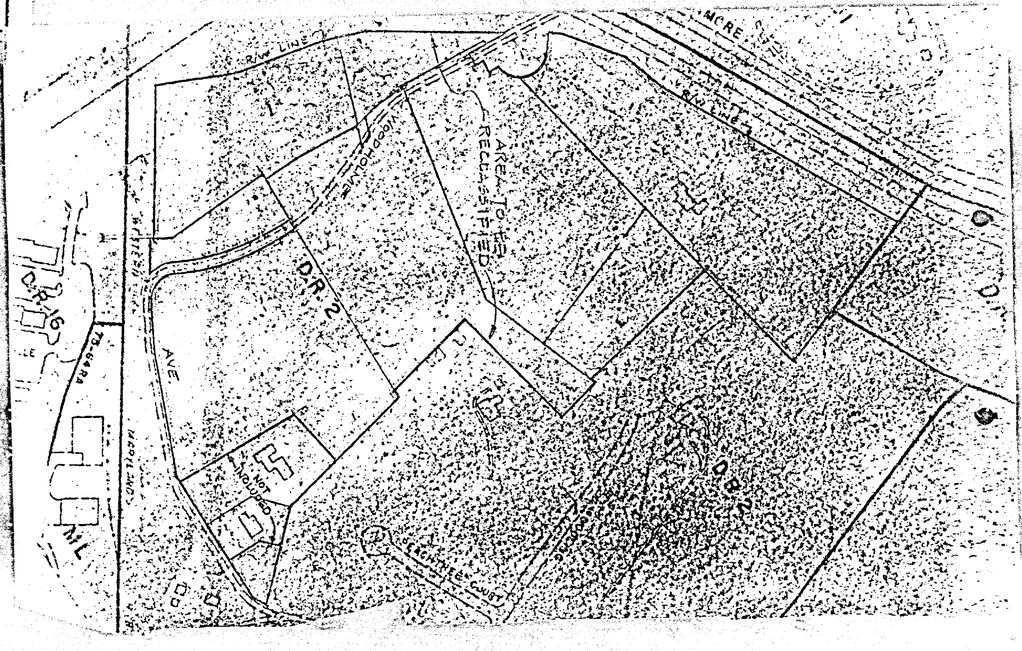
CASE NO. R-82-76 Item #17 ALAW

Jerome S. Alperstein, et al vs.

RECEIVED FROM THE COUNTY BOARD OF APPEALS CERTIFIED DOCUMENTS, EXHIBITS, AND BOARD'S ANSWER FILED IN THE ABOVE ENTITLED CASE.

Clerk's Office

Date: Nov. 5, 1982



b. Special Development Strategy for Lands at Mass Transit Locations

The recently published TSADAS study presented detailed recommendations for development of the lands adjacent to the stations on the Northwestern rail mass transit line in the County. Similar detailed studies should be prepared for the station sites along all of the County's proposed rail mass transit lines.

These plans must be supported by three types of actions by the County:

Aggressive efforts to assure that, at a minimum, priority rail mass transit lines are funded and constructed in the County;

Adoption of amended zoning patterns designed to limit the dispersal of development best suited for location near mass transit stations in the Fringe Development Area and to permit and encourage this development at and near mass transit station sites; and

Investment in public improvements near transit station sites, such as improved access that will serve as further inducements to higher intensity development.

4. SPECIAL REINFORCEMENT OR REDEVELOPMENT

Major Special Reinforcement or Redevelopment Strategies include:

a. Improvement of Community Services to Existing Development;

b. Reinforcement or Redevelopment of Older Commercial Areas; and

c. Housing Rehabilitation.

The factors and conditions that these strategies are designed to address occur throughout all five of the types of Growth Areas identified in the preceding chapter, although particular conditions are more prevalent in certain types of areas.

The need for reinforcement or redevelopment of older commercial areas occurs in Town and Community Centers and Existing Community Growth Areas. Clear evidences of a need for improvement in community services to existing development occurs in Town and Community Centers, Existing Community Growth Areas, and Fringe Development Areas. Housing Rehabilitation Needs cross the boundaries of all of the Growth Area Types, except Town and Community Centers.

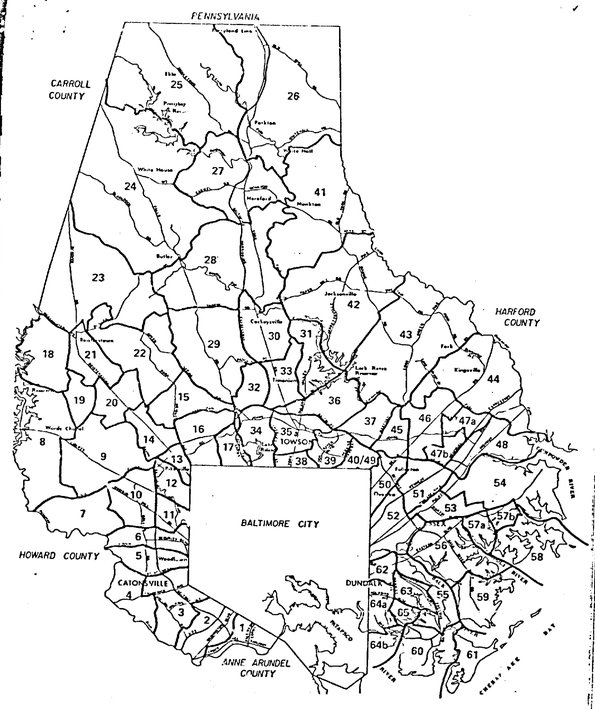
a. Improvement of Community Services to Existing Development

To achieve improvement of community service to existing development, several County actions are recommended.

First, it is recommended that a specific proportion of each County Capital Improvement budget be allocated for improvement of community

BALTIMORE COUNTY COMMUNITIES: CENSUS DESIGNATED PLACES, 1980

1. Lansdowne-Baltimore Highlands
2. Arbutus-Halethorpe
3. Catonsville
4. Oella-Thistle
5. Westview
6. Security
7. Granite
8. Ward's Chapel-Hernwood
9. McDonogh-Randallstown
10. Milford-Hebbville
11. Woodmoor-Woodlawn
12. Lochearn
13. Pikesville
14. Garrison
15. Greenspring
16. Stevenson-Dumbarton
17. Rockland-Mt. Washington
18. Gors's Mill
19. Sunnybrook
20. Owings Mills
21. Reisterstown
22. Emory Grove-Worthington
23. Fowblesburg-Dover
24. Beckleysville-Arcadia
25. Middletown
26. Maryland Line-Parkton
27. Hereford
28. Western Run-Sparks
29. Oregon Ridge
30. Cockeysville
31. Pot Spring
32. May's Chapel-Seminary
33. Lutherville-Timonium
34. Ruxton
35. Towson
36. Hampton
37. Cub Hill-Joppa Heights
38. Rodgers Forge-Stoneleigh
39. Loch Raven-Hillendale
40. / 49. Parkville
41. Monkton
42. Jacksonville
43. Fork-Glenarm
44. Kingsville
45. Carney
46. Perry Hall
47a. Germantown-Honeygo
47b. Whitemarsh
48. Lorely
50. Fullerton-Overlea
51. Rossville
52. Rosedale-Golden Ring
53. Aero-Victory
54. Bird River-Chase
55. North Point
56. Essex
57a. Middle River
57b. Upper Bowleys Quarters
58. Seneca Park-Bowleys Quarters
59. Back River
60. Edgemere
61. Lodge Forest-Millers Island
62. Eastpoint-Colgate
63. Bear Creek
64a. Dundalk
64b. Turners Station
65. Inverness



CENSUS DESIGNATED PLACES

GROWTH STRATEGIES BY COMMUNITY

Communities	Development Staging and Timing: Accelerated Growth (Unstaged)	Development Staging and Timing: Staged Accelerated Growth	Development Staging and Timing: Moderated Growth	Natural Resource Protection: Agricultural Preservation	Natural Resource Protection: Groundwater Protection	Natural Resource Protection: Protection of Stream Valleys, Floodplains, Forest, Wetlands and Reservoirs	Natural Resource Protection: Protection of Chesapeake Bay, Coastal Wetlands, and Intertidal Area	Natural Resource Protection: Air Quality Protection
8. Ward's Chapel-Hernwood	–		Until 1990	Until 1990	–	Liberty Reservoir & tributaries to the Patapsco	–	–
9. McDonogh-Randallstown	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
10. Milford-Hebbville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
11. Woodmoor-Woodlawn	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
12. Lochearn	–	–	Until 1990	–	–	Patapsco & tributaries	–	–
13. Pikesville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
14. Garrison	–	After 1985, Owings Mills New Development Area	Until 1985 in New Development Area; until 1990 elsewhere	–	–	Patapsco & tributaries	–	–

GROWTH STRATEGIES BY COMMUNITY

Communities	Special Development Opportunities: Highway Interchanges	Special Development Opportunities: Mass Transit Station	Special Reinforcement or Redevelopment: Improvement of Community Services to Existing Development	Special Reinforcement or Redevelopment: Reinforcement or Redevelopment of Older Commercial Areas	Special Reinforcement or Redevelopment: Housing Rehabilitation	Land Use Conflict Resolution: Commerce and Residential Neighborhood	Land Use Conflict Resolution: Manufacturing and Residential Neighborhoods	Land Use Conflict Resolution: Quarrying and Agriculture or Residential Neighborhoods
8. Ward's Chapel-Hernwood	–	–	–	–	5% of housing in need of external repair 1977-1978	Local concern with extension of commercial zoning	–	Active quarrying operation
9. McDonogh-Randallstown	–	–	–	–	–	Commercial encroachment on residential areas	–	–
10. Milford-Hebbville	795 & Liberty Road	–	–	–	–	Commercial encroachment on residential areas	–	–
11. Woodmoor-Woodlawn	795 & Liberty Road	–	–	Potential decline of existing commercial areas	–	–	–	–
12. Lochearn	795 & Liberty Road	Stations on Northwest rapid rail line	–	–	–	–	–	–
13. Pikesville	795 & Reisterstown Road	Stations on Northwest rapid rail line	–	Potential decline of existing commercial areas	–	–	–	–
14. Garrison	795 & Reisterstown Road	–	–	–	–	Commercial encroachment on residential areas	–	–

BALTIMORE COUNTY MASTER PLAN 1979-1990

transportation element 2

The provision of transportation facilities should precede and guide (or be coordinated with) land development.

Transportation facilities should be planned and designed to be in harmony with the environment. Streets and highways, bridges, and transit service lines and stations should contribute to a net reduction of air pollution as well as to an increase in the efficiency of fuel use. Noise and dust produced by the construction or operation of these facilities should be tightly controlled. Every effort should be made to preserve the integrity of historic structures and districts, of prehistoric archeologic sites, and of critical environmental areas when planning, designing, and constructing transportation facilities.

Transportation-related energy consumption should be reduced by discouraging inefficient tripmaking and reducing vehicle miles traveled (V.M.T.) through provision and promotion of energy-efficient alternatives to the private automobile. Incentives should be provided to encourage increased patronage of mass transit, high occupancy vehicles, and ride-sharing facilities. Disincentives should be implemented to discourage the use of large, inefficient automobiles.

Baltimore County should do its part to assure adequate and rational transit service for its citizens.

The movement of goods should be facilitated through: (1) an improvement program for rail, truck, and trans-shipment facilities; and (2) small area planning directed toward the reduction of conflicts between truck and automobile traffic.

Designated growth areas and town centers should be served by fixed guideway transit service (i.e., rail rapid, light rail, busways) to reduce dependence on automobile travel. Higher density development should be encouraged in areas served by adequate mass transit service.

Detailed access and land development impact studies should be conducted for areas designated as future station locations for fixed guideway transit service. A comprehensive development plan needs to be prepared for each transit station area. The analysis of development potential, including consideration of joint development schemes, should identify protection areas and inducement strategies designed to encourage the desired level and type of development in these impact areas.

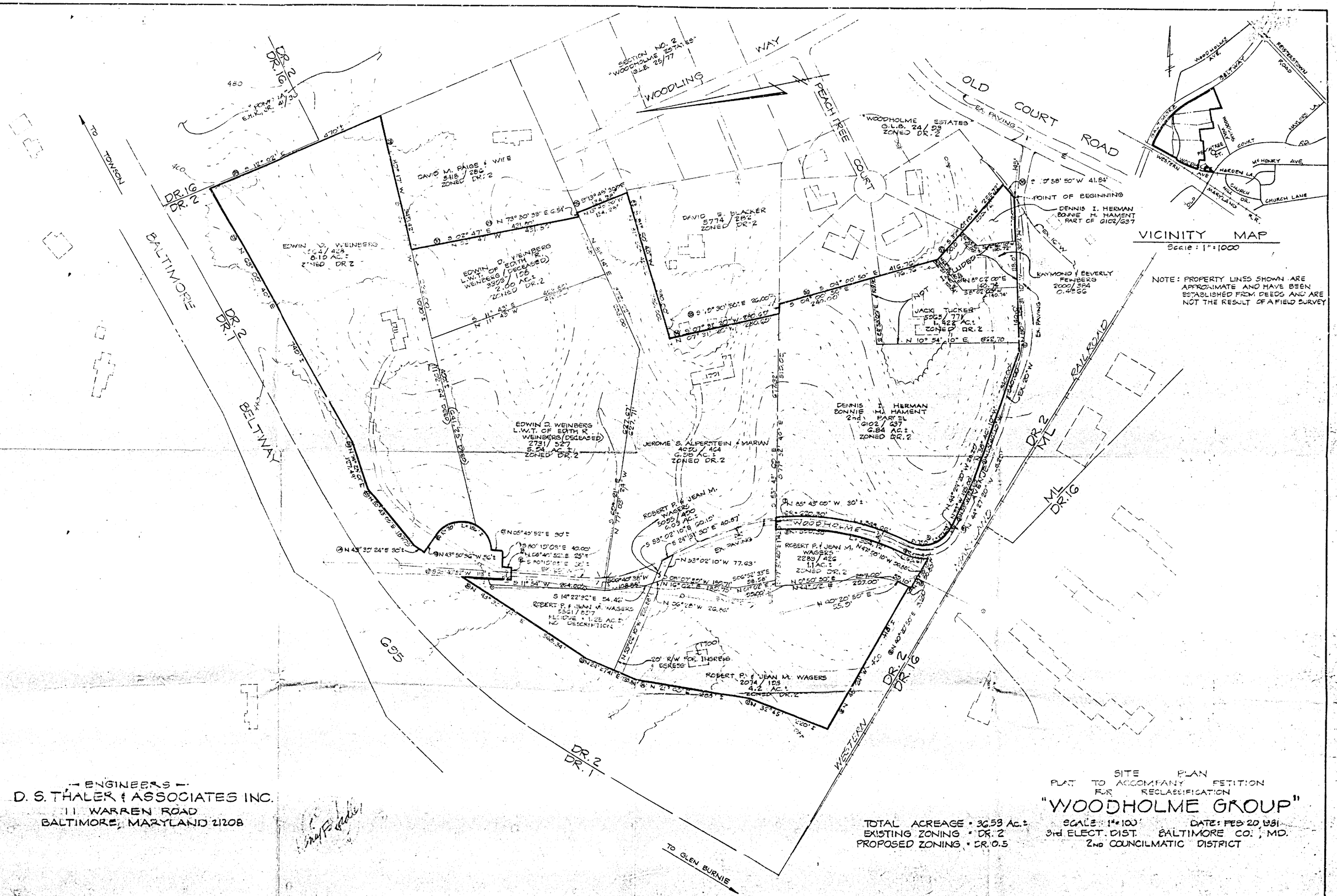
Major arterial highways should be designed for controlled access to maximize traffic movement while minimizing land service.

Standards for residential subdivision roadways should be modified to limit design of local streets to dimensions required to satisfy circulation demand only. Driveways or other off-street parking facilities must be provided in new subdivisions.

The County's Road Rating Program should be expanded to a permanent and continuous monitoring system. This road rating system should be employed to assist in decisions on highway maintenance, capital improvement programming, and the rating of traffic service and safety adequacy required for the determination

BALTIMORE COUNTY MASTER PLAN 1979-1990

community services 5


TO TOWSON
BALTIMORE BELTWAY
DR.2 DR.1
DR.16 DR.2
DR.2 DR.16
DR.2 ML DR.16
DR.2 DR.1
DR.2 ML
DR.16
"FORM" 14" E.M.L. VR. 4/30
SECTION NO. 2 "WOODHOLME" G.L.B. 25/77
WOODLING WAY
PEACH TREE COURT
OLD COURT ROAD
EX. PAVING
"WOODHOLME ESTATES" G.L.B. 24/29 ZONED DR.2
DAVID M. PAIGE & WIFE 5418/286 ZONED DR.2
DAVID E. SLACKER 5774/284 ZONED DR.2
EDWIN D. WEINBERG L.W.T. OF EDITH R. WEINBERG (DECEASED) 3909/108 2.00 AC.± ZONED DR.2
EDWIN D. WEINBERG L.W.T. OF EDITH R. WEINBERG (DECEASED) 2731/527 5.04 AC.± ZONED DR.2
JEROME S. ALPERSTEIN & MARIAN 4050/404 6.08 AC.± ZONED DR.2
ROBERT P. & JEAN M. WAGERS 5000/400 0.03 AC.± ZONED DR.2
ROBERT P. & JEAN M. WAGERS 5361/257 FEE DUE 1.25 AC.± NO DESCRIPTION
ROBERT P. & JEAN M. WAGERS 2074/103 4.2 AC.± ZONED DR.2
ROBERT P. & JEAN M. WAGERS 2289/422 1.1 AC.± ZONED DR.2
DENNIS I. HERMAN BONNIE M. HAMENT PART OF 6102/637
DENNIS I. HERMAN BONNIE M. HAMENT 2nd PARCEL 6102/637 6.84 AC.± ZONED DR.2
JACK TUCKER 5905/771 1.42± AC.± ZONED DR.2
RAYMOND & BEVERLY FENBERG 2000/324 0.4566
20' R/W FOR INGRESS EGRESS
695
RAILROAD
WESTERN AVE
TO GLEN BURNIE
POINT OF BEGINNING
N 12° 02' E 470'
N 73° 30' 39" E 421.54'
S 02° 47' E 421.54'
S 13° 49' 39" W 124.24'
N 13° 49' 39" E 124.24'
S 04° 00' 50" E 416.70'
S 04° 00' 50" E 240.00'
S 10° 30' 50" E 26.00'
S 07° 31' 20" W 280.00'
N 07° 31' 20" E 280.00'
N 10° 54' 10" E 832.70'
S 58° 02' 00" E 140.74'
S 31° 58' 00" W 140.74'
S 58° 02' 00" E 255.72'
S 0° 58' 50" W 41.84'
N 65° 03' 40" E 740'±
N 11° 43' E 441.55'
S 11° 43' W 441.55'
N 85° 17' W 232.70'
S 85° 17' E 232.70'
N 85° 43' W 380.00'
N 85° 43' W 30'±
N 44° 27' 20" W 300.00'
N 44° 27' 20" W 125.00'
N 44° 27' 20" W 28.42'
N 44° 27' 20" W 146.42'
N 44° 27' 20" W 300.00'
N 44° 27' 20" W 125.00'
N 44° 27' 20" W 28.42'
N 44° 27' 20" W 146.42'
N 85° 43' 00" W 30'±
N 85° 43' 00" W 220.30'
N 85° 43' 00" W 349.66'
N 85° 43' 00" W 330.30'
N 43° 35' 24" E 30'±
N 43° 50' 36" W 56'±
N 52° 40' 38" W 113'±
N 05° 49' 52" E 30'±
N 80° 10' 08" E 40.00'
S 05° 49' 52" W 30'±
S 24° 13' 30" E 40.87'
S 53° 02' 10" E 20.15'
N 53° 02' 10" W 77.63'
S 11° 54' W 264.00'±
S 14° 22' 32" E 54.42'
N 39° 28' W 226.24'
N 39° 28' W 226.24'
N 24° 27' 41" E 135.84'
N 21° 00' E 208'±
N 32° 45' E 220'±
N 40° 02' 50" E 320'±
N 40° 02' 50" E 118.5'
N 16° 02' 28" E 122.75'
S 06° 52' 35" E 58.58'
S 21° 08' 25" E 50.00'
N 0° 50' 50" E 207.00'
N 0° 50' 50" E 207.00'
N 60° 20' 50" E 55.9'
S 77° 52' 40" E 627.67'
S 77° 52' 40" E 627.67'
S 51° 05' E 627.67'
S 51° 05' E 627.67'
S 38° 55' W 627.67'
S 38° 55' W

MEANS OF COORDINATION IN PLANNING AND PROVISION OF COMMUNITY SERVICES

The primary means for coordination among plans of County agencies, other than review by the Department of Planning, which review is not clearly mandated, is the annual review of agency capital budgets and capital improvements programs by the offices of the Budget and the County Executive.

Policy decisions within the public school system are made by an autonomous Board of Education, appointed by the State. Cooperation with the County Government results from the Board's reliance on County tax revenues for their operating budget. Before 1971, capital improvement funds were obtained from the County; since 1971, the majority of capital improvement funds have come from the State. School facilities planning is carried out by the Division of Physical Facilities. Curriculum planning is carried out in a coordinated effort by teachers, supervisors, and adminstrators.

The major concern of the Baltimore County School System is decreasing enrollment, requiring a reduction in total numbers of schools and staff and a reallocation of resources to serve future population shifts.

The Baltimore County Public Library is under the supervision of a Director and a Board of Library Trustees. The Library does its own planning, evaluates its own needs, and sets priorities for implementing objectives given different budget levels.

Major concerns of the Baltimore County Library are to identify underserved segments of the population and to restructure libraries to accommodate shifts in population.

The Baltimore County Department of Recreation and Parks coordinates its planning efforts with the Board of Education, the Department of Planning and Zoning and local Community Recreation Councils. General policies and the overall direction of the Department are the responsibility of the Director and the Board of Recreation and Parks.

The major concerns of the Department of Recreation and Parks are to improve cost-effectiveness in maintenance, to obtain additional space for administrative staff, recreation leaders and maintenance personnel, and to determine future development patterns so that improvements to serve shifting population can be programmed.

The Baltimore County Police Department relied until 1970 on the Department of Planning and Zoning for much of its future planning. Since 1971, however, the police have built a sophisticated statistical analysis system which is used in all police planning efforts.

A primary concern for the Police Department is to obtain a generally agreed upon set of population projections to use for long range planning purposes.

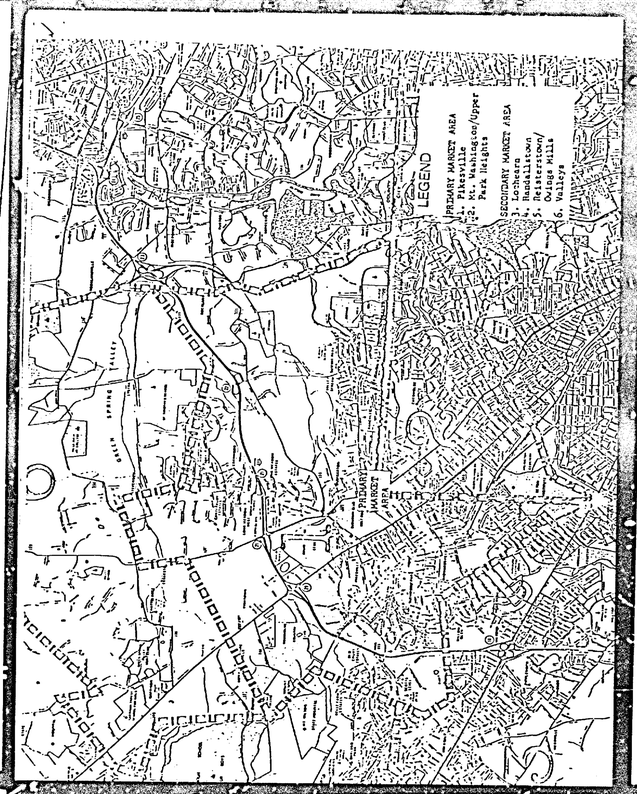
The Baltimore County Fire Department has recently established a two phase planning program. The first planning program is the development of pre-fire planning, and the second phase is the development of a sufficient statistical base to evaluate the pattern of future fire protection.

PIKESVILLE REVITALIZATION GROWTH PLAN

1 PART: BACKGROUND ANALYSIS

Prepared For:
Baltimore County Administrative Office
Baltimore County Office of Planning and Zoning
Pikesville Revitalization Task Force

Prepared By:
James L. Prost Associates



I-B PHYSICAL CONDITIONS

Introduction, Urban Design Analysis:

Formulation of recommendations for the Pikesville Revitalization Program necessarily begin with a review of existing conditions and the factors influencing development. In addition to specialized areas of study including market conditions, parking and traffic, the environment is generally within the purview of the urban design Consultant. In bringing together the studies submitted by specialists in these related fields, the urban design process includes evaluation of the built environment, public policy, citizen concerns, economic constraints and physical factors influencing the opportunities promulgated for the future.

The urban design recommendations for Pikesville are contained in Part II of this report. The basis on which these recommendations are formulated are summarized in Part I. The urban design analysis includes:

Land use and zoning
Buildings and environmental conditions
Opportunity sites

Land Use And Zoning:

Within the Pikesville Revitalization Program area, existing land use and the zoning classifications currently assigned are in some instances inconsistent. A major recommendation of this study will be to reclassify certain areas. The zoning classification changes are suggested to either more accurately reflect the current use; or, to properly anticipate and encourage the type and scale of new development which public policy, street and mass transit improvements reasonable justify.

Existing zoning, and the recommendations for changes to zoning are discussed in Part II, Section A.

With regard to undertaking revitalization programs, Baltimore County does not have all the legal powers normally possessed by local units of government. These powers flow from the state and require legislative action to create. Without the authority to create special redevelopment districts and employ the power of eminant domain for public purpose (in addition to public use) the basic tool for control and enforcement is the Zoning Ordinance. 1/ The Zoning Ordinance is under review and eventually certain revisions applicable to revitalization programs may be adopted. For the immediate interests of Pikesville, the provisions of the existing ordinance are assumed to remain applicable. Zoning classification changes recommended herein are current.

Land use types recommended in this report generally reinforce and continue existing land use and are intended to promote stabilization.

1/ Baltimore County Zoning Regulation 1975 Edition.

The exceptions are in anticipation of market pressures and prudent development practices responsive to public improvements but never the less, always in consideration of promoting stabilization. For example, the central area bounded by Old Court, Sudbrook and Reisterstown Road is recommended for more intensive development primarily for regional serving retail. The areas west of Reistertown Road along Old Court Road and along the proposed realignment of Slade Avenue are recommended for more intensive residential development, with office potential as a special exception. Both these streets will eventually lead to the Phase II Rapid Transit System Stations and the residential development will be along improved streets.

Building And Environmental Conditions:

The focus of the open design analysis has been along the primary streets. For the most part these streets are lined with commercial buildings, institutional facilities and "open space" in the form of the golf course and the Druid Ridge Cemetary.

The commercial uses include retail buildings, restaurants, gas stations and office buildings. The retail buildings are generally one and two story structures built along the building lines or in small shopping centers facing onto the primary streets. The business corridor has been developed over a long time period as the early commercial center grew in response to the increasing settlement of the northwest County and the market demand supported additional retail establishments.

The sporadic construction of commercial buildings along the approximately two mile stretch of Reisterstown Road from the Beltway to the City/County line typifies the dilemma of older strip commercial corridors whose future is increasingly threatened by the more sophisticated planning and merchandizing of contemporary regional shopping centers. The automobile encouraged the expansion of these linear commercial corridors originally begun at important cross roads, expanded along streetcar lines and entrenched by the reliance of the automobile. After the street car disappeared, the automobile took over and has now become the nemisis.

The presence of the automobile is so pervasive in Pikesville that it dominates all and any other single aspect of the environment. While the congestion creates a sense of excitement, "... something must be going on - look at all the cars ..." Pikesville's future viability is in many ways tied to a reasonable solution for the automobile. Additional parking, better utilization of existing parking, new streets and driveways and improvements to Reisterstown Road (relocation of signals and removal of curb side parking), consolidation of curb cuts and driveways, all must be implemented as high priority activities.

Environmental Conditions:

An objective analysis of the visual quality of the environment may be undertaken by simply walking the area with an eye to the quality and maintenance of the buildings, signs, parking lots and "landscaped" areas along the public right-of-ways.

PIKESVILLE REVITALIZATION GROWTH PLAN

2 PART: GROWTH PLAN

Prepared For:
Baltimore County Administrative Office
Baltimore County Office of Planning and Zoning
Pikesville Revitalization Task Force

Prepared By:
James L. Prost Associates
N. David O'Malley A.I.A.
Stephen G. Petersen P.E.

Recommended Zoning Classifications

In the course of this study, concern about several provisions of the applicable zoning classifications and regulations have been identified when specific circumstance have caused them to be reviewed. Those which bear most directly upon the implementation of the plan include some classifications for certain areas which should be immediately rezoned and some set back and building line regulations which should be waived or revised in the light of more specific controls recommended by the Plan.
1/
The existing and recommended zoning classifications are shown on the accompanying map. The proposed changes are shown as cross-hatched areas and include recommended changes from DR 2 to DR 16; DR 16 to BL; BL to DR 2 and DR 5.5 to DR 16. In some instances CCC District designations have also been suggested. The principal consideration in recommending these changes now is to adjust the zoning to the conditions which actually exist or are recommended by the Plan. Changes to zoning classifications is in some instances essential to implementation of the Plan.

Specific Recommendations include:

1. Changing the portion of the central area bounded by Old Court, Reisterstown and Sudbrook which is now DR 16 to BL CCC. This allows the development of shops and offices and the mixed-use development of housing above the ground floor. The BL floor area ratio of 3.0 is increased to 4.0 by the CCC district designation.

2. Certain changes west of Reisterstown Road between Old Court and Sudbrook are also recommended. Bedford Avenue is recommended to extend to Old Court and certain parcels should be classified BL to accommodate commercial development. Similarly other parcels should be reclassified DR 16 to permit more intensive residential development and office development (by special exception)

3. The present Library Site at the corner of Reisterstown and Sudbrook should be reclassified as BL to permit its redevelopment for commercial purposes.

4. Other recommended adjustments to the present zoning anticipate the rapid transit system and the realignment of Slade Avenue. Large parcels along Old Court Road and realigned Slade should be designated for future residential redevelopment and possible office use (as a Special Exception). These areas should be reclassified DR 16, and could be considered for a higher density residential designation as the public projects become more likely to occur.

1/ Source: Baltimore County Office of Zoning, Sept. 1978

NEW

§ 522.1 BALTIMORE COUNTY CODE

as law, be approved by legislative act of the county council.
(Bill No. 83, 1978, § 2)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 523. The master plan and the zoning maps.

(a) *Definition and implementation of the master plan.* The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution.

(b) *Definition and implementation of the zoning maps.* The zoning maps shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act. (Bill No. 83, 1978, § 3)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524. Reorganization of office of planning and zoning.

Notwithstanding any other provisions of this Charter, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to define the duties of the director of said office, to establish the powers, duties and compensation of the planning board, and to establish the duties and responsibilities of the zoning commissioner and deputy zoning commissioner, so that planning and zoning functions shall be conducted in the best interests of the county and its future development and growth. (Bill No. 83, 1978, § 1)
(Approved by voters Nov. 7, 1978. Effective Dec. 8, 1978.)

Sec. 524.1. People's counsel.

(a) Repealed by Bill No. 83, 1978, § 4.

this Charter, and the director of central services shall act as county purchasing agent. Unless otherwise provided by public general law, the office of central services shall also be responsible for the making, renewal, and cancellation of all contracts of insurance in which the county, or any office, department, institution, board, commission, or other agency of the county government is named as insured; for the maintenance, operation and management of all land and buildings owned or operated by the county and all other functions heretofore performed by the superintendent of buildings; and for making available to the other offices, departments, boards, institutions and agencies of the county such duplicating, stenographic, mail, messenger, stores, transportation, central garage, automotive maintenance or other central services as may be assigned thereto from time to time by directive of the county administrative officer or by legislative act of the county council.

SUBDIVISION 6. OFFICE OF PLANNING AND ZONING*

Sec. 522. Organization of office and duties generally of personnel.

The office of planning and zoning shall be composed of a director of planning, a planning board, a zoning commissioner and deputy zoning commissioner. The director of planning, the zoning commissioner and deputy zoning commissioner shall be appointed by the county administrative officer, subject to confirmation by the county executive. The members of the planning board shall be appointed by the county executive. Unless and until otherwise provided by legislative act of the county council in accordance with Section 524 of this Article, the director of planning, the planning board, the zoning commissioner and deputy zoning commissioner shall have and perform such duties as are provided by law in effect at the time of the adoption of this Charter.

Editor's note—The second sentence of this Section of the Charter was rendered inoperative by Section 524.1. Section 524.1 changed the method of appointment of the director of planning, the zoning commissioner and the deputy zoning commissioner.

Sec. 523. Duties of the office.

The office of planning and zoning shall be charged with the responsibility and duty of planning for the future development and growth of the county, including the preparation and revision of a master plan and the preparation and revision from time to time of rules and regulations governing subdivisions. It shall also be responsible for the preparation and administration of a zoning map and of zoning rules and regulations which shall constitute a zoning code. All plans and maps and all rules and regulations hereafter adopted, amended or repealed by

*Code reference—Planning, zoning and subdivision control, Title 22.

the office of planning and zoning, or any board, commission or officer thereof, shall, prior to taking effect as law, be approved by ordinance of the county council. All reclassifications and all orders of the zoning commissioner may be appealed in the manner provided in Article VI of this Charter and not otherwise.

Sec. 524. Reorganization of office of planning and zoning.

To the extent hereafter permitted by law, the county council shall have the power by legislative act to reorganize the office of planning and zoning, to provide for and define the duties of a director of planning and zoning as head of said office, to provide for his appointment in the same manner as the heads of other offices and departments in the administrative services, to fix and determine the powers, duties and compensation of the planning board, to redesignate the planning board by some other name so as more clearly to indicate the scope of its duties and functions, to redefine the duties or abolish the office of deputy zoning commissioner, and, in general, to coordinate and centralize the planning and zoning functions of the county in such manner as may be to the best interests of the county and its future development and growth.

Annotation—Writ of mandamus to test the validity of an Act of the county council passed under this section should have been dismissed in its entirety. Murray v. Director of Planning, 227 Md. 381, 143 A.2d 87 (1958).

Sec. 524.1. Appointment and removal of director and deputy director of planning, zoning commissioner, deputy zoning commissioner and people's counsel.

(a) Notwithstanding any other provision of this Charter, the county executive shall appoint the director of planning, subject, however, to confirmation by the county council, and such person so appointed shall continue to serve as director of planning until such time as he or she shall resign or be removed pursuant to the provisions of this section. The director of planning may appoint a deputy director of planning. The director of planning may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. The county executive shall appoint the zoning commissioner and deputy zoning commissioner, subject, however, to confirmation by the county council, to serve for a term which shall expire on June 1, 1963 and on June 1 of every fourth year thereafter or until their successors are appointed and confirmed. The zoning commissioner or his deputy may be removed from office at any time on the recommendation of the county executive and with the affirmative vote of not less than five members of the county council. Within thirty days after the effective date of this Charter amendment the county executive shall appoint the first director of planning, the first zoning commissioner, and deputy zoning commissioner to hold office hereunder,

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND

Legislative Session 1979, Legislative Day No. 22

RESOLUTION NO. 71-79

Mr. Norman W. Lauenstein, Councilman

By the County Council, November 19, 1979

WHEREAS, by Article XI-A of the Maryland Constitution, the General Assembly is authorized to provide a grant of "express powers" to counties that form a charter government; and

WHEREAS, by Article 25A, Section 5 of the Annotated Code of Maryland, the General Assembly has designated the "express powers" to be granted to charter counties, which powers include the power to enact local laws for the protection and promotion of public health, safety and welfare, relating to planning, zoning and subdivision, and to pass all ordinances, resolutions or bylaws that may be necessary and proper to execute and enforce any of the powers expressly enumerated; and

WHEREAS, the people of Baltimore County in accordance with the Constitution and Laws of the State of Maryland have adopted, ordained and established the Baltimore County Charter; and

WHEREAS, pursuant to provisions of the Charter and of the County Code, the County is responsible for planning for the future growth and development of the County, including the preparation of a Master Plan; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the Master Plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County; and

WHEREAS, the Charter provides that the Office of Planning and Zoning prepare and revise a Master Plan at least every ten years, the previous such revision being accomplished in 1975; and

WHEREAS, pursuant to Section 523 of the Baltimore County Charter, the County Council has the responsibility to accept or modify, and then adopt by resolution, a Master Plan which it receives from the Office of Planning and Zoning; and

WHEREAS, the County Council has caused to be prepared by consultants and staff, at great expense to the taxpayers of Baltimore County a comprehensive growth management planning study which has been accomplished over the past three years; and

WHEREAS, the elements of said planning study together comprise a Master Plan, containing objectives, policies and standards, and a composite of mapped and written proposals serving as a guide for the physical development of the County; and

WHEREAS, the Planning Board of Baltimore County has held public hearings on the Master Plan and on the elements thereof and has recommended the adoption of certain elements of that Plan; and

WHEREAS, the Office of Planning and Zoning has submitted to the County Council a Master Plan, entitled "Recommended Baltimore County Master Plan 1979-1995", with accompanying map entitled "Baltimore County Master Plan Land Use Plan"; and

WHEREAS, the County Council has held a public hearing on the Master Plan on September 11, 1979.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the Master Plan submitted by the Office of Planning and Zoning and adopted by the Baltimore County Planning Board, including mapped and written proposals, are hereby amended and modified, and as so amended and modified, are hereby adopted and declared to incorporate and be comprised of the following written and mapped components, which will serve as a guide for the development of the County, and which may be subject to such further modifications as deemed advisable by the Baltimore County Council:

"Baltimore County Master Plan 1979-1990" Written Components, maps, errata and addendum thereto, as follows:

SECTION I

Baltimore County Growth Management Program Physical Development Plan, Part I, Land Use Element.

SECTION II

Baltimore County Growth Management Program Physical Development Plan, Part II, Transportation Element.

SECTION III

Baltimore County Growth Management Program Housing and Community Preservation Plan.

SECTION IV

Baltimore County Growth Management Program Open Space and Recreation Plan.

SECTION V

Baltimore County Growth Management Program Public Facilities Plan, Part I, Community Services.

SECTION VI

Baltimore County Growth Management Program Public Facilities Plan, Part II, Utilities.

BE IT FURTHER RESOLVED, that, using the Baltimore County Master Plan 1979-1990 herein adopted as a guide, the County Council intends to proceed with development of an overall growth management program for the implementation of the Master Plan, said program to include revised zoning maps, zoning rules and regulations, subdivision rules and regulations, a capital improvements program, community plans, including but not limited to Owings Mills and Whitemarsh, and such other legislation, regulations, policies and programs as may be necessary; and

BE IT FURTHER RESOLVED, that until said overall growth management program and implementation measures can be adopted, the Office of Planning and Zoning, the Baltimore County Council and all other departments, agencies and officials of the County, in the exercise of any powers, authority, duties or responsibilities related to actions impacting on land use, growth or development, including planning, zoning and subdivision activities, in the County, shall consider the objectives, policies and standards of the Master Plan.

BE IT FURTHER RESOLVED, that all programs and construction projects initiated by the County be in concert with or further the goals and objectives stated in the Master Plan adopted in this resolution, and further that the Director of the Office of Planning and Zoning make such an evaluation of each and every such project and program and forward said evaluation to the County Executive and the County Council for their considerarion.

BE IT FURTHER RESOLVED, that supplementary to and in conformity with the Master Plan, the agencies of Baltimore County engage in an ongoing process which includes water, sewer, and solid waste management planning, management of the coastal zone of Baltimore County, designation of areas of critical state concern, specific area plans, and plans devoted to capital improvements and other facilities. It is intended that such plans, upon enactment by the County Council and as amended from time to time shall be incorporated in the Master Plan by reference.

BE IT FURTHER RESOLVED, that the County Council intends to approve a land use map to be part of the Master Plan concurrently with the adoption of the 1980 Comprehensive Zoning maps.

BE IT FURTHER RESOLVED, that the Planning Board forward to the Council, upon completion of the elements governing growth in each of the Growth Areas, a recommendation on the method of ensuring that all development actions made by the public and private sectors are in conformance with the master plan goals, objectives and elements as adopted by the County Council.

AND BE IT FURTHER RESOLVED, that previous Master Plans adopted by the Planning Board and/or the County Council are rescinded to the extent that they are inconsistent with the Baltimore County Master Plan 1979-1990.

BALTIMORE COUNTY MASTER PLAN 1979-1990

land use element 1

The idea of control of growth is, of course, central to growth management. At present, the County does not have a formalized population growth policy.

Projections of likely future population have been made by the Growth Management consultants.

During the Growth Management studies, it has been determined that:

County-wide population capacity is not an issue in formulating a population growth policy for the County because the undeveloped part of the County is so large and projected growth is relatively modest;

Considerations of equity suggest that projected population should be accommodated;

The rate and location of population growth will be subject to policy influence by the rate and locations at which the County provides public services, grants zoning changes, and encourages or discourages investment;

Certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development, while other areas are less well-suited, and in some cases require specific preservation measures to limit development.

Based upon these firdings, as detailed in the Technical Memoranda setting out Growth Management Background Studies, it is recommended that.

Population increase and development be encouraged in areas of the County identified during the Growth Management Program as well-suited for development, by means of a variety of incentives;

Population increase and development be reduced in areas of the County identified during the Growth Management Program as unsuited for more than very limited development, by means of a variety of disincentives.[1]

Provisions be made, County-wide, for projected levels of population growth but at a rate and in a manner consistent with the objectives of the Growth Management Program.[2]

[1]Wallace, McHarg, Roberts and Todd, Baltimore County Growth Management Program Technical Memorandum No. 16, Policy Options Summary, November 1978, page 3.

[2]Robert H. Freilich, Legal and Planning Requirements for Implementation of a Growth Management Plan in Baltimore County, Maryland, July, 1976.

I. REGIONAL SETTING

While the responsibility for determining Baltimore County's land-use pattern and other major growth management policies is clearly by law the County's responsibility, and is widely agreed to be best held by "people who are politically accountable to the citizens who must live with these policies"[1], current and proposed State and Federal legislation and regulations point to the necessity for increased cooperation between local governments and the State and Federal governments and among neighboring jurisdictions in making future land-use decisions, particularly as they affect natural resources, and major utility and transportation systems.

The County is empowered by State statute to prepare and adopt plans, ordinances, and regulations governing land use, but the State and the Region have some influence on the manner in which land is developed in the County. The State has the greater potential power, in that the power of land use control is delegated by the State to its component jurisdictions. In addition, the State has potential control of some land uses through Critical Areas legislation, Coastal Wetlands legislation, and Surface Mining and similar legislation. Finally, both the State and the Regional Planning Council have the power and responsibility of A-95 review of all applications by the County for Federal assistance to assure that these applications "shall be consistent with and further the objectives of State, Regional, and Local comprehensive planning."[2]

A. THE REGIONAL GENERAL DEVELOPMENT PLAN

The Baltimore Regional Planning Council, in the draft General Development Plan published in late 1977, defined three alternative development patterns for the region.

Alternative regional development patterns considered in the Regional General Development Plan include:

- a centralized development pattern;
- a trend development pattern; and
- a decentralized development pattern.

The centralized regional development pattern was selected by the Regional Planning Council on the basis of a comparison of anticipated impacts of each of the alternatives.

[1] Brussat, W.K., "A-95 Review System: Can Be an Asset", ed. Scott, R.W., and Brower, D.J., Miner, D.D., Management and Control of Growth, Vol. III (Washington D.C., The Urban Land Institute, 1975).

[2] Title IV of the Intergovernmental Cooperation Act of 1968, Section 401(c).

Excerpts from the Regional General Development Plan describe the centralized regional development pattern as follows:

"The centralized development pattern would reverse recent trends toward decentralization. It emphasizes enhancement, renewal, and revitalization of existing communities. The growth of Metrocenter and nearby employment centers is emphasized more than under the trend alternative. Scattered growth in the rural countryside is virtually halted, and nearly all new development is contained within the planned 10-year service areas.

Development is compact, densities higher, and less residential land is consumed. Baltimore receives a greater share of the region's household and employment growth while the counties receive correspondingly less growth. Major growth centers receive more growth. A corollary to this scenario, however, is that communities are improved as they absorb growth. In this way, well-planned growth, coupled with adequate open space and other community amenities, will result in attractive communities for the future."[1]

The General Development Plan states that, when compared with the decentralized alternative, it was found that the centralized development pattern will:

"Reduce potential septic system failures in new residential subdivisions by 98%.

"Reduce the aggregate stormwater pollutant burden for new residential development by about one-half.

"Reduce the space heating requirements of new residential units by 25%.

"Reduce motor vehicle fuel consumption by traffic due to new growth by 17%."

"Save a cumulative total of about 30 trillion BTU's of energy over the next ten years for residential space heating of newly constructed units and motor vehicle fuel requirements.

"Reduce the aggregate air pollutant emission burden from residential space heating of newly constructed units by 24%.

"Reduce motor vehicle air pollutant emissions attributable to new growth by 10-18%.

"Reduce total residential land requirements of newly constructed units by 62% and reduce land requirements outside the planned 10 year service area by 75% and by 42% inside the service area. Reduce farmland losses by 76%.

"Reduce forest losses by 65%.

[1] Baltimore Regional Planning Council, General Development Plan for the Baltimore Region, Baltimore, Maryland, 1977, p.2-2.

"Reduce transportation costs for solid waste collection and hauling.

"Result in fewer ground water withdrawals by individuals by individual wells in newly constructed residential subdivisions and less discharges of effluent into ground water from septic systems and seepage pits.

"Increase public transit patronage.

"Reduce traffic as measured in vehicle-miles-of-travel (VMT).

"Reduce highway congestion for most locations in the region.

"Reduce the demand for new public school construction and reduce the pupil transportation costs attributable to new residential growth by 38%.

"Provide more affordable new housing"[1].

After a series of public hearings, the General Development Plan was adopted in December 1977. Changes from the draft were largely minor road changes. The only major change was deletion of a proposed oil refinery in the City of Baltimore, near Anne Arundel County. No changes were made that directly affect Baltimore County.[2]

The proposed development pattern shows the areas of Whitemarsh and Owings Mills staged in general conformance to the County Growth Management Plan.

The adopted Regional General Development Plan summarizes the policy criteria used in A-95 review by the Planning Council of all major local projects requiring Federal funding. It is therefore beneficial to Baltimore County that this General Development Plan support and confirm the County's proposed development staging and the major transportation improvements that can make this development staging work.

B. THE STATE LAND USE ELEMENT

The State of Maryland Planning Agency is presently in the process of developing a State-wide plan. Interviews with staff members outlined the following alternative land use patterns under consideration in the Land Use Element.[3]

The State Land Use Element, which is based on State Year 2000 population projections, examines four alternative land use patterns applicable to urban, suburban and rural development throughout the State as well as to Baltimore County, in addition to a trend-line projection:

[1] Ibid., p. 2-3.

[2] Telephone Interview with James Rose, Regional Planning Council, January, 1979.

[3] Telephone Interview with Marie Halka, August 1977, and meeting with State Planning Agency Staff, Stoney Fraley and Marie Halka, December 1977.

centers and centers for the elderly would be best suited for location within Town and Community Centers, particularly where located at or near a mass transit station or stop. Bonuses might be structured in the zoning overlay process in return for provision of sites by the developer within the center to community service agencies for specific community service centers required within the area serviced by the center.

B. EXISTING COMMUNITIES

Existing Communities include all areas of the County that are largely urbanized at present, excepting urbanized areas within Town and Community Centers.

These areas are defined on the basis of existing land use, with specific boundaries delineated using major natural or man-made barriers such as rivers or limited access highways or boundaries of existing zoning districts that correspond to the edges of existing development areas.

Recommended County Goals for Existing Communities are:

To limit the pace of development in communities in which existing community service and public facilities are presently substantially inadequate;

To improve community services and facilities in existing communities where these services and facilities are presently inadequate;

To preserve and strengthen the character and identity of existing communities, and to assure that new development in existing communities takes a form that is compatible with the present character of these communities; and

To encourage residential and other development or redevelopment where appropriate to existing community conditions.

To achieve these goals, it is recommended that the County adopt an overlay district applicable to these areas, requiring that any new residential development of more than four dwelling units and any major non-residential development be subject to a special Development Evaluation Review, taking into account:

Negotiation of phasing within proposed developments to correspond to a planned schedule of improvements in the area;

An analysis of the relationship of the proposed development to the surrounding community;

An evaluation of additional demands projected to be placed upon existing utility and transportation facilities and community services in the area as against the present adequacy of these facilities and services.

III. GROWTH AND PRESERVATION STRATEGIES

The Growth Management Technical Memoranda documenting the background studies prepared during the research and analysis stages of the Growth Management Program identify an encyclopedic list of facts that are of concern to future growth of the County, and of means of responding to these specific concerns.

In this Land Use Element of the Growth Management Physical Development Plan, growth strategies are described to address those factors that significantly affect the use of the land as growth occurs, and that are not either subsets of other factors or best addressed on a site-by-site basis during development review.

The factors considered here are those factors that have such a significant scale of impact that they require a large scale rather than an incremental response on the part of the County. Several examples will serve to illustrate this distinction.

In the area of natural resource protection, woodlands and wildlife habitats are certainly of critical concern. Because of the very high correlation with other natural protection factors, however, they are recommended to be treated as functional subsets of stream valleys, wetlands, the intertidal bayfront, and the drainage areas of the reservoir.

Another natural resource protection issue, steep slopes, occurs extensively throughout the entire County and is suitably addressed incrementally in the development review process, rather than as a basis for determining use suitabilities at a large scale.

The growth factors that have been identified as affecting land use at a scale that requires a specific growth strategy are grouped for the purposes of the plan into five categories:

1. Development Staging;
2. Natural Resource Protection;
3. Special Development Opportunities;
4. Special Reinforcement Needs; and
5. Land Use Conflict Resolution.

This chapter enumerates the factors within each of these categories, the growth strategy to address each factor, and the growth areas within which each growth strategy is applicable.

The description of these growth strategies is followed by a description of data collection and management tasks necessary to permit effective implementation of these growth management strategies.

GROWTH AND PRESERVATION STRATEGIES BY GROWTH AREA

Growth Strategies	Growth Areas: Town and Community Centers	Existing Communities	Fringe Development Areas	New Development Areas	Rural and Agricultural Areas
Development Staging and Timing:					
Accelerated Growth (unstaged)	X	–	–	–	–
Staged Accelerated Growth	–	–	–	X	–
Moderated Growth	–	X	X	–	X
Natural Resource Protection:					
Agricultural Preservation	–	–	–	X	X
Groundwater Protection	X	X	X	X	X
Protection of Stream Valleys, Flood-Prone Areas, Wetlands, and Reservoirs	X	X	X	X	X
Chesapeake Bay, Coastal Wetlands, and Intertidal Area Protection	X	X	X	X	X
Air Quality Protection	X	X	X	–	–
Special Development Opportunities:					
Highway Interchanges	X	X	X	X	–
Mass Transit Stations	X	X	X	X	–
Special Reinforcement or Redevelopment:					
Improvement of Community Services to Existing Development	X	X	X	–	–
Reinforcement or Redevelopment of Older Commercial Areas	X	X	–	–	–
Housing Rehabilitation	–	X	X	X	X
Land Use Conflict Resolution:					
Commerce and Residential Neighborhoods	–	X	X	–	–
Manufacturing and Residential Neighborhoods	–	X	X	–	X
Quarrying and Agriculture or Residential Neighborhoods	–	–	X	X	X

performance standards by employing the best available control technology, the new facility will not be fully controlled, and therefore, there must be a reduction in pollution emissions from another source in the area. The mechanism for accomplishing this will most probably be a permit and review process, the details of which have to be worked out.

To solve this problem as it affects major development in the southeastern and southwestern protions of the County, the County should consider working with EPA and the State to establish development or redevelopment strategy incorporating one or more of the following incentives:

Emissions fees, which would involve a charge to sources according to the amount of emissions. This would serve as inducement to a source of lower emissions.

Emissions density zoning, which could classify land areas by the amount of pollutant that could be emitted; thus the source could purchase "air rights" to enough land to cover its emissions.

3. SPECIAL DEVELOPMENT OPPORTUNITIES

Major Special Development Opportunity Strategies are designed to address opportunities that occur at:

a. Highway Interchanges; and

b. Mass Transit Stations.

Major highway interchanges and mass transit stations exist or are planned on lands categorized in all types of growth areas except Rural and Agricultural Areas.

a. Special Development Strategy for Lands at Highway Interchanges

While all of the access points to the major limited access highways which traverse the County, linking the County and the region with other major urban areas, provide opportunities for high intensity development on the lands immediately nearby, lands near interchanges of two such highways, or of a limited access highway and one of the County's major radial arterials, are especially well-suited for such development and should be treated as a valuable County resource.

All remaining vacant lands within a half-mile radius of those interchanges should be considered for zoning that permits only manufacturing, office and related uses.

Protection of these lands by means of industrial zoning will not only put the County in a very positive competitive stance for attracting high quality industry, but will also serve as a buffer between the noise and other abrasive features of the highways, and residential and commercial areas.

b. Special Development Strategy for Lands as Mass Transit Stations

The recently published TSADAS study presented detailed recommendations for development of the lands adjacent to the stations on the Northwestern rail mass transit line in the County. Similar detailed studies should be prepared for the station sites along all of the County's proposed rail mass transit lines.

These plans must be supported by three types of actions by the County:

Aggressive efforts to assure that, at a minimum, priority rail mass transit lines are funded and constructed in the County;

Adoption of amended zoning patterns designed to limit the dispersal of development best suited for location near mass transit stations in the Fringe Development Area and to permit and encourage this development at and near mass transit station sites; and

Investment in public improvements near transit station sites, such as improved access that will serve as further inducements to higher intensity development.

4. SPECIAL REINFORCEMENT OR REDEVELOPMENT

Major Special Reinforcement or Redevelopment Strategies include:

a. Improvement of Community Services to Existing Development;

b. Reinforcement or Redevelopment of Older Commercial Areas; and

c. Housing Rehabilitation.

The factors and conditions that these strategies are designed to address occur throughout all five of the types of Growth Areas identified in the preceding chapter, although particular conditions are more prevalent in certain types of areas.

The need for reinforcement or redevelopment of older commercial areas occurs in Town and Community Centers and Existing Community Growth Areas. Clear evidences of a need for improvement in community services to existing development occurs in Town and Community Centers, Existing Community Growth Areas, and Fringe Development Areas. Housing Rehabilitation Needs cross the boundaries of all of the Growth Area Types, except Town and Community Centers.

a. Improvement of Community Services to Existing Development

To achieve improvement of community service to existing development, several County actions are recommended.

First, it is recommended that a specific proportion of each County Capital Improvement budget be allocated for improvement of community

BALTIMORE COUNTY COMMUNITIES: CENSUS DESIGNATED PLACES, 1980

1. Lansdowne-Baltimore Highlands
2. Arbutus-Halethorpe
3. Catonsville
4. Oella-Thistle
5. Westview
6. Security
7. Granite
8. Ward's Chapel-Hernwood
9. McDonogh-Randallstown
10. Milford-Hebbville
11. Woodmoor-Woodlawn
12. Lochearn
13. Pikesville
14. Garrison
15. Greenspring
16. Stevenson-Dumbarton
17. Rockland-Mt. Washington
18. Gore's Mill
19. Sunnybrook
20. Owings Mills
21. Reisterstown
22. Emory Grove-Worthington
23. Fowblesburg-Dover
24. Beckleysville-Arcadia
25. Middletown
26. Maryland Line-Parkton
27. Hereford
28. Western Run-Sparks
29. Oregon Ridge
30. Cockeysville
31. Pot Spring
32. May's Chapel-Seminary
33. Lutherville-Timonium
34. Ruxton
35. Towson
36. Hampton
37. Cub Hill-Joppa Heights
38. Rodgers Forge-Stoneleigh
39. Loch Raven-Hillendale
40. / 49. Parkville
41. Monkton
42. Jacksonville
43. Fork-Glenarm
44. Kingsville
45. Carney
46. Perry Hall
47a. Germantown-Honeygo
47b. Whitemarsh
48. Lorely
50. Fullerton-Overlea
51. Rossville
52. Rosedale-Golden Ring
53. Aero-Victory
54. Bird River-Chase
55. North Point
56. Essex
57a. Middle River
57b. Upper Bowleys Quarters
58. Seneca Par.-Bowleys Quarters
59. Back River
60. Edgemere
61. Lodge Forest-Millers Island
62. Eastpoint-Colgate
63. Bear Creek
64a. Dundalk
64b. Turners Station
65. Inverness

b. Special Development Strategy for Lands as Mass Transit Stati s

The recently published TSADAS study presented detailed recommendations for development of the lands adjacent to the stations on the Northwestern rail mass transit line in the County. Similar detailed studies should be prepared for the station sites along all of the County's proposed rail mass transit lines.

These plans must be supported by three types of actions by the County:

Aggressive efforts to assure that, at a minimum, priority rail mass transit lines are funded and constructed in the County;

Adoption of amended zoning patterns designed to limit the dispersal of development best suited for location near mass transit stations in the Fringe Development Area and to permit and encourage this development at and near mass transit station sites; and

Investment in public improvements near transit station sites, such as improved access that will serve as further inducements to higher intensity development.

4. SPECIAL REINFORCEMENT OR REDEVELOPMENT

Major Special Reinforcement or Redevelopment Strategies include:

a. Improvement of Community Services to Existing Development;

b. Reinforcement or Redevelopment of Older Commercial Areas; and

c. Housing Rehabilitation.

The factors and conditions that these strategies are designed to address occur throughout all five of the types of Growth Areas identified in the preceding chapter, although particular conditions are more prevalent in certain types of areas.

The need for reinforcement or redevelopment of older commercial areas occurs in Town and Community Centers and Existing Community Growth Areas. Clear evidences of a need for improvement in community services to existing development occurs in Town and Community Centers, Existing Community Growth Areas, and Fringe Development Areas. Housing Rehabilitation Needs cross the boundaries of all of the Growth Area Types, except Town and Community Centers.

a. Improvement of Community Services to Existing Development

To achieve improvement of community service to existing development, several County actions are recommended.

First, it is recommended that a specific proportion of each County Capital Improvement budget be allocated for improvement of community

The first of these policies, suggesting utilization of land already served by public facilities, should be tempered by two considerations:

first, the requirement of many developed areas for additional open space in order to preserve their present character; this requirement suggests that it may be appropriate to decrease densities on some of these vacant lands and to acquire others for publicly-owned open space; and

second, the unsuitability of some remaining lands for many types of development; many undeveloped parcels have not been developed because of special site problems or environmental concerns; incentives for development of such sites could be counterproductive for both the sites and the surrounding neighborhoods and communities.

Based upon these considerations, a detailed evaluation should be undertaken of all major vacant sites to determine their suitability for development, and the types of incentives that would be required in order to induce development there.

The second policy requiring some modification as a result of Growth Management studies, concerns limitation of additional major commercial development where such development could erode the economic viability of existing centers. While it is considered important to limit commercial zoning to areas best suited in terms of accessibility, and relationship to surrounding uses and to place some limitation upon the quantity of land within the County zoned for commercial use, it should be emphasized that inordinate restriction of competition will not serve the best interests of County consumers, as lack of competitive pressure discourages improvements to store appearance and merchandise quality.

Based upon a complete inventory of commercially zoned vacant land throughout the County, a detailed study should be undertaken of how much of this commercially zoned vacant land should remain commercially zoned and at what locations. The land use chapter of the Growth Management Physical Development Plan discusses specific areas of the County in which it has become apparent during the Growth Management studies that a down-zoning of presently commercially zoned areas should be considered.

The third policy requiring some modification as a result of the Growth Management analysis refers to adequate public facilities standards and controls. While it is appropriate for the County to adopt adequate facilities controls at this time, it is equally important that better information be obtained concerning adequacy of many existing facilities in the County. A major example of facilities for which insufficient information is available at present is the collector and local road system. While a road rating study is underway at present in the County this study will only consider approximately 40 of the County's numerous collector and local roads.

Objectives

To realize policies for existing development (including rural as well as urban development), the County should:

Undertake a detailed study of the suitability of remaining vacant parcels of five acres or more that are already served by public facilities for development, and of incentives required to achieve development of those parcels suited to development;

Complete the evaluation of commercially zoned vacant land throughout the County which has been started during the Growth Management Program to determine which of these lands should be considered for down-zoning;

Adopt land use controls designed to assure the adequacy of community services to serve new development; such controls would include in addition to specific adequate public facilities requirements, requirement for preparation of development impact statements, addressing the effect of the development upon the environment and upon community services in the immediate area of the development and the surrounding community;

Continue detailed inventories of the sufficiency of the County's existing community services, transportation system and utilities to permit refinement of capital improvement programming by local area of the County of adequate public facilities requirements, and of requirements for preparation of development impact statements;

Continue preparation of detailed area plans for specific areas of the County; and

Simplify and improve the administration and management of the development review process as outlined in the Management Plan.

Recommendations for the implementation of these policies and objectives are set out in the Physical Development Plan and the Management Plan.

HAZARDOUS SUBSTANCES AND WASTES

The subject of hazardous substances and waste has been recognized nationally as a critical environmental concern. The spread of such substances and waste has jeopardized the health of citizens and the resources of this area and nation. Therefore, the circulation, deposit, discharge, and/or disposal of hazardous substances and waste in Baltimore County on the land, in the air, and in the waters of Baltimore County is prohibited, and any incident thereof shall be considered a violation of this plan. If, as a result of any superior law, it is found not possible to prohibit the circulation, deposit, discharge, and/or disposal of hazardous substances and waste in the County, then such activity shall be minimized to the extent possible under law. The purpose herein is to preserve the natural resources and health, safety and welfare of the citizens of Baltimore County and to mandate protection of the environment and the elimination, prevention and limitation of danger to them arising from hazardous substances and waste.

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

transportation element 2

The provision of transportation facilities should precede and guide (or be coordinated with) land development.

Transportation facilities should be planned and designed to be in harmony with the environment. Streets and highways, bridges, and transit service lines and stations should contribute to a net reduction of air pollution as well as to an increase in the efficiency of fuel use. Noise and dust produced by the construction or operation of these facilities should be tightly controlled. Every effort should be made to preserve the integrity of historic structures and districts, of prehistoric archeologic sites, and of critical environmental areas when planning, designing, and constructing transportation facilities.

Transportation-related energy consumption should be reduced by discouraging inefficient tripmaking and reducing vehicle miles traveled (V.M.T.) through provision and promotion of energy-efficient alternatives to the private automobile. Incentives should be provided to encourage increased patronage of mass transit, high occupancy vehicles, and ride-sharing facilities. Disincentives should be implemented to discourage the use of large, inefficient automobiles.

Baltimore County should do its part to assure adequate and rational transit service for its citizens.

The movement of goods should be facilitated through: (1) an improvement program for rail, truck, and trans-shipment facilities; and (2) small area planning directed toward the reduction of conflicts between truck and automobile traffic.

Designated growth areas and town centers should be served by fixed guideway transit service (i.e., rail rapid, light rail, busways) to reduce dependence on automobile travel. Higher density development should be encouraged in areas served by adequate mass transit service.

Detailed access and land development impact studies should be conducted for areas designated as future station locations for fixed guideway transit service. A comprehensive development plan needs to be prepared for each transit station area. The analysis of development potential, including consideration of joint development schemes, should identify protection areas and inducement strategies designed to encourage the desired level and type of development in these impact areas.

Major arterial highways should be designed for controlled access to maximize traffic movement while minimizing land service.

Standards for residential subdivision roadways should be modified to limit design of local streets to dimensions required to satisfy circulation demand only. Driveways or other off-street parking facilities must be provided in new subdivisions.

The County's Road Rating Program should be expanded to a permanent and continuous monitoring system. This road rating system should be employed to assist in decisions on highway maintenance, capital improvement programming, and the rating of traffic service and safety adequacy required for the determinatio

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

community services 5

MEANS OF COORDINATION IN PLANNING AND PROVISION OF COMMUNITY SERVICES

The primary means for coordination among plans of County agencies, other than review by the Department of Planning, which review is not clearly mandated, is the annual review of agency capital budgets and capital improvements programs by the offices of the Budget and the County Executive.

Policy decisions within the public school system are made by an autonomous Board of Education, appointed by the State. Cooperation with the County Government results from the Board's reliance on County tax revenues for their operating budget. Before 1971, capital improvement funds were obtained from the County; since 1971, the majority of capital improvement funds have come from the State. School facilities planning is carried out by the Division of Physical Facilities. Curriculum planning is carried out in a coordinated effort by teachers, supervisors, and administrators.

The major concern of the Baltimore County School System is decreasing enrollment, requiring a reduction in total numbers of schools and staff and a reallocation of resources to serve future population shifts.

The Baltimore County Public Library is under the supervision of a Director and a Board of Library Trustees. The Library does its own planning, evaluates its own needs, and sets priorities for implementing objectives given different budget levels.

Major concerns of the Baltimore County Library are to identify underserved segments of the population and to restructure libraries to accommodate shifts in population.

The Baltimore County Department of Recreation and Parks coordinates its planning efforts with the Board of Education, the Department of Planning and Zoning and local Community Recreation Councils. General policies and the overall direction of the Department are the responsibility of the Director and the Board of Recreation and Parks.

The major concerns of the Department of Recreation and Parks are to improve cost-effectiveness in maintenance, to obtain additional space for administrative staff, recreation leaders and maintenance personnel, and to determine future development patterns so that improvements to serve shifting population can be programmed.

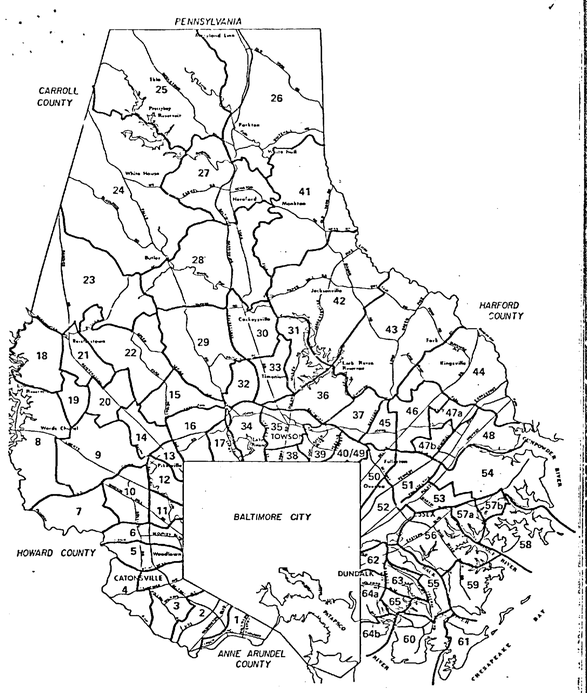
The Baltimore County Police Department relied until 1970 on the Department of Planning and Zoning for much of its future planning. Since 1971, however, the police have built a sophisticated statistical analysis system which is used in all police planning efforts.

A primary concern for the Police Department is to obtain a generally agreed upon set of population projections to use for long range planning purposes.

The Baltimore County Fire Department has recently established a two phase planning program. The first planning program is the development of pre-fire planning, and the second phase is the development of a sufficient statistical base to evaluate the pattern of future fire protection.

OWTH STRATEGIES BY COMMUNITY

Communities	Development Staging and Timing: Accelerated Growth (Unstaged)	Development Staging and Timing: Staged Accelerated Growth	Development Staging and Timing: Moderated Growth	Natural Resource Protection: Agricultural Preservation	Natural Resource Protection: Groundwater Protection	Natural Resource Protection: Protection of Stream Valleys, Floodprone Areas, Wetlands and Reservoirs	Natural Resource Protection: Protection of Chesapeake Bay Critical Area, and Intensified Area	Natural Resource Protection: Air Quality Protection
8. Ward's Chapel-Hernwood	–		Until 1990	Until 1990	–	Liberty Reservoir & tributaries to the Patapsco	–	–
9. McDonogh-Randallstown	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
10. Milford-Hebbville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
11. Woodmoor-Woodlawn	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
12. Lochearn	–	–	Until 1990	–	–	Patapsco & tributaries	–	–
13. Pikesville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
14. Garrison	–	After 1985, Owings Mills New Development Area	Until 1985 in New Development Area; until 1990 elsewhere	–	–	Patapsco & tributaries	–	–



CENSUS DESIGNATED PLACES

GROWTH STRATEGIES BY COMMUNITY

Communities	Development Staging and Timing: Accelerated Growth (Unstaged)	Staged Accelerated Growth	Moderated Growth	Natural Resource Protection: Agricultural Preservation	Groundwater Protection	Protection of Stream Valleys, Floodprone Areas, Wetlands and Reservoirs	Protection of Chesapeake Bay, Coastal Wetlands, and Intertidal Area	Air Quality Protection
8. Ward's Chapel-Hernwood	–		Until 1990	Until 1990	–	Liberty Reservoir & tributaries to the Patapsco	–	–
9. McDonogh-Randallstown	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
10. Milford-Hebbville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
11. Woodmoor-Woodlawn	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
12. Lochearn	–	–	Until 1990	–	–	Patapsco & tributaries	–	–
13. Pikesville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
14. Garrison	–	After 1985, Owings Mills New Development Area	Until 1985 in New Development Area; until 1990 elsewhere	–	–	Patapsco & tributaries	–	–

GROWTH STRATEGIES BY COMMUNITY

Communities	Special Development Opportunities: Highway Interchanges	Mass Transit Stations	Special Reinforcement or Redevelopment: Improvement of Community Services to Existing Development	Reinforcement or Redevelopment of Older Commercial Areas	Housing Rehabilitation	Land Use Conflict Resolution: Commerce and Residential Neighborhoods	Manufacturing and Residential Neighborhoods	Quarrying and Agricultural or Residential Neighborhoods
8. Ward's Chapel-Hernwood	–	–	–	–	5% of housing in need of external repair 1977-1978	Local concern with extension of commercial zoning	–	Active quarrying operation
9. McDonogh-Randallstown	–	–	–	–	–	Commercial encroachment on residential areas	–	–
10. Milford-Hebbville	795 & Liberty Road	–	–	–	–	Commercial encroachment on residential areas	–	–
11. Woodmoor-Woodlawn	795 & Liberty Road	–	–	Potential decline of existing commercial areas	–	–	–	–
12. Lochearn	795 & Liberty Road	Stations on Northwest rapid rail line	–	–	–	–	–	–
13. Pikesville	795 & Reisterstown Road	Stations on Northwest rapid rail line	–	Potential decline of existing commercial areas	–	–	–	–
14. Garrison	795 & Reisterstown Road	–	–	–	–	Commercial encroachment on residential areas	–	–

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

transportation element

2

The provision of transportation facilities should precede and guide (or be coordinated with) land development.

Transportation facilities should be planned and designed to be in harmony with the environment. Streets and highways, bridges, and transit service lines and stations should contribute to a net reduction of air pollution as well as to an increase in the efficiency of fuel use. Noise and dust produced by the construction or operation of these facilities should be tightly controlled. Every effort should be made to preserve the integrity of historic structures and districts, of prehistoric archeologic sites, and of critical environmental areas when planning, designing, and constructing transportation facilities.

Transportation-related energy consumption should be reduced by discouraging inefficient tripmaking and reducing vehicle miles traveled (V.M.T.) through provision and promotion of energy-efficient alternatives to the private automobile. Incentives should be provided to encourage increased patronage of mass transit, high occupancy vehicles, and ride-sharing facilities. Disincentives should be implemented to discourage the use of large, inefficient automobiles.

Baltimore County should do its part to assure adequate and rational transit service for its citizens.

The movement of goods should be facilitated through: (1) an improvement program for rail, truck, and trans-shipment facilities; and (2) small area planning directed toward the reduction of conflicts between truck and automobile traffic.

Designated growth areas and town centers should be served by fixed guideway transit service (i.e., rail rapid, light rail, busways) to reduce dependence on automobile travel. Higher density development should be encouraged in areas served by adequate mass transit service.

Detailed access and land development impact studies should be conducted for areas designated as future station locations for fixed guideway transit service. A comprehensive development plan needs to be prepared for each transit station area. The analysis of development potential, including consideration of joint development schemes, should identify protection areas and inducement strategies designed to encourage the desired level and type of development in these impact areas.

Major arterial highways should be designed for controlled access to maximize traffic movement while minimizing land service.

Standards for residential subdivision roadways should be modified to limit design of local streets to dimensions required to satisfy circulation demand only. Driveways or other off-street parking facilities must be provided in new subdivisions.

The County's Road Rating Program should be expanded to a permanent and continuous monitoring system. This road rating system should be employed to assist in decisions on highway maintenance, capital improvement programming, and the rating of traffic service and safety adequacy required for the determination

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

community services

5

MEANS OF COORDINATION IN PLANNING AND PROVISION OF COMMUNITY SERVICES

The primary means for coordination among plans of County agencies, other than review by the Department of Planning, which review is not clearly mandated, is the annual review of agency capital budgets and capital improvements programs by the offices of the Budget and the County Executive.

Policy decisions within the public school system are made by an autonomous Board of Education, appointed by the State. Cooperation with the County Government results from the Board's reliance on County tax revenues for their operating budget. Before 1971, capital improvement funds were obtained from the County; since 1971, the majority of capital improvement funds have come from the State. School facilities planning is carried out by the Division of Physical Facilities. Curriculum planning is carried out in a coordinated effort by teachers, supervisors, and administrators.

The major concern of the Baltimore County School System is decreasing enrollment, requiring a reduction in total numbers of schools and staff and a reallocation of resources to serve future population shifts.

The Baltimore County Public Library is under the supervision of a Director and a Board of Library Trustees. The Library does its own planning, evaluates its own needs, and sets priorities for implementing objectives given different budget levels.

Major concerns of the Baltimore County Library are to identify underserved segments of the population and to restructure libraries to accommodate shifts in population.

The Baltimore County Department of Recreation and Parks coordinates its planning efforts with the Board of Education, the Department of Planning and Zoning and local Community Recreation Councils. General policies and the overall direction of the Department are the responsibility of the Director and the Board of Recreation and Parks.

The major concerns of the Department of Recreation and Parks are to improve cost-effectiveness in maintenance, to obtain additional space for administrative staff, recreation leaders and maintenance personnel, and to determine future development patterns so that improvements to serve shifting population can be programmed.

The Baltimore County Police Department relied until 1970 on the Department of Planning and Zoning for much of its future planning. Since 1971, however, the police have built a sophisticated statistical analysis system which is used in all police planning efforts.

A primary concern for the Police Department is to obtain a generally agreed upon set of population projections to use for long range planning purposes.

The Baltimore County Fire Department has recently established a two phase planning program. The first planning program is the development of pre-fire planning, and the second phase is the development of a sufficient statistical base to evaluate the pattern of future fire protection.

PIKESVILLE REVITALIZATION GROWTH PLAN

1

PART: BACKGROUND ANALYSIS

Prepared For:

Baltimore County Administrative Office
Baltimore County Office of Planning and Zoning
Pikesville Revitalization Task Force

Prepared By:

James L. Frost Associates
N. Paula Orr

GROWTH STRATEGIES BY COMMUNITY

Special Development Opportunities		Special Reinforcement or Redevelopment			Land Use Conflict Resolution				
Highway Interchanges	Mass Transit Stations	Improvement of Community Services to Existing Development	Reinforcement or Redevelopment of Older Commercial Areas	Housing Rehabilitation	Commerce and Residential Neighborhoods	Manufacturing and Residential Neighborhood.	Quarrying and Agriculture or Residential Neighborhoods	Communities
–	–	–	–	5% of housing in need of external repair 1977-1978	Local concern with extension of commercial zoning	–	Active quarrying operation	8. Ward's Chapel-Harnwood
–	–	–	–	–	Commercial encroachment on residential areas	–	–	9. McDonogh-Randallstown
695 & Liberty Road	–	–	–	–	Commercial encroachment on residential areas	–	–	10. Milford-Hebbville
695 & Liberty Road	–	–	Potential decline of existing commercial areas	–	–	–	–	11 Woodmoor-Woodlawn
695 & Liberty Road	Stations on Northwest rapid rail line	–	–	–	–	–	–	12. Lochearn
695 & Reisterstown Road	Stations on Northwest rapid rail line	–	Potential decline of existing commercial areas	–	–	–	–	13. Pikesville
695 & Reisterstown Road	–	–	–	–	Commercial encroachment on residential areas	–	–	14. Garrison

BALTIMORE COUNTY POLICE DEPARTMENT DEC 11 1981
INTRA-DEPARTMENT CORRESPONDENCE

DATE: December 9, 1981
TO: Lieutenant Richard Engle, Central Records
ATTENTION:

FROM: Officer Henry E. Hess, Traffic Headquarters
SUBJECT: Statistical Survey - Old Court 1977 thru 1981
Copies Sent To:

1977 Old Court Road & Reisterstown Road

PD	PI	F	CODE	TIME	DATE	CC NUMBER
X			70	1000 hrs	01/09/77	5079
X			70	0900 hrs	02/09/77	5072
X			13	0900 hrs	02/24/77	20379
X			09	0200 hrs	03/27/77	54594
X			16	1300 hrs	04/02/77	59486
	X		08	0800 hrs	05/25/77	99695
	X		13	1200 hrs	06/17/77	117299
	X		03	1300 hrs	06/25/77	124624
X			92	1400 hrs	07/30/77	152162
X			13	1500 hrs	11/15/77	235877
	X		13	1500 hrs	12/18/77	258814
	X		90	1700 hrs	12/05/77	249953

1977 Old Court Road & Greenwood Road

PD	PI	F	CODE	TIME	DATE	CC NUMBER
X			93	2000 hrs	12/01/77	247028
	X		13	1200 hrs	12/17/77	257818
X			20	1500 hrs	09/01/77	178269
X			10	0300 hrs	05/24/77	195659
X			20	1700 hrs	06/27/77	125822
	X		13	1400 hrs	02/20/77	30383

1977 Old Court Road & Beltway

Nothing

1978 Old Court Road & Reisterstown Road

PD	PI	F	CODE	TIME	DATE	CC NUMBER
X			13	1600 hrs	12/11/78	534834
	X		09	1700 hrs	10/31/78	502280
	X		13	1000 hrs	10/20/78	493073
X			13	1000 hrs	10/04/78	480887
X			20	0700 hrs	10/13/78	487472
X			02	2200 hrs	07/22/78	420619
X			13	1100 hrs	08/01/78	428299

FORM 12L REV 11.15.76

Statistical Survey - Old Court; Period 1977 thru 1981 Con't Page #2

1978 Old Court Road & Reisterstown Road

PD	PI	F	Code	Time	Date	CC Number
	X		20	0800 hrs	08/01/78	428202
X			13	1700 hrs	05/24/78	370507
	X		13	1700 hrs	04/19/78	344276
	X		10	1900 hrs	03/10/78	315314
X			13	0900 hrs	01/25/78	285147

1978 Old Court Road & GReenwood Road

X			02	1200 hrs	12/16/78	538628
X			20	1600 hrs	12/12/78	547919
	X		20	0800 hrs	11/06/78	507497
X			02	2000 hrs	10/15/78	489913
	X		14	1800 hrs	09/22/78	471776
	X		13	2100 hrs	08/31/78	453-669
	X		20	0200 hrs	08/05/78	431506
X			91	1600 hrs	08/29/78	451673
X			12	1200 hrs	02/16/78	300618
X			13	1300 hrs	02/20/78	303451
	X		70	1700 hrs	01/01/78	268425

1978 Old Court Road & Beltway

Nothing

1979 Old Court Road & Reisterstown Road

X			13	1400 hrs	12/13/79	821745
	X		13	1700 hrs	10/31/79	795328
X			20	0800 hrs	09/27/79	745819
	X		13	1600 hrs	08/18/79	729381
X			20	2100 hrs	05/29/79	662500
	X		14	1800 hrs	04/27/79	636888
X			20	1100 hrs	03/25/79	612576
X			20	1300 hrs	03/02/79	593314
X			92	2200 hrs	02/02/79	573997

1979 Old Court Road & Greenwood Road

X			12	1900 hrs	11/24/79	809154
X			02	0700 hrs	11/26/79	810172
X			03	0800 hrs	09/14/79	751575

Statistical Survey - Old Court Road; Period 1977 thru 1981 Con't Page #3

1979 Old Court Road & Greenwood Road

PD	PI	F	Code	Time	Date	CC Number
	X		92	2100 hrs	09/21/79	757868
X			07	1400 hrs	09/09/79	747910
	X		03	2000 hrs	08/09/79	722660
	X		14	0700 hrs	02/15/79	583258
	X		14	2300 hrs	01/19/79	564119

1979 Old Court Road & Beltway

Nothing

1980 Old Court Road & Reisterstown Road

X			06	2100 hrs	12/03/80	127242
	X		13	1300 hrs	11/10/80	110549
	X		13	1900 hrs	10/25/80	98155
X			20	0800 hrs	04/14/80	903934
X			03	0900 hrs	01/05/80	837534
X			20	1100 hrs	01/22/80	843536

1980 Old Court Road & Greenwood Road

	X		10	0100 hrs	12/29/80	146590
	X		10	1400 hrs	12/24/80	143573
	X		20	2300 hrs	11/12/80	112190
X			13	1900 hrs	07/22/80	188550
	X		02	1800 hrs	05/25/80	935278
	X		21	0200 hrs	05/24/80	933792
	X		02	0800 hrs	02/04/80	856795
X			02	1800 hrs	12/24/79	829870
X			02	1100 hrs	01/04/80	836752
X			20	hrs	01/17/80	847205

1980 Old Court Road & Beltway

X			20	1900 hrs	10/25/80	97906

1981 Old Court Road & Reisterstown Road

X			14	1400 hrs	09/18/81	363704

Statistical Survey - Old Court Road; Period 1977 thru 1981 Con't Page #4

1981 Old Court Road & Reisterstown Road

PD	PI	F	Code	Time	Date	CC NUmber
X			12	0200 hrs	04/25/81	235735
	X		10	2200 hrs	05/16/81	254591

1981 Old Court Road & Greenwood Road

	X		10	0800 hrs	09/17/81	362751
X			03	0700 hrs	04/23/81	235019
X			70	2100 hrs	01/16/81	159330

1981 Old Court Road & Beltway

	X		20	2300 hrs	03/05/81	196481
X			70	2200 hrs	03/05/81	196486

1981 statistics do not cover anything pass September.

Respectfully submitted,
Officer Henry E. Hess

Primary/Secondary Cause Coding

DRIVER RELATED

01 - Exceeding Posted Speed Limit
02 - Fail to Reduce Speed
03 - Speed too Great for Conditions
04 - Other Speeds
05 - Fail to Obey Stop Sight
06 - Fail to Obey Traffic Signal
07 - Fail to Obey Other Traffic Control
08 - Improper Passing
09 - Improper Turns
10 - Fail to Keep Right of Center
11 - Fail to Drive in Designated Lane
12 - Fail to Drive Within a Single Lane
13 - Fail to Yield Right of Way
14 - Following too Close
15 - Backing in Roadway
16 - Stopped on Roadway
17 - Driving Wrong Way on One Way
18 - Impeding Traffic
19 - School Bus Law
20 - Negligent Driving
21 - Use of Alcohol
22 - Use of Drugs

(continued)

23 - Leaving Vehicle Improperly Unattended
24 - Transporting Hazardous Substances w/o Required or Inadequate Safety Devices or Precautions.
25 - Blinded by Approaching Vehicle
26 - Drowsy or Asleep
27 - Physical or Mental Disability

VEHICLE RELATED

50 - Defective Vehicle Equipment
51 - Struck by Object from Moving Vehicle
52 - Fire

ENVIRONMENT RELATED

70 - Weather Elements
71 - Road Defects
72 - Parking Violations
73 - Animal - Wildlife
74 - Animal - Domestic
75 - Foreign Object or Substance on Roadway

MISCELLANEOUS

90 - Pedestrian at Fault
91 - Pedalcyclist at Fault
92 - Other Cause (other violations)
93 - Other Cause (no violation)
94 - Cause Unknown
95 - No Contributing Cause

SOIL SURVEY

Baltimore County Maryland

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service
In cooperation with
MARYLAND AGRICULTURAL EXPERIMENT STATION

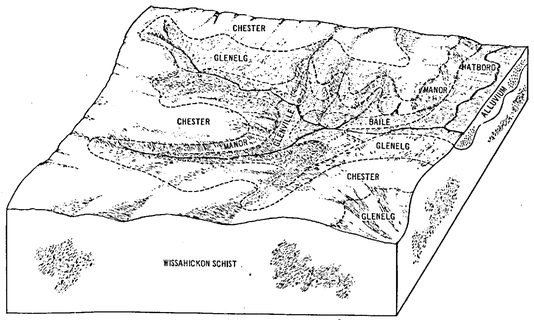


Figure 2.—Cross section showing typical soil pattern in the Chester-Glenelg association.

ed uplands. The soils dominantly are gently slop- to moderately steep, and relatively few soils slope more than about 20 percent. Most soils are moderately eroded, but in a few areas they are severely eroded. Most of the acreage is cultivated and the rest is wooded.

This association occupies about 11 percent of the county. Chester soils make up about 60 percent of this association, Glenelg soils about 10 percent, and minor soils about 30 percent.

Chester soils are deep and well drained. They have a surface layer of brown or dark-brown silt loam and a subsoil of dark yellowish-brown and strong-brown silty clay loam. These soils are underlain by soft, decomposed mica schist, which grades to hard rock at a depth of between 5 and 10 feet.

Glenelg soils are deep and well drained. They have a surface layer of dark yellowish-brown loam and a subsoil that is commonly strong-brown and yellowish-red silty clay loam and clay loam. Their subsoil is not so thick as that of Chester soils. The Glenelg soils are underlain by soft, decomposed mica schist, which grades to hard rock at a depth of between 5 and 10 feet. The content of fine gravel is greater in Glenelg soils than in Chester soils, and Glenelg soils generally are less gently sloping.

Minor soils in this association are in the Baile, Colorus, Glenville, Hatboro, and Manor series. These soils are mapped in small areas within areas of major soils, and they do not appreciably affect the general use of the association. Baile and Glenville soils are in draws and around heads of drainageways. Colorus and Hatboro soils are on flood plains. Manor soils are on uplands and are gently sloping to steep.

Dairy farming is the major enterprise on soils in the northern part of this association. Breeding horses and beef cattle are of major importance in other areas. The chief crops are hay, pasture plants, and feed grain. Residential areas are prominent near the city of Baltimore. Soils in this association have few limitations except those caused by the hazard of erosion on some of the steeper soils.

2. Manor-Glenelg Association

Gently sloping to very steep, deep, well-drained and somewhat excessively drained soils that have a subsoil of loam to light silty clay loam; underlain by acid crystalline rock; on uplands

This association is mostly in parts of the county that are north or west of the city of Baltimore. The soils range from gently sloping on some ridgetops to very steep in areas bordering some deep ravines. Most areas are moderately eroded, but nearly 25 percent of the association is severely eroded. About 6 percent of the association is very stony. Large areas are in farms that are fairly well managed to well managed. A large part of the association is wooded, especially in steep and in stony areas.

Form CA2

Joel Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Ercolano — 494-2662
Masters Assignment Clerk
Medical Records

TO: **Julius W. Lichter, Esq.**
Gordon, Feinblatt, Rothenberg, & Hollander
County 24, of Appeals Box Balto. County
John W. Lewelen, III, Esq.
Peter Max Zimmerman, Esq.

RE: **IN - 82 M 275 - IN THE MATTER OF THE PETITION OF JERRY S. ALPERSTEIN ET AL**

HEARING DATE: **Wednesday, April 13, 1983, @ 9:30 a.m.**
ON THE FOLLOWING: **Appeals 4 hours**
Notes Corrected notice.

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
January 25, 1983.

Kathy Buhrton — 494-2660
Assignment — Jury — Motions
Marcia Fennell
Assistant Clerk Typist

Irene Summers — 494-2661
Assignment — Non-Jury — Motions
Freddie Grove
Assistant Clerk Typist

RECEIVED
BALTIMORE COUNTY
JAN 26 9 29 AM '83
CIRCUIT COURT

BY: _____

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

POSTPONEMENTS: If the above date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Germin — 494-3697.

SETTLEMENT CONFERENCES: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including adjusters and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the Attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

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

No. 85117

ORE, MARYLAND 21201 (301) 525-3093

DATE 2/9/83 ACCOUNT 01.712

AMOUNT $5.00

SCHOOL OF LAW

RECEIVED FROM Alfred A. Porro, Jr., University of Baltimore, Charles at Mt. Royal (21201) 3

FOR copy of the Alperstein opinion and copy of appeal

B B119******$00:a 310SF

VALIDATION OR SIGNATURE OF CASHIER

County Board of Appeals
Room 200
Court House
Towson, Maryland 21204

Attention: Edith T. Eisenhart

Dear Sir:

Please send a copy of the Alperstein opinion and copy of the appeal.

A check for $5.00 is enclosed.

Thank you.

Sincerely,

Alfred Porro

Alfred A. Porro, Jr.

AAP:cvp

Enclosure

BALTIMORE COUNTY MASTER PLAN 1979-1990

land use element 1

The idea of control of growth is, of course, central to growth management. At present, the County does not have a formalized population growth policy.

Projections of likely future population have been made by the Growth Management consultants.

During the Growth Management studies, it has been determined that:

County-wide population capacity is not an issue in formulating a population growth policy for the County because the undeveloped part of the County is so large and projected growth is relatively modest;

Considerations of equity suggest that projected population should be accommodated;

The rate and location of population growth will be subject to policy influence by the rate and locations at which the County provides public services, grants zoning changes, and encourages or discourages investment;

Certain areas of the County are particularly well suited for development by their location in relation to major transportation links and utility extensions and by environmental and community structural conditions to development, while other areas are less well-suited, and in some cases require specific preservation measures to limit development.

Based upon these findings, as detailed in the Technical Memoranda setting out Growth Management Background Studies, it is recommended that:

Population increase and development be encouraged in areas of the County identified during the Growth Management Program as well-suited for development, by means of a variety of incentives;

Population increase and development be reduced in areas of the County identified during the Growth Management Program as unsuited for more than very limited development, by means of a variety of disincentives.[1]

Provisions be made, County-wide, for projected levels of population growth but at a rate and in a manner consistent with the objectives of the Growth Management Program.[2]

[1] Wallace, McHarg, Roberts and Todd, Baltimore County Growth Management Program Technical Memorandum No. 16, Policy Options Summary, November 1978, page 3.

[2] Robert H. Freilich, Legal and Planning Requirements for Implementation of a Growth Management Plan in Baltimore County, Maryland, July, 1976.

I. REGIONAL SETTING

While the responsibility for determining Baltimore County's land-use pattern and other major growth management policies is clearly by law the County's responsibility, and is widely agreed to be best held by "people who are politically accountable to the citizens who must live with these policies"[1], current and proposed State and Federal legislation and regulations point to the necessity for increased cooperation between local governments and the State and Federal governments and among neighboring jurisdictions in making future land-use decisions, particularly as they affect natural resources, and major utility and transportation systems.

The County is empowered by State statute to prepare and adopt plans, ordinances, and regulations governing land use, but the State and the Region have some influence on the manner in which land is developed in the County. The State has the greater potential power, in that the power of land use control is delegated by the State to its component jurisdictions. In addition, the State has potential control of some land uses through Critical Areas legislation, Coastal Wetlands legislation, and Surface Mining and similar legislation. Finally, both the State and the Regional Planning Council have the power and responsibility of A-95 review of all applications by the County for Federal assistance to assure that these applications "shall be consistent with and further the objectives of State, Regional, and Local comprehensive planning."[2]

A. THE REGIONAL GENERAL DEVELOPMENT PLAN

The Baltimore Regional Planning Council, in the draft General Development Plan published in late 1977, defined three alternative development patterns for the region.

Alternative regional development patterns considered in the Regional General Development Plan include:

- a centralized development pattern;
- a trend development pattern; and
- a decentralized development pattern.

The centralized regional development pattern was selected by the Regional Planning Council on the basis of a comparison of anticipated impacts of each of the alternatives.

[1] Brussat, W.K., "A-95 Review System: Can Be an Asset", ed. Scott, R.W., and Brower, D.J., Miner, D.D., Management and Control of Growth, Vol. III (Washington D.C., The Urban Land Institute, 1975).

[2] Title IV of the Intergovernmental Cooperation Act of 1968, Section 401(c).

Excerpts from the Regional General Development Plan describe the centralized regional development pattern as follows:

"The centralized development pattern would reverse recent trends toward decentralization. It emphasizes enhancement, renewal, and revitalization of existing communities. The growth of MetroCenter and nearby employment centers is emphasized more than under the trend alternative. Scattered growth in the rural countryside is virtually halted, and nearly all new development is contained within the planned 10-year service areas.

Development is compact, densities higher, and less residential land is consumed. Baltimore receives a greater share of the region's household and employment growth while the counties receive correspondingly less growth. Major growth centers receive more growth. A corollary to this scenario, however, is that communities are improved as they absorb growth. In this way, well-planned growth, coupled with adequate open space and other community amenities, will result in attractive communities for the future."[1]

The General Development Plan states that, when compared with the decentralized alternative, it was found that the centralized development pattern will:

"Reduce potential septic system failures in new residential subdivisions by 98%.

"Reduce the aggregate stormwater pollutant burden for new residential development by about one-half.

"Reduce the space heating requirements of new residential units by 25%.

"Reduce motor vehicle fuel consumption by traffic due to new growth by 17%."

"Save a cumulative total of about 30 trillion BTU's of energy over the next ten years for residential space heating of newly constructed units and motor vehicle fuel requirements.

"Reduce the aggregate air pollutant emission burden from residential space heating of newly constructed units by 24%.

"Reduce motor vehicle air pollutant emissions attributable to new growth by 10-18%.

"Reduce total residential land requirements of newly constructed units by 62% and reduce land requirements outside the planned 10 year service area by 75% and by 42% inside the service area. Reduce farmland losses by 76%.

"Reduce forest losses by 65%.

[1] Baltimore Regional Planning Council, General Development Plan for the Baltimore Region, Baltimore, Maryland, 1977, p.2-2.

"Reduce transportation costs for solid waste collection and haulings.

"Result in fewer ground water withdrawals by individuals by individual wells in newly constructed residential subdivisions and less discharges of effluent into ground water from septic systems and seepage pits.

"Increase public transit patronage.

"Reduce traffic as measured in vehicle-miles-of-travel (VMT).

"Reduce highway congestion for most locations in the region.

"Reduce the demand for new public school construction and reduce the pupil transportation costs attributable to new residential growth by 38%.

"Provide more affordable new housing"[1].

After a series of public hearings, the General Development Plan was adopted in December 1977. Changes from the draft were largely minor road changes. The only major change was deletion of a proposed oil refinery in the City of Baltimore, near Anne Arundel County. No changes were made that directly affect Baltimore County.[2]

The proposed development pattern shows the areas of Whitemarsh and Owings Mills staged in general conformance to the County Growth Management Plan.

The adopted Regional General Development Plan summarizes the policy criteria used in A-95 review by the Planning Council of all major local projects requiring Federal funding. It is therefore beneficial to Baltimore County that this General Development Plan support and confirm the County's proposed development staging and the major transportation improvements that can make this development staging work.

B. THE STATE LAND USE ELEMENT

The State of Maryland Planning Agency is presently in the process of developing a State-wide plan. Interviews with staff members outlined the following alternative land use patterns under consideration in the Land Use Element.[3]

The State Land Use Element, which is based on State Year 2000 population projections, examines four alternative land use patterns applicable to urban, suburban and rural development throughout the State as well as to Baltimore County, in addition to a trend-line projection:

[1] Ibid., p. 2-3.

[2] Telephone Interview with James Rose, Regional Planning Council, January, 1979.

[3] Telephone Interview with Marie Halka, August 1977, and meeting with State Planning Agency Staff, Stoney Fraley and Marie Halka, December 1977.

centers and centers for the elderly would be best suited for location within Town and Community Centers, particularly where located at or near a mass transit station or stop. Bonuses might be structured in the zoning overlay process in return for provision of sites by the developer within the center to community service agencies for specific community service centers required within the area serviced by the center.

B. EXISTING COMMUNITIES

Existing Communities include all areas of the County that are largely urbanized at present, excepting urbanized areas within Town and Community Centers.

These areas are defined on the basis of existing land use, with specific boundaries delineated using major natural or man-made barriers such as rivers or limited access highways or boundaries of existing zoning districts that correspond to the edges of existing development areas.

Recommended County Goals for Existing Communities are:

To limit the pace of development in communities in which existing community service and public facilities are presently substantially inadequate;

To improve community services and facilities in existing communities where these services and facilities are presently inadequate;

To preserve and strengthen the character and identity of existing communities, and to assure that new development in existing communities takes a form that is compatible with the present character of these communities; and

To encourage residential and other development or redevelopment where appropriate to existing community conditions.

To achieve these goals, it is recommended that the County adopt a overlay district applicable to these areas, requiring that any new residential development of more than four dwelling units and any major non-residential development be subject to a special Development Evaluation Review, taking into account:

Negotiation of phasing within proposed developments to correspond to a planned schedule of improvements in the area;

An analysis of the relationship of the proposed development to the surrounding community;

An evaluation of additional demands projected to be placed upon existing utility and transportation facilities and community services in the area as against the present adequacy of these facilities and services.

III. GROWTH AND PRESERVATION STRATEGIES

The Growth Management Technical Memoranda documenting the background studies prepared during the research and analysis stages of the Growth Management Program identify an encylopedic list of facts that are of concern to future growth of the County, and of means of responding to these specific concerns.

In this Land Use Element of the Growth Management Physical Development Plan, growth strategies are described to address those factors that significantly affect the use of the land as growth occurs, and that are not either subsets of other factors or best addressed on a site-by-site basis during development review.

The factors considered here are those factors that have such a significant scale of impact that they require a large scale rather than an incremental response on the part of the County. Several examples will serve to illustrate this distinction.

In the area of natural resource protection, woodlands and wildlife habitats are certainly of critical concern. Because of the very high correlation with other natural protection factors, however, they are recommended to be treated as functional subsets of stream valleys, wetlands, the intertidal bayfront, and the drainage areas of the reservoir.

Another natural resource protection issue, steep slopes, occurs extensively throughout the entire County and is suitably addressed incrementally in the development review process, rather than as a basis for determining use suitabilities at a large scale.

The growth factors that have been identified as affecting land use at a scale that requires a specific growth strategy are grouped for the purposes of the plan into five categories:

1. Development Staging;
2. Natural Resource Protection;
3. Special Development Opportunities;
4. Special Reinforcement Needs; and
5. Land Use Conflict Resolution.

This chapter enumerates the factors within each of these categories, the growth strategy to address each factor, and the growth areas within which each growth strategy is applicable.

The description of these growth strategies is followed by a description of data collection and management tasks necessary to permit effective implementation of these growth management strategies.

GROWTH AND PRESERVATION STRATEGIES BY GROWTH AREA

Growth Strategies	Growth Areas: Town and Community Centers	Existing Communities	Fringe Development Areas	New Development Areas	Rural and Agricultural Areas
Development Staging and Timing:					
Accelerated Growth (unstaged)	X	–	–	–	–
Staged Accelerated Growth	–	–	–	X	–
Moderated Growth	–	X	X	–	X
Natural Resource Protection:					
Agricultural Preservation	–	–	–	X	X
Groundwater Protection	X	X	X	X	X
Protection of Stream Valleys, Flood-Prone Areas, Wetlands, and Reservoirs	X	X	X	X	X
Chesapeake Bay, Coastal Wetlands, and Intertidal Area Protection	X	X	X	–	–
Air Quality Protection	X	X	X	X	–
Special Development Opportunities:					
Highway Interchanges	X	X	X	X	–
Mass Transit Stations	X	X	X	X	–
Special Reinforcement or Redevelopment:					
Improvement of Community Services to Existing Development	X	X	X	–	–
Reinforcement or Redevelopment of Older Commercial Areas	X	X	–	–	–
Housing Rehabilitation	–	X	X	X	X
Land Use Conflict Resolution:					
Commerce and Residential Neighborhoods	–	X	X	–	–
Manufacturing and Residential Neighborhoods	–	X	X	–	X
Quarrying and Agriculture or Residential Neighborhoods	–	–	X	X	X

performance standards by employing the best available control technology, the new facility will not be fully controlled, and therefore, there must be a reduction in pollution emissions from another source in the area. The mechanism for accomplishing this will most probably be a permit and review process, the details of which have to be worked out.

To solve this problem as it affects major development in the southeastern and southwestern protions of the County, the County should consider working with EPA and the State to establish development or redevelopment strategy incorporating one or more of the following incentives:

Emissions fees, which would involve a charge to sources according to the amount of emissions. This would serve as inducement to a source of lower emissions.

Emissions density zoning, which could classify land areas by the amount of pollutant that could be emitted; thus the source could purchase "air rights" to enough land to cover its emissions.

3. SPECIAL DEVELOPMENT OPPORTUNITIES

Major Special Development Opportunity Strategies are designed to address opportunities that occur at:

a. Highway Interchanges; and

b. Mass Transit Stations.

Major highway interchanges and mass transit stations exist or are planned on lands categorized in all types of growth areas except Rural and Agricultural Areas.

a. Special Development Strategy for Lands at Highway Interchanges

While all of the access points to the major limited access highways which traverse the County, linking the County and the region with other major urban areas, provide opportunities for high intensity development on the lands immediately nearby, lands near interchanges of two such highways, or of a limited access highway and one of the County's major radial arterials, are especially well-suited for such development and should be treated as a valuable County resource.

All remaining vacant lands within a half-mile radius of those interchanges should be considered for zoning that permits only manufacturing, office and related uses.

Protection of these lands by means of industrial zoning will not only put the County in a very positive competitive stance for attracting high quality industry, but will also serve as a buffer between the noise and other abrasive features of the highways, and residential and commercial areas.

b. Special Development Strategy for Lands as Mass Transit Stations

The recently published TSADAS study presented detailed recommendations for development of the lands adjacent to the stations on the Northwestern rail mass transit line in the County. Similar detailed studies should be prepared for the station sites along all of the County's proposed rail mass transit lines.

These plans must be supported by three types of actions by the County:

Aggressive efforts to assure that, at a minimum, priority rail mass transit lines are funded and constructed in the County;

Adoption of amended zoning patterns designed to limit the dispersal of development best suited for location near mass transit stations in the Fringe Development Area and to permit and encourage this development at and near mass transit station sites; and

Investment in public improvements near transit station sites, such as improved access that will serve as further inducements to higher intensity development.

4. SPECIAL REINFORCEMENT OR REDEVELOPMENT

Major Special Reinforcement or Redevelopment Strategies include:

a. Improvement of Community Services to Existing Development;

b. Reinforcement or Redevelopment of Older Commercial Areas; and

c. Housing Rehabilitation.

The factors and conditions that these strategies are designed to address occur throughout all five of the types of Growth Areas identified in the preceding chapter, although particular conditions are more prevalent in certain types of areas.

The need for reinforcement or redevelopment of older commercial areas occurs in Town and Community Centers and Existing Community Growth Areas. Clear evidences of a need for improvement in community services to existing development occurs in Town and Community Centers, Existing Community Growth Areas, and Fringe Development Areas. Housing Rehabilitation Needs cross the boundaries of all of the Growth Area Types, except Town and Community Centers.

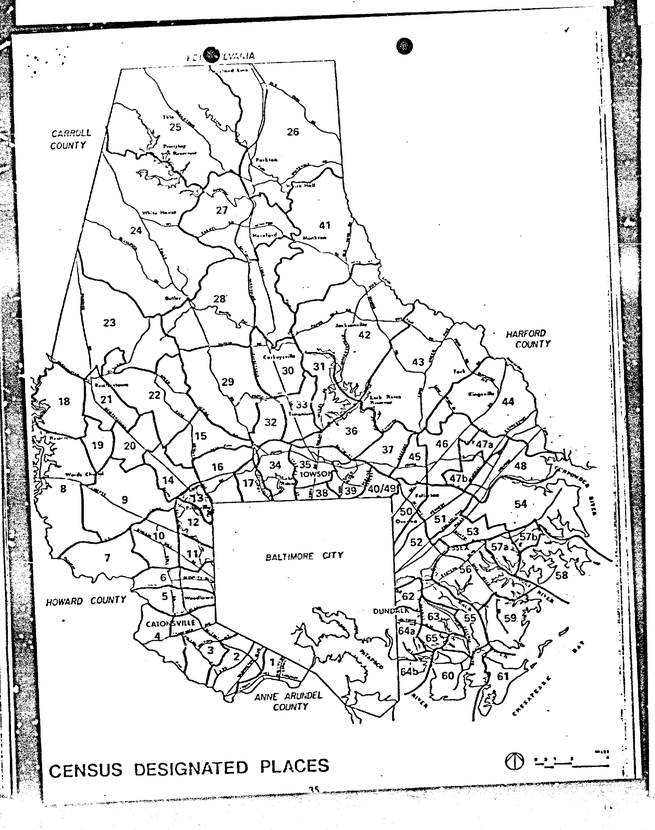
a. Improvement of Community Services to Existing Development

To achieve improvement of community service to existing development, several County actions are recommended.

First, it is recommended that a specific proportion of each County Capital Improvement budget be allocated for improvement of community

BALTIMORE COUNTY COMMUNITIES: CENSUS DESIGNATED PLACES, 1980

1. Lansdowne-Baltimore Highlands
2. Arbutus-Halethorpe
3. Catonsville
4. Oella-Thistle
5. Westview
6. Security
7. Granite
8. Ward's Chapel-Hernwood
9. McDonogh-Randallstown
10. Milford-Hebbville
11. Woodmoor-Woodlawn
12. Lochearn
13. Pikesville
14. Garrison
15. Greenspring
16. Stevenson-Dumbarton
17. Rockland-Mt. Washington
18. Gore's Mill
19. Sunnybrook
20. Owings Mills
21. Reisterstown
22. Emory Grove-Worthington
23. Fowblesburg-Dover
24. Beckleysville-Arcadia
25. Middletown
26. Maryland Line-Parkton
27. Hereford
28. Western Run-Sparks
29. Oregon Ridge
30. Cockeysville
31. Pot Spring
32. May's Chapel-Seminary
33. Lutherville-Timonium
34. Ruxton
35. Towson
36. Hampton
37. Cub Hill-Joppa Heights
38. Rodgers Forge-Stoneleigh
39. Loch Raven-Hillendale
40. / 49. Parkville
41. Monkton
42. Jacksonville
43. Fork-Glenarm
44. Kingsville
45. Carney
46. Perry Hall
47a. Germantown-Honeygo
47b. Whitemarsh
48. Lorely
50. Fullerton-Overlea
51. Rossville
52. Rosedale-Golden Ring
53. Aero-Victory
54. Bird River-Chase
55. North Point
56. Essex
57a. Middle River
57b. Upper Bowleys Quarters
58. Seneca Park-Bowleys Quarters
59. Back River
60. Edgemere
61. Lodge Forest-Millers Island
62. Eastpoint-Colgate
63. Bear Creek
64a. Dundalk
64b. Turners Station
65. Inverness



CENSUS DESIGNATED PLACES

GROWTH STRATEGIES BY COMMUNITY

Communities	Development Staging and Timing: Accelerated Growth (Unstaged)	Staged Accelerated Growth	Moderated Growth	Natural Resource Protection: Agricultural Preservation	Groundwater Protection	Protection of Stream Valleys, Flood-Prone Areas, Wetlands and Reservoirs	Protection of Chesapeake Bay, Coastal Wetlands, and Intertidal Areas	Air Quality Protections
8. Ward's Chapel-Hernwood	–		Until 1990	Until 1990	–	Liberty Reservoir & tributaries to the Patapsco	–	–
9. McDonogh-Randallstown	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
10. Milford-Hebbville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
11. Woodmoor-Woodlawn	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
12. Lochearn	–	–	Until 1990	–	–	Patapsco & tributaries	–	–
13. Pikesville	Reinforce Community Commercial Center	–	Until 1990	–	–	Patapsco & tributaries	–	–
14. Garrison	–	–	After 1985, Owings Mills New Development Area	Until 1985 in New Development Area; until 1990 elsewhere	–	Patapsco & tributaries	–	–

GROWTH STRATEGIES BY COMMUNITY

Special Development Opportunities		Special Reinforcement or Redevelopment			Land Use Conflict Resolution			
Highway Interchanges	Mass Transit Stations	Improvement of Community Services to Existing Development	Reinforcement or Redevelopment of Older Commercial Areas	Housing Rehabilitation	Commerce and Residential Neighborhoods	Manufacturing and Residential Neighborhoods	Quarrying and Agriculture or Residential Neighborhoods	Communities
–	–	–	–	5% of housing in need of external repair 1977-1978	Local concern with extension of commercial zoning	–	Active quarrying operation	8. Ward's Chapel-Hernwood
–	–	–	–	–	Commercial encroachment on residential areas	–	–	9. McDonogh-Randallstown
695 & Liberty Road	–	–	–	–	Commercial encroachment on residential areas	–	–	10. Milford-Hebbville
695 & Liberty Road	–	–	Potential decline of existing commercial areas	–	–	–	–	11. Woodmoor-Woodlawn
695 & Liberty Road	Stations on Northwest rapid rail line	–	–	–	–	–	–	12. Lochearn
695 & Reisterstown Road	Stations on Northwest rapid rail line	–	Potential decline of existing commercial areas	–	–	–	–	13. Pikesville
695 & Reisterstown Road	–	–	–	–	Commercial encroachment on residential areas	–	–	14. Garrison

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

transportation element

2

The provision of transportation facilities should precede and guide (or be coordinated with) land development.

Transportation facilities should be planned and designed to be in harmony with the environment. Streets and highways bridges, and transit service lines and stations should contribute to a net reduction of air pollution as well as to an increase in the efficiency of fuel use. Noise and dust produced by the construction or operation of these facilities should be tightly controlled. Every effort should be made to preserve the integrity of historic structures and districts, of prehistoric archeologic sites, and of critical environmental areas when planning, designing, and constructing transportation facilities.

Transportation-related energy consumption should be reduced by discouraging inefficient tripmaking and reducing vehicle miles traveled (V.M.T.) through provision and promotion of energy-efficient alternatives to the private automobile. Incentives should be provided to encourage increased patronage of mass transit, high occupancy vehicles, and ride-sharing facilities. Disincentives should be implemented to discourage the use of large, inefficient automobiles.

Baltimore County should do its part to assure adequate and rational transit service for its citizens.

The movement of goods should be facilitated through: (1) an improvement program for rail, truck, and trans-shipment facilities; and (2) small area planning directed toward the reduction of conflicts between truck and automobile traffic.

Designated growth areas and town centers should be served by fixed guideway transit service (i.e., rail rapid, light rail, busways) to reduce dependence on automobile travel. Higher density development should be encouraged in areas served by adequate mass transit service.

Detailed access and land development impact studies should be conducted for areas designated as future station locations for fixed guideway transit service. A comprehensive development plan needs to be prepared for each transit station area. The analysis of development potential, including consideration of joint development schemes, should identify protection areas and inducement strategies designed to encourage the desired level and type of development in these impact areas.

Major arterial highways should be designed for controlled access to maximize traffic movement while minimizing land service.

Standards for residential subdivision roadways should be modified to limit design of local streets to dimensions required to satisfy circulation demand only. Driveways or other off-street parking facilities must be provided in new subdivisions.

The County's Road Rating Program should be expanded to a permanent and continuous monitoring system. This road rating system should be employed to assist in decisions on highway maintenance, capital improvement programming, and the rating of traffic service and safety adequacy required for the determination

BALTIMORE COUNTY MASTER PLAN 1979 - 1990

community services

5

MEANS OF COORDINATION IN PLANNING AND PROVISION OF COMMUNITY SERVICES

The primary means for coordination among plans of County agencies, other than review by the Department of Planning, which review is not clearly mandated, is the annual review of agency capital budgets and capital improvements programs by the offices of the Budget and the County Executive.

Policy decisions within the public school system are made by an autonomous Board of Education, appointed by the State. Cooperation with the County Government results from the Board's reliance on County tax revenues for their operating budget. Before 1971, capital improvement funds were obtained from the County; since 1971, the majority of capital improvement funds have come from the State. School facilities planning is carried out by the Division of Physical Facilities. Curriculum planning is carried out in a coordinated effort by teachers, supervisors, and administrators.

The major concern of the Baltimore County School System is decreasing enrollment, requiring a reduction in total numbers of schools and staff and a reallocation of resources to serve future population shifts.

The Baltimore County Public Library is under the supervision of a Director and a Board of Library Trustees. The Library does its own planning, evaluates its own needs, and sets priorities for implementing objectives given different budget levels.

Major concerns of the Baltimore County Library are to identify underserved segments of the population and to restructure libraries to accommodate shifts in population.

The Baltimore County Department of Recreation and Parks coordinates its planning efforts with the Board of Education, the Department of Planning and Zoning and local Community Recreation Councils. General policies and the overall direction of the Department are the responsibility of the Director and the Board of Recreation and Parks.

The major concerns of the Department of Recreation and Parks are to improve cost-effectiveness in maintenance, to obtain additional space for administrative staff, recreation leaders and maintenance personnel, and to determine future development patterns so that improvements to serve shifting population can be programmed.

The Baltimore County Police Department relied until 1970 on the Department of Planning and Zoning for much of its future planning. Since 1971, however, the police have built a sophisticated statistical analysis system which is used in all police planning efforts.

A primary concern for the Police Department is to obtain a generally agreed upon set of population projections to use for long range planning purposes.

The Baltimore County Fire Department has recently established a two phase planning program. The first planning program is the development of pre-fire planning, and the second phase is the development of a sufficient statistical base to evaluate the pattern of future fire protection.

PIKESVILLE REVITALIZATION GROWTH PLAN

1

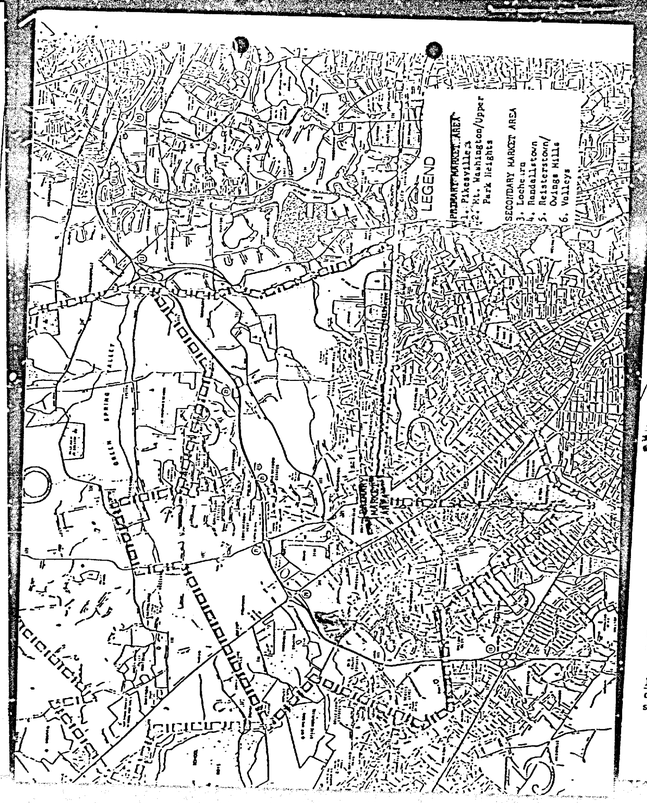
PART: BACKGROUND ANALYSIS

Prepared For:

Baltimore County Administative Office
Baltimore County Office of Planning and Zoning
Pikesville Revitalization Task Force

Prepared By:

James L. Frost Associates



I-B PHYSICAL CONDITIONS

Introduction, Urban Design Analysis:

Formulation of recommendations for the Pikesville Revitalization Program necessarily begin with a review of existing conditions and the factors influencing development. In addition to specialized areas of study including market conditions, parking and traffic, the environment is generally within the purview of the urban design Consultant. In bringing together the studies submitted by specialists in these related fields, the urban design process includes evaluation of the built environment, public policy, citizen concerns, economic constraints and physical factors influencing the opportunities promulgated for the future.

The urban design recommendations for Pikesville are contained in Part II of this report. The basis on which these recommendations are formulated are summarized in Part I. The urban design analysis includes:

Land use and zoning
Buildings and environmental conditions
Opportunity sites

Land Use And Zoning:

Within the Pikesville Revitalization Program area, existing land use and the zoning classifications currently assigned are in some instances inconsistent. A major recommendation of this study will be to reclassify certain areas. The zoning classification changes are suggested to either more accurately reflect the current uses or to properly anticipate and encourage the type and scale of new development which public policy, street and mass transit improvements reasonable justify.

Existing zoning, and the recommendations for changes to zoning are discussed in Part II, Section A.

With regard to undertaking revitalization programs, Baltimore County does not have all the legal powers normally possessed by local units of government. These powers flow from the state and require legislative action to create. Without the authority to create special redevelopment districts and employ the power of eminant domain for public purpose (in addition to public use) the basic tool for control and enforcement is the Zoning Ordinance. 1/ The Zoning Ordinance is under review and eventually certain revisions applicable to revitalization programs may be adopted. For the immediate interests of Pikesville, the provisions of the existing ordinance are assumed to remain applicable. Zoning classification changes recommended herein are current

Land use types recommended in this report generally reinforce and continue existing land use and are intended to promote stabilization.

1/ Baltimore County Zoning Regulation 1975 Edition.
classifications more directly related to existing or proposed land use in the study area (See Section II A).