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 w[illegible] 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. 3.5 & D.R. 1 zone to an ~~...~~ D.R. 5.5 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:

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

No. 106826

DATE 3/23/82 ACCOUNT 01-662

AMOUNT $50.00

RECEIVED Universal Management
FROM
FOR Filing Fee for Case #R-82-187 (Universal Housing)

[illegible] Baltimore County Code.

Special Exception and/or Variance, and are to be bound by the zoning [illegible]nt to the Zoning Law for Baltimore

[illegible] 50.00 CK

VALIDATION OR SIGNATURE OF CASHIER

[illegible]r(s):

(Type or Print Name) Universal Housing & Development Company

Signature (Type or Print Name) Melvin R. Colvin President

Address

City and State

(Type or Print Name)

Signature

Attorney for Petitioner:

John Martin Jones, Jr. (Type or Print Name)

Signature

Piper & Marbury
1100 Charles Center South
Address 36 S. Charles Street

Baltimore, Maryland
City and State

Attorney's Telephone No.: 539-2530

9901 Langs Road 682-4040
Address Phone No.

Baltimore, Maryland
City and State

Name, address and phone number of legal owner, con[illegible] tract purchaser or representative to be contacted

Leroy Posner
Name

682-4040
Address Phone No.

[illegible] 10:00 AM 6/8/82 CK 50.00 [illegible] 10:00 PM 6/8/82 CK 50.00

BABC--Form 1

RE: PETITION FOR RECLASSIFICATION from D.R. 3.5 and D.R. 1 to D.R. 5.5 Zone
E/S of Paper Mill Rd. (Ashland Ave.) 611.86' from centerline of Ashland Rd., 8th District - Parcel 1
E/S of Paper Mill Rd. (Ashland Ave.) 649.39' W of Int. of Paper Mill Rd. and Ashland Rd., 8th District - Parcel 2
W/S of Paper Mill Rd. (Ashland Ave.) 667.20' W of Int. of Paper Mill Rd. and Ashland Rd., 8th District - Parcel 3
UNIVERSAL HOUSING & DEVELOPMENT CO., Petitioner

: BEFORE THE COUNTY BOARD OF APPEALS
: OF BALTIMORE COUNTY
: Case No. R-82-187 (Item 10, Cycle II)

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 therefor, 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 18th day of March, 1982, a copy of the foregoing Order was mailed to John Martin Jones, Jr., Esquire, Piper and Marbury, 1100 Charles Center South, 36 South Charles Street, Baltimore, Maryland 21201, Attorney for Petitioner.

John W. Hessian, III

RECEIVED [illegible] 18 [illegible]

Universal Housing & Dev. Co. CR82-187
E/s Paper Mill Rd. 611' NW of Ashland
S/s Paper Mill Rd. 649'NW of Ashland
W/s Paper Mill Rd. 667'NW of Ashland

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE

PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 30, 1981

[illegible], Esq., Hayden
[illegible] Charles South
[illegible] Street
[illegible] MD 21201

RE: Item No. 10 - Cycle II
Petitioner - Universal Housing & Dev. Co.
Reclassification Petition

[illegible] petition, comments from the various members of the Baltimore County Zoning Plans Advisory Committee have been received. The Committee has reviewed the plans submitted with the above referenced petition and has made the following comments. Unless otherwise indicated, these comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this petition. If petitioner desires additional information concerning the comments submitted in this report, you are requested to contact the commenting agency or department directly. Please direct all correspondence concerning these comments to the Chairman of this Committee, who will then forward your letter to the appropriate agency or individual for response. Petitioner is to submit a minimum of 15 plans to this office prior to the hearing date. In the event that the petitioner requires special handling of this petition, i.e., a request for postponement or an appeal hearing date within 30 days after the hearing, please notify this office immediately in writing.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

[illegible] that the site plan submitted with this petition [illegible] appears that the proposed [illegible] will be in violation of Bill No. [illegible] the zoning regulations and [illegible] petitioner is to be advised [illegible] petitioner must apply for a [illegible] variance to permit [illegible] and [illegible] residential transition area. Among other things, it [illegible] the table in Section 1801.2.C.6 of the regulations, which establish [illegible]

Item No. 10 - Cycle II
Petitioner - Universal Housing & Dev. Co.
Reclassification Petition

area requirements and setbacks for dwellings in transition areas. It also required that similar type uses would be allowed in a transition area if they had the same or lesser number of dwellings units and party walls as the existing dwelling units. For this reason, the notes and proposed building envelopes, indicating minimum setbacks, etc. in transition on sheet 6 of 6, are not applicable. Also, the proposed townhouses along the west property line must meet the requirements of the aforementioned Bill; i.e., same or lesser number of dwelling units and party walls in the existing dwellings units. Because of changes that must be made to the site plan, I suggest that you and your engineer arrange a meeting with me to discuss this matter.

The environmental impact statement that was required as part of this submission was forwarded to Mr. Paul Solomon of the Planning Office on September 22, 1981. As of this writing, I still have not received a response as to the suitability of this report. In addition now by way of this letter, I am forwarding a copy of your proposal to Mr. Al Barry, Chief of Current Planning for Baltimore City in order to receive any comments he may have.

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 March 1 and March 30, 1982, will be forwarded to you in the future.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: G. W. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Mr. Al Barry, Chief of Current Planning
8th Floor
222 E. Saratoga Street
Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. Paul Solomon Date September 22, 1981

FROM Nicholas B. Commodari

SUBJECT ~~Environmental Impact Statement and Engineering Report~~ ~~Towson Nurseries~~ - Item No. 10

Attached are copies of two reports that have been submitted for the proposed reclassification of the former Towson Nursery Properties now owned by Universal Housing and Development Company.

Please review these reports and submit written comments, if any, by October 12, 1981. If I do not receive an answer by this date, I will assume that you have no comments on these reports.

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

cdo

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

November 30, 1981

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

RE: Item No. 10 - Cycle No. II
Petitioner - Universal Housing & Dev. Co.
Reclassification Petition

Dear Mr. Jones:

Subsequent to my previous comments of October 30, 1981 on the above matter, the enclosed comments from Mr. Paul Solomon of the Planning Office were submitted. Since these comments will be part of the file, I suggest you review them and call Mr. Solomon at 494-3521 if you have any questions.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: G.W. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Mr. Al Barry, Chief of Current Planning
6th Floor
222 E. Saratoga Street
Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Nick Commodari, Zoning Office Date November 25, 1981

FROM Paul J. Solomon

SUBJECT Review of Environmental Assessment

Attached for your consideration based on your earlier request are comments regarding the environmental information provided as part of the petition to rezone the Towson Nursery Property. I am available at you convenience to discuss this report or answer any questions you may have.

PJS/vlc

Attachment

AUG 1 824

LAW OFFICES OF
PIPER & MARBURY
100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

FRANKLIN G. ALLEN
W. CHARLES J. CROCKER
FRANK T. GRAY
ANDRE W. BREWSTER
JOHN MARTIN JONES, JR.
CHARLES T. ALBERT
EDWARD G. CLARKE, JR.
GEORGE W. HESSER
ROGER D. REDDIX
RICHARD D. FERBER
JOHN C. COOPER, III
L. M. SCRIGGINS
ROBERT B. BARNHOUSE
LEWIS A. NOONBERG
JOSEPH S. SHARPE
JOSEPH G. FINNERTY, JR.

OF COUNSEL
WILLIAM L. MARBURY
G. VAN VELSOR WOLF

HENRY R. LORD
ALBERT J. BAIR, III
A. STEPHEN DERBY
PAUL V. NIEMEYER
L. PHILIP MCPHERSON, III
FRANK H. GOLDSTEIN
LAWRENCE M. KATZ
ROBERT S. GLUSHAKOW
ROGER D. REDDIX
WALTER G. LOHR, JR.
EDWARD S. DIGGS, JR.
JAMES J. WINN, JR.
JOHN E. HYATT, JR.
W. GAR RICHLIN

PARTNERS EMERITUS
JOHN W. AVIRETT, 2d
J. MARTIN MCDONOUGH
GEORGE S. NEWCOMER
JESSE SLINGLUFF

August 14, 1981

FRANCIS X. WRIGHT
STEVEN E. SHATTUCK
MARK ROLLINS
E. FRED J.F. MAGEE
STANARD T. KLINEFELTER
CARL E. JUSTHUS
JEFFREY D. HERSCHMAN
JOSEPH M. LONGHURST
JOHN F. MCGRATH
EDWARD G. SLEDGE
VIRGINIA G. ADAMS
FRANCIS B. BURCH, JR.
EARL B. KELLEGHER
DAVID H. KOHEN
RICHARD C. TILLMAN, JR.
DONALD J. BRYAN
DOROTHY A. BEATTY
RICHARD J. HAFETZ
ROBERT DALE KLEIN
EDWARD J. LEVIN
F. THOMAS BAFFERTY
GEORGE R. STAMAS

ROBERT W. SMITH, JR.
SUSAN GILLETTE
ELIZABETH C. TEBB
ROBERT J. OWEN, JR.
PAUL K. CASEY
JOHN R. MACKEN
DAVID W. FUNK
REBECCA H. SMITHORT
ROBERT A. STEIT OWEN
STEWART K. DUNN
KATHLEEN B. SOWNS
JOEL J. FEINBERG
THEODORE E. KING, JR.
LEE A. SHELLER
LINDA L. SCHUETTE
JOHN F. GRIFFITH, JR.*
C. LAMAR GARREN
DEBORAH T. GARREN
KAREN L. MYERS
MICHAEL C. POWELL
THOMAS J. GIBBIS
ELIZABETH A. MCKENNON
B. ELIZABETH WEAVER

*ADMITTED IN D.C. ONLY

County Board of Appeals of
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: October - April Rezoning Cycle

Gentlemen:

On behalf of the Universal Housing & Development Company ("Petitioner") and consistent with both the Rules of Practice and Procedure of the County Board of Appeals (the "Board Rules"), as approved by Bill 59-79, and Section 2-58.1 (the "Application Law") of the Baltimore County Code (1978 ed., 1979 Supp.) (the "Code"), we are submitting the petition form and accompanying materials, statements and information required for a petition for a zoning reclassification (the "Petition").

This application requests that the Board of Appeals (the "Board") approve the rezoning of approximately 176 gross acres (the "Land"), forming part of the property generally known as "Towson Nurseries", to D.R. 5.5 from the present zoning of D.R. 3.5 on substantially all of the Land. As will be described in greater detail below and in materials to be presented with this application and again at the public hearing, the application is consistent with the goals and objectives of the County, has a positive impact on the environment and is in the best interest of all parties. Moreover, the Board has jurisdiction to grant the Petition in view of (i) the significant "mistakes", as defined in Maryland appellate rulings, made by the County Council during the 1980 Comprehensive Rezoning process, and (ii) the substantial change in the character of the neighborhood surrounding the Land.

As authorized by subsection (1) of the Application Law, the Petition includes documentation relating to the proposed use of the Land. Consistent with those provisions, the site plan included as part of the application utilizes building envelopes, maxima/minima in lieu of fixed values, possible uses and other elements of flexibility, all subject to the precise limits set out on the plan and within the permitted limits established in the Baltimore County Zoning Regulations (the "Zoning Regulations") and other applicable controls.

I. Requested Relief

The Land is part of a larger parcel of 178.5 ± acres, of which 2.5 acres are presently zoned R.C.-4 and are not included in this Petition. The remaining gross acreage of 176 ± acres contains 172.808 net acres; the balance of the Land is part of the right-of-way for Paper Mill Road.

The Land is outlined on the official 1" = 200' scale zoning maps accompanying this Petition. That outline identifies three separate parcels --

(a) Parcel I is a 1.698 ± acre strip zoned D.R. 1

(b) Parcel II lies south and east of Paper Mill Road, contains 28.405 ± acres and is currently zoned D.R. 3.5

(c) Parcel III lies north and west of Paper Mill Road, contains 142.705 ± acres and is currently zoned D.R. 3.5

This Petition requests that all three parcels be rezoned to D.R. 5.5.

II. Materials Submitted

In accordance with applicable provisions of the Application Law, the Zoning Regulations and the Board Rules, the following materials form part of the Petition:

1. Three typewritten petition forms executed by the Petitioner, per BABC - Form 2 "Guide for Preparation of Reclassification Petitions" (the "Guide"), paragraph (1).

2. Seven copies of the property descriptions of all three parcels of the Land, prepared by George William Stephens, Jr. & Associates, Inc. ("Stephens"), registered engineers. [Guide, paragraph (2)]

3. Three copies of this letter, which constitutes an explanation of the reasons for granting the Petition and a precise description of the elements of "change" and "mistake". [Application Law, subsection (b); Guide, paragraph (3)]

4. Two xerox copies of both the 1" = 200' and 1" = 1000' scale of local zoning maps, with the land outlined on each. [Guide, paragraph (4)]

5. A check in the amount of $50.00 to cover the filing fee. [Guide, paragraph (5)]

6. Twelve copies of a site plan, prepared by Stephens, and including as part of each plan:

(a) the 23 checklist items on pages 3-4 of the Guide; [Application Law, subsection (1); Guide, paragraph (7)(b)]

(b) building envelopes, including entrances, driveways, parking facilites, landscaping, screening and retained vegetation; [Application Law, subsection (1); Guide, paragraph (7)(c)]

(c) floor plan and elevations, interior and exterior materials of typical units, including floor areas, lot coverage and heights of structures; [Application Law subsection (1); Guide, paragraph (7)(c)]

(d) written, detailed notes setting forth the maxima and minima criteria, including floor areas, lot coverage and heights of structures.

7. Twelve copies of an environmental impact statement, prepared by JTC Environmental Consultants,

Inc. and Dr. John T. Cookson ("Cookson"), consistent with Section 101 of the Zoning Regulations, as amended by Bill 98-75 [Application Law subsection (1); Guide, paragraph (7)(a)]

III. Basis for Granting Relief

Prior to the adoption of the 1980 Comprehensive Rezoning Map for the Third Councilmanic District by Bill 186-80, the Land was zoned ML-R, restricted light manufacturing. During the rezoning process, the Petitioner requested that the Land and certain adjoining property be rezoned to a combination of categories, with the Land proposed for rezoning to 145 ± acres of D.R. 5.5 and 30 ± acres of D.R. 16. The Petitioner submitted a series of consultant reports in support of that request. Many of the affirmative and positive aspects to be derived from the grant of this Petition were described at that time and are summarized below. Further data and information is contained in the consultant reports which will supplement this application. Also analyzed below is the compliance and consistency of this application with various plans and land-use controls in effect in the County.

A. Positive Impact of the Proposal:

The proposal offers a positive, constructive approach to the use of the Land. While blessed with great beauty and wonderful features, the Land nonetheless brings with it the conflicting demands of an existing infrastructure that lacks users, a reservoir watershed that can only accomodate development based on community facilities and natural features that encourage a project which takes advantage of the nursery. By providing a project large enough to accept and absorb feasibly the extremely expensive land development costs associated with the Land, the Petitioner believes that a multitude of declared public objectives can be achieved in concert with a handsome, well-planned community.

This belief is well-supported by the conclusions stated in the environmental impact report prepared by Dr. Cookson (the "EIS"):

> The proposed community offers a positive, constructive approach which can minimize environmental effects because of its size. The proposed development is large enough that it permits costly environmental controls,

> referred to as "Best Management Practices", to avoid environmental impacts that could not be prevented under the present D.R. 3.5 zoning. These controls result in dramatic differences for water quality, making the proposed development far better than that of the alternative (development under D.R. 3.5) as discussed in detail in this evaluation. [EIS, p. 1-1]

B. Consistency with D.R. Zoning

The density residential (D.R.) zoning categories were established by Bill 100 in 1970. The purpose of these new categories, which are based on density rather than lot size, is stated in Section 1B00.2 of the Zoning Regulations:

> The D.R. zoning classifications are established . . . in order to:
>
> A. Foster a greater variety in housing types within future residential developments;
>
> B. Allow more feasible preservation of natural features and induce the reservation of ample and more suitably designed open spaces and parks, in order to better satisfy the needs of residents without economic disadvantage to developers;
>
> C. Allow greater flexibility in subdivision-development planning and provide for the inducement of more creative as well as more economic approaches to residential development, with the goal of desirable and distinctive identity and character of individual residential locales;
>
> D. Provide the means to satisfy differing housing-market requirements without rezoning, and thus without disruptive changes in density potential; and
>
> E. Provide for the application of residential zoning classifications in a manner more nearly in accord with comprehensive plans and comprehensive - planning goals.

This Petition seeks to achieve these objectives by combining a density and mix of housing types acceptable to the marketplace, with the minimum number of units needed to develop and utilize the Land feasibly and consistent with stringent environmental standards. The proposed density is achieved with due respect for adjoining uses and with far more open-space than is required by the applicable regulations.

C. Consistency With Master Plan

Resolution 71-79, approved November 19, 1979, adopted the "Baltimore County Master Plan, 1979-1990" (the "Master Plan") as the guide for development of the County. The Land-use Element locates the Land as part of the County's "fringe development areas". The Master Plan provides the following definitions and goals for such areas:

> Fringe development areas are those areas presently sewered, or planned to be sewered within ten years, that are not developed at present and are not included within the boundaries of any New Development Area or Town or Community Center.
>
> The boundaries of these areas are based upon the recommended extension of public sewering set out in the 1975 County Water and Sewer Plan, as modified by findings of the Growth Management Technical Studies.
>
> . . .
>
> Recommended County goals for "fringe development areas" are:
>
> To assure that the pace of development does not exceed the schedule of provision of community services in these areas;
>
> To assure that the form of development is compatible with the character of existing development in these areas;
>
> . . .

The development pattern proposed for the Land is both compatible with existing development, notably the high intensity industrial, commercial and residential uses of Hunt Valley Park, the new regional mall and the adjoining Broadmead projects, and fully within the capabilities of existing public services.

As described in Dr. Cookson's report, the Land also lies in areas that are sensitive to reservoir impacts. In view of the need to consider the Loch Raven Reservoir, the Petitioner has accepted the more expensive controls needed to retain vegetation on sloped areas, and extensive soil erosion and storm water facilities needed to protect the reservoir. As described in the Stephens report, such costs preclude development at a density below 5.5; alternatively at existing densities, development can only be achieved if such environmental benefits are ignored. The Cookson EIS notes that the "higher density development of the [Petition] allows the implementation of Best Management Practices to control pollutant runoff ...", with the result that such "measures reduce pollutant discharge by as much as 50 percent for some parameters under that which would occur under present zoning." [EIS, p. 1-4]

The Petition proposes the only feasible development which can adhere to the Master Plan objectives of --

> Strict regulation of development on steeply sloping lands to assure that permitted development does not result in increases in erosion and stream sedimentation;
>
> . . .
>
> Strict enforcement of sediment control regulations, particularly on lands adjacent to tributaries of municipal water supplies;
>
> . . .
>
> Adoption of stormwater management policies intended to maximize on-site infiltration of overland flow;
>
> . . .
>
> Increased environmental sanitation to reduce urban runoff from impervious surfaces and developed areas;
>
> . . .
>
> Promotion of groundwater recharge through stormwater management policies emphasizing on-site recharge;

The summary provided by Dr. Cookson in his EIS provides an excellent recitation of the various environmental benefits to be derived by development of the Land in accordance with the Petition:

1. No adverse effects on Western Run or Loch Raven Reservoir are expected. Long term effects indicate that an improvement with regard to sediment loading can be achieved through implementation of the proposed action. In addition, the proposed action will significantly reduce pollutant discharges that would occur if developed as presently zoned.

2. The development will preserve much of the nursery stock existing on site as open space and buffered areas.

3. The proposal will not have any adverse impact on any historical sites or archeological finds.

4. No endangered species of animals are threatened by the proposed development.

5. Topography and soils of the site will not be altered to any significant degree. Recommendations have been made for specific control measures that will minimize any adverse impact from erosion.

6. Noise and air pollution levels will not change significantly due to the proposed development or traffic generated by the development.

7. Public utilities are available, removing any potential impacts from wastewater handling.

With regard to other major elements of the Master Plan, the development of the Land pursuant to this Petition is consistent with various factors:

(1) Transportation: Although existing road facilities serving the Land are well within capacities and far from congested, the Master Plan, as part of its intermediate range plans for 1985 and beyond proposes improvements and extensions to both Shawan and Paper Mill Roads, and a rail transit line to Hunt Valley.

(2) Open Space: While no special open space needs are identified for fringe development areas in the Master Plan, the proposal provides for more open space than is required under current law.

(3) Community Services: The proximity of extensive community services, such as schools, libraries, police and fire protection, in Cockeysville supports the use and development of the Land as proposed.

(4) Utilities: As analyzed in the Stephens report, utility services are underutilized in the area and need development of this magnitude in order to recover the heavy public investment in the facilities.

D. Growth Management/Water and Sewerage Plan:

The County, as required by Article 43, Seetion 387C of the Maryland Code, has adopted a Water and Sewerage Plan, most recently amended to implement an overall growth management plan. Two vital elements of growth management are the Basic Service Water Supply Map and the Basic Service Sewerage Map. Neither map identifies the Land as being subject to service deficiency. In addition, all of the Land lies within the urban rural demorcation line, establishing the area as one deemed "urban".

Water supply is ample, with a 30" water main in York Road, and a designation for the Land in the W-1 service category. A large 27" sewer interceptor passes very close to the Land, which is designated as part of the S-1 service area. Development of the Land in accordance with the Petition not only complies with utility plans, but helps achieve the use needed to amortize the cost of existing, installed facilities.

IV. Elements of "Mistake"

As described above, the development of the Land in the manner proposed is consistent with all current guides and standards for development in the County. The very basic failure of the Council to consider this in its decision in 1980 constitutes mistake. Equally important are the critical adverse environmental impacts described by Dr. Cookson which would result if the Land were developed at lesser densities or without the expensive controls proposed by this plan. Finally, it is "mistake" in the legal sense for the Council to ignore the existence of public facilities which would go underutilized absent feasible development.

A. The legal standard of "mistake"

The basic rule for determining what constitutes "mistake" was formulated by the Court of Appeals in Pattey v. Board, 271 Md. 352 (1974). Three elements must be present to constitute sufficient support for the validity of a piecemeal reclassification. The elements are:

(a) evidence which establishes that the mistake was "basic and actual,"

(b) evidence that the mistake was made "at the time" the property was zoned,

(c) evidence that the mistake related to the specific property for which the rezoning is sought, and which does not consist of generalities.

Only certain types of mistake in classification are sufficient to justify piecemeal reclassification of land. If the classification does not reflect the actual intent of the local legislative body, a mistake may be found. Tennison v. Shomette, 32 Md. App. 1 (1977). If the classification is based on a false assumption, mistake may be found. Rockville v. Stone, 271 Md. 655 (1974). Finally if the classification is based on an incomplete consideration of the relevant factors, mistake may be found. Quinn v. County Commissioners, 20 Md. App. 413 (1975). Each of these types of mistake was committed during the 1980 rezoning process.

1. Classification Which Does Not Reflect Legislative Intent:

In view of the legislatively-expressed clear intentions of the County Council regarding the Master Plan and the provision of public services, the current zoning constitutes mistake. As noted earlier, various facets of the Master Plan can only be achieved by development at a minimum density of D.R. 5.5.

2. Classification Based on a Wrong Assumption:

When strong evidence can be produced to show that a particular classification was based on an assumption which later turns out to be false, the courts have allowed reclassification to correct the mistake. In White v. County Board, 219 Md. 136 (1959) the subject land had been

zoned R-40 (single family residential, minimum lot size 40,000 square feet). There was clear evidence that the County Commissioners had restricted development to such large lots on the basis of two assumptions. The first was that the only existing main sewer line (which allowed the County to use the City's sewage treatment plant) could not accommodate a greater number of houses than could be built in an R-40 zone. The second assumption was that no other sewer lines were to be available for the immediate future. Both assumptions were false. The Court upheld reclassification of the subject land to R-10 (single family residential, minimum lot size 10,000 square feet) on the basis of mistake.

In Rockville v. Stone, 271 Md. 655 (1974) the Court of Appeals allowed land to be reclassified from industrial to residential. The industrial classification was based on an assumption that the surrounding area would eventually be used almost entirely for industry. In fact, there was substantial residential growth instead. The Court held that a classification based on a false assumption could be changed:

> "[W]hen the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize rezoning."

In People's Counsel v. Williams, 45 Md. App. 617 (1980) the Court of Special Appeals upheld a reclassification of land from M. L. (Manufacturing Light) to B. M. (Business Major). Although the subject land was in an area surrounded by major highways, of which area two-thirds was used for commercial purposes, and was immediately adjacent to a ninety acre shopping mall, it was classified as industrial. There was evidence presented to the Zoning Commissioner which showed that the County Council had classified the land on the basis of two assumptions. These assumptions were that the land was a prime industrial site and that a failure to zone the land M. L. would have a severe effect on the availability of industrial land in the County. Other evidence showed that both of these assumptions were wrong. The Court affirmed the Commissioner's decision to grant a reclassification based on mistake in the original classification.

With regard to the Land, certain unsupportable assumptions were relied on by the Council in rezoning the Land to D.R. 3.5. For example, in view of the numerous

expressions of concern for groundwater and reservoir protection, the Council no doubt must have assumed that development at a maximum density of 3.5 could be achieved without adverse effects. As the Cookson report reveals, such assumptions were incorrect. Similarly, in view of the Master Plan declarations regarding the development of fringe areas, the Council must have assumed that existing and planned public facilities could not serve a greater density. As the Stephens report shows, that assumption is likewise incorrect.

3. Failure to Consider Relevant Factors:

The Court of Special Appeals in Boyce v. Sembly, 25 Md. App. 43 (1975) identified those factors which if not considered by the legislative body, would be deemed "mistakes":

> "This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive rezoning, [citation]; by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account [citation]; or by producing evidence that the Council failed to make any provision to accommodate any project, trend or need which it, itself, recognized as existing at the time of the comprehensive rezoning [citations]." 25 Md. App. at 52.

Without further analysis of the cases, it should be readily apparent that the critical areas identified by the Council -- reservoirs, ground water, public services -- were not adequately provided for and facts critical to a determination were not taken into account.

The cases in which the courts have found a failure to consider an important factor may be divided into those in which the suitability of land for a particular use was not adequately considered and those in which future needs of the community were not reasonably anticipated in the classification of the land. Quinn v. County Commissioners, 20 Md. App. 413 (1975), is a good example of the former type. The subject land in Quinn had initially been zoned residential. In 1969 a comprehensive rezoning of the County reclassified the land as commercial. An application was filed with the County

Commissioners for reclassification of the land back to residential. Evidence was introduced which showed that the land was unsuited for commercial use, that there was no need for additional commercial land at the time of the commercial reclassification and that commercial use of the land would create a traffic hazard. The Commissioners granted the application. The Court of Special Appeals upheld the validity of this reclassification on the basis that the evidence presented to the Commissioners was sufficient to defeat the presumptive validity of the comprehensive rezoning and to present the Commissioners with a fairly debatable question.

The consultant reports regarding the Land similarly demonstrate the failure of the Council adequately to consider the high development costs associated with the Land, the difficult accommodations needed to protect the Cockeysville aquifer and the Loch Raven Reservoir, and the need to utilize the existing public infrastructure.

In Overton v. County Commissioners, 225 Md. 212 (1961) the Court of Appeals upheld the reclassifying of land from R-R (rural residential) to R-18 (low density multi-family). The Court found that evidence showing problems in terrain and drainage which rendered the property unsuitable for the detached dwellings required in an R-R district had not been considered by the Commissioners. Similar statements are applicable to the Land.

In Bonnie View Club v. Glass, 242 Md. 46 (1966) the Court of Appeals upheld the reclassifying of land from R-10 (single family houses on 10,000 square feet lots) to R-A (townhouse apartments). Evidence had been presented to the County Board of Appeals showing that the Council had failed to consider the severe topography of the land, the presence of numerous abandoned mineshafts under the property, and the use of surrounding land in its decision to classify the property R-10.

In Bowie v. Board, 253 Md. 602 (1969) the Court of Appeals upheld the reclassifying of land designated primarily as R-20 (single family houses on half acre lots) to I-D (industrial development). Sufficient evidence of mistake in classifying the land was found in expert testimony regarding the unsuitability of the land for residential use, which was substantiated by aerial photographs showing the effect of large scale mining on the land.

The other cases in which a failure to consider an important factor has been deemed a mistake sufficient to justify piecemeal rezoning involved the failure of the local legislature to consider the future needs of the community.

In Pressman v. Baltimore, 222 Md. 330 (1960), the Court of Appeals upheld a reclassification of land by the City Council from residential to commercial. The mistake which the Court felt justified this change was a failure to anticipate the need for large commercial areas (for shopping centers), rather than commercial strip zoning, along the major traffic routes. The Court stated:

> "[S]hopping centers were not thought of when zoning regulations were first adopted for a number of subdivisions of this State."

The failure to anticipate the need for apartment units has been held to justify reclassification in Rohde v. County Board, 234 Md. 259 (1964), Jobar Corporation v. Rodgers Forge, 236 Md. 106 (1964), and in Clark v. Nolman, 243 Md. 579 (1966). In each of these cases an initial low density classification was changed to allow development of apartment complexes. The "mistakes" were failures to anticipate the areas' need for apartments.

B. The Elements of Mistake

The various public services, land development and environmental factors described above and in each report by the consultants emphasize the "mistake" committed by the Council in 1980. That evidence is sufficient to permit the Board to consider the application on its merits.

V. Elements of "Change"

A. The legal standards of "change"

The legal standards of change are well-known to this Board and will not be restated. Subsection (k) of the Application Law precludes a reclassification based on change for one year after the adoption of the County maps. Since no decision will be made on this application until spring of 1982, that restriction should not be applicable.

B. The Specific elements of "change"

Proof of "change" requires a demonstration of the applicable neighborhood and recitation of the changes which result in a substantial change in character of that neighborhood. The changes within one mile of the Land since 1980 have been and continue to be dramatic. Continuing expansion at Hunt Valley, the opening of Loveton Business Center, the opening of Hunt Valley Mall and the various other new developments in the area point to a neighborhood in flux, changing very rapidly from a rural to urban character.

VI Conclusion

The analysis provided in this letter is not intended to be exhaustive. Further evidence can and will be provided in response to staff questions and at the public hearings. However, the material provided in this Petition should demonstrate that the proposal is a sound one that the Board can approve within current legal standards. Moreover, the Board should note that this Petition requests a reclassification from a medium density residential category to the immediate next level of medium density residential uses. While of tremendous impact to the Petitioner, such change has been recognized by the courts to be subject to a less "onerous" burden of proof.

In Tennison v. Shomette, 38 Md. App. 1 (1977) the Court of Special Appeals allowed the County Commissioners to reclassify land from one commercial category to another. In its discussion the Court stated that the burden placed on applicants was not as heavy when reclassification of land within a single use category was requested.

> "In considering whether this presumption [of the validity of the original classification] has been overcome a more liberal standard is applied when the property is reclassified from one commercial subcategory to another than is applied when the reclassification involves a change from one use category to another."

In Chapman v. Montgomery County Council, 259 Md. 641 (1970) the Court of Appeals stated that there is a "difference to be observed in the treatment of 'reclassification from one residential subcategory to another,' as distinguished

from 'the removal of land from the use category in which it was placed when originally zoned.'*** and acknowledged the validity of the comment from 26 Md. L. Rev. 48, at 51, (1966), that: "Thus, the Court seems to adopt a more liberal attitude when reviewing amendments from one use to a similar use."

In Missouri Realty Co. v. Ramer, 216 Md. 442 (1958), the Court of Appeals noted that the burden on the applicants was lighter because the proposed change was only "from one residential subcategory to another" and further acknowledged

> "The change involved here is the difference between permitting the erection of approximately 7.5 houses per acre and/or about 6 houses per acre. There was testimony that a better and more economical dwelling unit could be achieved by the group housing than by the cottage type home."

Although this Petition is comparable in the nature of the relief requested, the application of a lesser burden is not critical. The evidence presented above and in the balance of the Petition is persuasive in finding that "mistake" in the legal sense has been committed by the County Council and that the proposal serves the best interests of both the Petitioner and the County.

For the various reasons described above, the Petitioner respectfully requests the Board to grant the relief requested.

Very truly yours,

John Martin Jones, Jr.

John Martin Jones

Review of ENVIRONMENTAL ASSESSMENT

on the

PROPOSED RESIDENTIAL COMMUNITY AT TOWSON NURSERIES

BALTIMOPE COUNTY, MARYLAND

As Submitted By

JTC Environmental Consultants, Inc.

Baltimore County
Office of Planning and Zoning
Towson, Maryland

November 25, 1981

Review of ENVIRONMENTAL ASSESSMENT ON THE PROPOSED RESIDENTIAL COMMUNITY AT TOWSON NURSERIES, BALTIMORE COUNTY, MARYLAND

On August 10, 1981, JTC Environmental Consultants, Inc. from Bethesda, Maryland submitted to Mr. LeRoy Posner of Universal Housing and Development Company an environmental assessment regarding the request for an increase in density from 3.5 to 5.5 involving a property known as Towson Nurseries located along Paper Mill Road in Baltimore County.

The purpose of the environmental assessment was to make a comparative analysis between a residential development of a 5.5 density versus the existing 3.5 density. The claim is made that with a higher density a greater financial return can be realized which would allow a greater expenditure on pollution control facilities which would have the net effect of less pollution with a higher density than with that of a lower density. However, the presentation by the consultant failed to provide a basis for accepting this thesis. Therefore, it is recommended that at least on an environmental basis there is no justification for an increase in residential density from 3.5 to 5.5.

The major basis for rejecting the thesis that there will be less pollution from the higher density is due to the inadequacy of the proposed combined stormwater management sediment control structures. The proposal includes the construction at an early stage of three ponds which combine sediment control and stormwater management features. It is claimed that the initial flush of stormwater amounting to .21 inches of any storm event will be captured in the lower elevations or bottom of the structures and will be released over a 24-hour period. During this 24-hour period, 90% of the sediments will be deposited along with significant levels of the accompanying or attached pollutants. It is maintained that the additional flows entering the pond will be segregated more or less in the upper water column and will be released as in a typical stormwater management structure.

It is questionable whether in fact the structures will function as contemplated. First, it will be difficult to segregate the water column involved with sediment control from that related to stormwater management. The continual flow of water into the pond will likely maintain a circulation pattern which will disrupt any segregation. Secondly, it is doubtful whether even if segregation would occur, a 90% sedimentation rate can be achieved. It must also be realized that the entire pollution abatement system consists entirely of three structures without any additional or complementary facilities elsewhere on site. The question of maintenance is left in the hands of Baltimore County and will not, therefore, be the responsibility of the developer or of any citizen association. It is anticipated that the additional cost for each of the three structures to be built as a combination sediment control and stormwater management facilities will be $100,000 or a total of $300,000 for three structures. The basis for this amount has not been provided.

Listed below are various comments which are ordered or structured on a page by page review of the consultant's submittal. Page 1-1, the area in which the development is proposed is described as an "area of continual growth." While some growth is occurring in the area, it is not a major growth area and is located in an area of significant undeveloped tracts including areas in resource conservation zoning classifications. Page 1.2 on this page and in other references made with respect to wildlife throughout the document, there appears to be no specific information regarding wildlife habitats or wildlife species. It does not appear that any investigations were made to determine whether any endangered plant or animal species or significant endangered species habitat exists on the site. Page 3-1: It must be understood that possibly thirty acres of open space proposed with development under the existing DR 3.5 zoning will be lost with a rezoning to DR 5.5 based on the proposed development plan. The consultant does not state, but it should be mentioned that the conversion of proposed open space to developed areas will increase the potential for pollution from the site. Page 4-12: The consultant indicates that the 176-acre site proposed for development represents only 0.46 percent of the total drainage basin of Western Run. While this figure may be correct, it is misleading to assume that, therefore, this site is insignificant with respect to any potential effect on Loch Raven Reservoir. Even though a site represents only a small portion of a watershed, it can have a significant impact with respect to water quality due to the form and intensity of development or in the case of farms, lack of proper management. Page 4-16: The consultant makes a case through various references that the most serious source of pollution to Loch Raven Reservoir is through agricultural land use. This again is a misleading conclusion since agricultural use is the dominant land use of the watershed. While it may, in fact, contribute more pollution on an overall basis, its contribution on a per acre basis is less than that from intensive development such as that proposed. Page 4-19: The consultants state the cultivated land accounts for 48.9% of all the sediment loadings received by the reservoirs in the Baltimore region. He also indicates that urbanized developments are contributing 10% and urbanizing construction activities are contributing 11.1% of the sediment loadings. These percents are again confusing or misleading since the developed and urbanized areas represent a much smaller percentage of the watershed than cultivated land. On a per acre basis, they contribute significantly higher amounts of sediment than cultivated land. Additionally, it must also be recognized that development causes significant higher levels of stream bank erosion than cultivated land due to the fact that peak flows increase dramatically, thereby causing bank erosion. Page 5-12: The consultant discusses the central proposal of his report dealing with the construction of stormwater collection ponds. In addition to the comments made earlier regarding the acceptance of this proposal, it should also be added that it is quite likely that stormwater management facilities on this site will not be required or not be allowed based on its location in the watershed. A retention of stormwater at this point may be undesirable since its release might correspond or be timed when peak flows from upstream are passing along this site. Page 5-16: The consultants indicate that the potential for erosion-related soil impacts would be the same under both zoning proposals. However, since the existing zoning or DR 3.5 would have a higher percentage of undisturbed areas or open space, it would represent actually less of an impact with respect to erosion. Page 5-17: The report indicates that "best management practices would not be cost effective for the lower density community ..." The report contains no data or calculations to justify the statement. Page 5-17: The consultant states that the "impact on biological communities would be no less or no greater than that which would occur under the proposed development and zoning change." This, again, is not correct since the degree of open space will be reduced under the proposed development and zoning change. This will result in a reduced natural habitat for the various biological communities. Page 5-19: The consultant indicates that "a detention pond with sedimentation cannot be provided for the lower density residential community in a cost effective manner." Yet, once again, no data or analysis is provided which would substantiate this claim.

Appendices A and B consist of a listing of stormwater management and erosion control practices and specifications or standards for the protection of trees in urbanizing areas. There is no claim that the developer will, in fact, employ any of this information.

In conclusion, it should be reiterated that the report is inadequate with respect to making any reasonably valid case for accepting a density of 5.5 over the existing 3.5 zoning on the basis that there will be less of an environmental impact from the heavier as compared to the lower zoning classification.

PJS:vh

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

September 28, 1981

Attachment

V-NE Key Sheet
72-76 NW 4-6 Pos. Sheets
NW 18 & 19 NW 19 & 20A
Topo
42 Tax Map

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

Re: Item #10 Zoning Cycle II (Oct. 1981-Apr. 1982)
Property Owner: Universal Housing & Development Company
E/S Paper Mill Rd. 611.86' from centerline of Ashland Road
Existing Zoning: DR 3.5 & DR 1
Proposed Zoning: DR 1 to DR 5.5 - 1.698 Acres
DR 3.5 to DR 5.5 - 28.405 Acres
DR 3.5 to DR 5.5 - 142.705 Acres
Acres: 172.208 District: 8th

Dear Mr. Hackett:

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

General:

Comments were supplied for a larger overall property known as Towson Nursery, Inc. (385 acres, more or less), of which this site is a part, in conjunction with the Zoning Advisory Committee review for Item 306 (1969-1970), 71-176R.

Subsequently, comments were supplied for a 391± acre property, of which this site is a part in conjunction with the Baltimore County Joint Subdivision Planning Committee review September 15, 1977 of the proposed "Paper Mill Industrial Park (Formerly Towson Nursery)".

More recently, August 23, 1978, the Baltimore County Bureau of Public Services provided comments for the Preliminary Plan for "Paper Mill Industrial Park (Formerly Towson Nursery)", Project 7164.

These comments were further supplemented September 15, 1978 in regard to public water supply, and October 5, 1978, in regard to proposed right-of-way width for Paper Mill Road.

All of the above Comments are referred to for your consideration. This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 10 Zoning Cycle II (October 1981-April 1982).

Very truly yours,

Robert A. Morton, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss
cc: Jack Wimbley, C. Warfield

BALTIMORE COUNTY, MARYLAND

TO: Mr. Robert A. Morton
Bureau of Public Services

DATE: August 1, 1978

FROM: C. Richard Moore

SUBJECT: Subdivision Review Comments

PROJECT NAME:	Paper Mill Industrial Park	PRELIMINARY PLAN:	
PROJECT NUMBER:	7164	TENTATIVE PLAN:	
LOCATION:	Paper Mill Road	DEVELOPMENT PLAN:	
DISTRICT:	8C3	FINAL PLAT:	

The intersection of Ashland Road and York Road has limited sight distance and the Ashland Road bridge over the Western Run is narrow and has a weight restriction for vehicles. For these reasons, the improvements to Paper Mill Road and Ashland Road should be made in conjunction with the extension of Shawan Road out to York Road and as this site developes. A 120 foot right-of-way is needed at this time for Paper Mill Road.

The intersection of Ashland Road and Paper Mill Road is to be designed with left turn storage lanes on Paper Mill Road.

The proposed public roads and private driveways are to be designed for 60 mph stopping sight distance. This includes the panhandle access for lots 47 and 48.

The road profile drawings for Paper Mill Road must show that the access point will meet 60 mph stopping sight distance criteria. Individual lot access will not be permitted on Paper Mill Road and Ashland Road. Only two access points will be permitted on each side of Paper Mill Road with individual lots having access at these points and not on Paper Mill Road.

C. Richard Moore
Assistant Traffic Engineer

CRM/GMJ/hms
cc: Mr. Jack Wimbley
Mr. Edward McDonough

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS

DATE: August 3, 1978

FROM: Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

PROJECT NAME:	Paper Mill Industrial Park	IDCA PLAN	
PROJECT NUMBER:	7164	PRELIMINARY PLAN	X
LOCATION:	E. of York Road, N. & S. of Paper Mill Road	TENTATIVE PLAN	
DISTRICT:	8C3	DEVELOPMENT PLAN	
		FINAL PLAT	

The preliminary plan for the subject site, dated August 29, 1977 and revised June 30, 1978, has been reviewed by the Developers Design Approval Section and we comment as follows:

GENERAL COMMENTS:

All private contracts for construction of storm drains and roads intended for public title and maintenance must be let under a contract form, proposal and attachments adopted by Baltimore County, Department of Public Works. The Developer has the option of placing the storm drains under a public contract.

This property is within the Urban-Rural Demarcation Line on Water Map W-10B and Sewer Map S-10B, in W-3 and S-3 service areas planned for service in 3 to 5 years. The Developer must initiate the procedure to obtain approval from the State Health Department by letter to Mr. Kourey, Director of Public Works advising of service to this site being a deviation to the plan.

HIGHWAY COMMENTS:

Access to this property at the present is from Ashland Avenue and Paper Mill Road.

Paper Mill Road ultimately shall extend to York Road as a State project, which is in the 20-year need study. Requirements and information concerning this road come under the jurisdiction of the Maryland State Highway Administration.

Ashland Avenue shall be relocated ultimately as shown on the preliminary plan to intersect Paper Mill Road at right angles. This relocation shall be accomplished in connection with development of this property. The bridge on Ashland Avenue west of this site is posted for a maximum 12 ton load limit and the bridge over the railroad is rated at a 15 ton load limit. Baltimore City maintains the bridge over Western Run, a tributary of Loch Raven and Baltimore County maintains the bridge over the railroad, which is scheduled for removal. There is a current project authorized in the Baltimore County 1976-1977 Budget as Project 290, Item 503 to eliminate the bridge and railroad tracks and construct Paper Mill Road as a continuous roadway.

Project #7164
Paper Mill Industrial Park
Page 2
August 3, 1978

HIGHWAY COMMENTS: (Cont'd)

Ashland Avenue and Paper Mill Road shall be improved with a concrete curb and gutter and 50-foot bituminous paving section on a 70-foot right-of-way, except at the intersection of the two roads where 80-foot right-of-way is required to allow for channelization. The Developer shall be responsible for preparation of right-of-way plats for offsite right-of-way. He shall convey all right-of-way and slope easements at no cost to Baltimore County. He shall be responsible for all paving costs for the concrete curb and gutter and 50-foot paving section 11 inches thick.

All interior roads shall be improved with a 40-foot combination curb and gutter cross-section on a 60-foot right-of-way and shall be the Developer's full responsibility.

Thornton Mill Road shall terminate at Millcircle Drive as no extension of this road is planned beyond this development.

The cul-de-sac shall be improved with a 65-foot paving radius with combination curb and gutter on a 150-foot diameter right-of-way and shall be the Developer's full responsibility.

The sharp curves on Millcircle Drive must conform with Baltimore County Standards for minimum length of curve, minimum radii and widening for this type of street.

The entrance locations are subject to approval by the Department of Traffic Engineering.

It shall be the responsibility of the Developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The Developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

Sidewalks are required on all public roads adjacent to this site. The walks shall be 5 feet wide and shall be installed to conform with Baltimore County Standards (Detail R-19) which places the back edge of the sidewalk 2 feet off the property line.

The Developer shall be responsible for construction stake-out of all highway improvements required in connection with this site and all stake-outs shall be in accordance with Baltimore County Standards.

It shall be the Developer's responsibility to have his engineer set property line control stakes on the points of curvature and points of tangency and on adjacent rights-of-way along proposed roads to be used as control for the stake-out of utilities.

The Developer shall not convey to any railroad or utility company a right-of-way or easement which enjoys superior rights to those entitled to or to be entitled to by inference of the record plat by Baltimore County within the public road right-of-way.

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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

April 5, 1982

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

RE: Petition for Conditional Reclassification
Paper Mill and Ashland Roads
Universal Housing & Developement Co. -
Petitioner
NO. CR-82-187

Dear Sir:

This is to advise you that $196.96 is due for advertising and posting of the above property.

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

Very truly yours,

E. HAMMOND
ommissioner

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

No. 107603

DATE April 14, 1982 ACCOUNT 01-662

AMOUNT $196.96

RECEIVED FROM: Universal Management - Baltimdre

FOR: Advertising and Posting for Case No. R-82-187

VALIDATION OR SIGNATURE OF CASHIER

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

March 8, 1982

WILLIAM E. HAMMOND
ZONING COMMISSIONER

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

RE: Petition for reclassification
E/s Paper Mill Rd., 611' from centerline
of Ashland Road
Universal Housing & Development Co. - Petitioner
Cycle 2 -- Item 10
Case #R-82-187

Dear Mr. Jones

This is to advise that $52.75 is due for the 2nd full page add of the cycle 2 billing. You have already been billed for the 1st full page add. A third bill for the individual advertising and posting of the above property will be forthcoming. 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, as soon as possible.

Very truly yours,

E. Hammond
ommissioner

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

No. 131910

DATE 7/3/84 ACCOUNT R-01-615-000

AMOUNT $149.64

RECEIVED FROM: Universal Management - Baltimore

FOR: 1st & 2nd full page ads in Case CR-82-187

VALIDATION OR SIGNATURE OF CASHIER

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

January 18, 1982

WILLIAM E. HAMMOND
ZONING COMMISSIONER

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 S Charles Street
Baltimore, Maryland 21201

RE: Petition for Reclassification
E/s Paper Mill Rd., 611' from centerline of
Ashland Road
Universal Housing & Development Company-Petitioner
Cycle #2 - Item #10

Dear Mr. Jones:

This is to advise you that $52.75 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

WEHinch

ENGINEERING REPORT
TOWSON NURSERIES, INC. PROPERTY
BALTIMORE COUNTY, MARYLAND

PREPARED FOR
UNIVERSAL HOUSING AND DEVELOPMENT COMPANY

PREPARED BY
GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
TOWSON, MARYLAND BEL AIR, MARYLAND
AUGUST 1981

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVENUE, TOWSON, MARYLAND 21204

Statement on the Towson Nurseries Property located in the 8th election district of Baltimore County, Maryland.

Our firm has represented Universal Housing and Development Company as professional engineers on this particular site since it was purchased by Universal in 1972. To date, we have billed Universal Housing and Development Company in excess of $60,000 for professional services dealing primarily with land planning studies for both residential and industrial use and as representatives assisting them to retain the zoning on their property so as to protect their investment. We along with other members of the consulting team employed by Universal whole-heartedly support the DR 5.5 use of the property as being the most logical and economically sound classification.

SITE DATA

1. Site is bounded by Baltimore City Property, Paper Mill Road, the now abandoned Northern Central Railroad, Welsberger Kennels, Inc. property, additional city property, a housing for the elderly community known as Broadmead and remaining lands of Universal Housing.

2. The site contains 176.0 gross acres.

3. The site has extensive road frontage on Paper Mill Road.

4. The property was formerly a very active nursery and as such contains many beautiful trees which we, in conjunction with the land planners, will incorporate into our development scheme as natural scenic open-space areas.

UTILITIES

1. Public sanitary sewer exists at the southwest corner of the property and also along the western boundary paralleling the Western Run.

2. The design of this Baltimore County Public facility would allow for much higher flows than would be generated by our proposed development.

3. Public water is about to be extended by a Baltimore County contract in Ashland Road to our southwestern property line.

4. The developer has invested $150,000 as a prepaid deposit with Baltimore County which financed the construction of these water and sewer facilities.

5. The entire property lies within the metropolitan district boundaries of Baltimore County.

6. The site is shown on the latest Baltimore County Master Water and Sewer Plan as being the following area classification:
Water - W-1
Sewer - S-1 and a small portion of S-5

7. The Sparks elevated water tank located to the north of this property and part of the improvement package which was partially financed by Universal Housing & Development Company and completed several years ago has very few users at this time.

8. No portion of this site falls within either a deficient water or a deficient sewer district on the Basic Service Maps adopted by the County Council in 1980.

FIRE PROTECTION

1. With the major new water transmission main facilities in this area including the elevated water tank at Sparks the water service proposed to serve our development is more than adequate.

2. The site is within 1/2 of a mile from the Cockeysville Volunteer Fire Department Station. It is within 2.6 miles of the Baltimore County paid Texas Station to south on York Road and is within 5.7 miles of the Hereford Volunteer Fire Department Station to the north on York Road.

SCHOOLS

1. The schools in the area are adequate to handle the student yeild from this site.

ROADS

1. The tract has 2,800 lineal feet of frontage on the north side of Paper Mill Road and 2,200 lineal feet of frontage on the south side of Paper Mill Road.

2. The Shawan Road Extension east of York Road to tie to existing Paper Mill Road, traversing a portion of this site, is in the State Highway Administration Baltimore County 1980 Needs Inventory - State Secondary System. The development of this site will, in fact, bring about the improvements to Paper Mill Road and, in fact, include 1,100 lineal feet of the proposed re-alignment to our western property line as well as re-alignment of 800 lineal feet of Ashland Road to create the new Ashland Road - Paper Mill Road Intersection. Most, if not all, of this work will be accomplished at the developer's expense.

3. No portion of the site falls within any Traffic Deficient area on the Basic Service Maps adopted by the County Council in 1980.

STORM DRAINAGE

1. We propose to provide an extensive storm drainage system within the development feeding to a total of 3 storm water management ponds. Preliminary investigations indicate that under our proposed land use we would be providing nearly three-quarters of a million cubic feet of storage so as to keep the peak run-off from the property after development equivalent to that which left the property prior to development.

2. We would construct the storm water management basins initially as sediment and erosion control measures and in so doing provide for complete protection to the adjacent watershed area from any silt laden run-off.

3. We estimate that the construction cost and maintenance cost for storm water management and erosion control facilities would be over $500,000 for this project.

DEVELOPMENT COST ANALYSIS

Universal Housing & Development Company land use proposal (968 units - 5.5 per acre).

1. Major off-site improvements required including total storm water management cost and County processing fees amount to $1,823,557. Based on 968 units, this amounts to $1,883 per unit.

2. Specific improvements required such as roads, storm drains, sewer, water, landscaping, grading, etc. for each of the six specific development areas dictates the following estimated costs per unit:
Townhouses - $7,716 per unit
Single Family Lots - $10,940 per unit

3. Summation of off-site and on-site improvements by unit type:
Townhouses - $9,600 per unit
Single Family Lots - $12,824 per unit

4. Summation of land costs plus carrying cost, supvision and legal by unit type.
Townhouses - $884 per unit
Single Family - $3,118 per unit

5. Total Development Cost
$11,251,455

By Unit Type:
Townhouses - $10,484
Single Family - $15,942
Average Cost per Unit for the Project - $11,623

I will be glad to forward copies of the summary Development Cost Analysis sheets if you so desire. In reviewing the data, I find several important items, namely:

1. Due to the extensive project wide major improvement costs which include Paper Mill Road, Ashland Road, County Fees and storm water management the per unit development cost is extremely high for even a 5.5 density. This is further exacerbated when you include the land and carrying costs.

2. The development of this tract at a 5.5 density will generate an income to the County on System Connection Charges alone of some $1,403,600. This will certainly go a long way in recapturing the County investment in major water and sewer facilities to serve this same growth area.

3. Few development corporations have the financial capabilities as well as the expertise to create a community such as this. The end product will be a well planned, environmentally sensitive development which will fill a need for housing in a desireable area of the County and at the same time provide employment for hundreds of people in the housing industry.

Charles E. Fick, P.E.

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

ARNOLD JABLON
ZONING COMMISSIONER

December 2, 1983

John Martin Jones, Jr., Esquire
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

Re: Case No. CR-82-187
Universal Housing & Development Co.

Dear Mr. Jones:

In reviewing and docketing the above case, it has come to my attention that there are two bills for advertising that remain outstanding.

The first bill is dated January 18, 1982 which covers the first full page ad that the subject case ran in two newspapers. The amount of the bill is $96.89.

The second bill is dated March 8, 1982 which covers the second full page ad. This amount is $52.75.

The last bill that was issued was for the individual advertising and posting of this particular case and the amount is $196.96. This is the only bill that we have a record of being paid. The date of that last bill was April 5, 1982.

Please search your records to see if you may have a copy of any of the receipts for the bills that I show as outstanding. If you do not, please issue a check in the amount of $149.64, made payable to Baltimore County, Maryland and forward it to Room 113, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

Very truly yours,

Arlene January
Arlene January
Legal Secretary II

June 13, 1984

Mr. Larry Posner
P. O. Box 5829
Pikesville, Maryland 21208

Re: Zoning Case #CR-82-187
Universal Housing and Development Co.,
Petitioner

Dear Mr. Posner:

I am in receipt of a letter dated March 27, 1984 to you from Joel J. Feinberg, Esquire, regarding outstanding bills totaling $149.78. These bills represent advertising and posting costs for the first and second page ads on this case.

Please issue a check in the amount of $149.64, made payable to Baltimore County, Maryland, and forward it to me within 30 days of the date of this letter. Please mail the check to Zoning Office c/o Mrs. January, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. If I am not in receipt of your check by July 13, I will forward the matter to the Office of Law for collections.

Very truly yours,

Arlene January
Legal Secretary II

LAW OFFICES OF
PIPER & MARBURY
1100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202 785-8150

WRITER'S DIRECT NUMBER IS
(301) 576-1749

March 27, 1984

Mr. Leroy Posner
P. O. Box 5829
Pikesville, Maryland 21208

Dear Mr. Posner:

Enclosed are copies of a series of letters we have recently received from the Baltimore County Office of Planning and Zoning regarding certain open bills incurred in connection with the Towson Nurseries' proceedings. As you can see, payment is now due in the amount of $149.28. Please arrange to send the check, made payable to Baltimore County, in that amount at your earliest convenience. Please call if you have any questions.

Very truly yours,

Joel J. Feinberg

Enclosure

JJF:brm

JOEL J. FEINBERG

PIPER & MARBURY
ATTORNEYS AT LAW
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201
301 576-1749

888 16TH STREET, N.W.
WASHINGTON, D.C. 20006
202-785-8150

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th District - Parcel 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 3 FROM D.R. 3.5. and D.R. 1 to D.R. 5.5

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER - APPELLANT

Zoning File No. CR-82-187

: IN THE CIRCUIT COURT
: FOR BALTIMORE COUNTY
: at law
: Misc. Docket No. 15
: Folio No. 184
: File No. 83-M-149

Rec'd 6.11.84 10:30am

MEMORANDUM IN SUPPORT OF PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY

Introduction

In determining whether there has been a sufficient showing of error committed at the time of a previous comprehensive zoning to justify a rezoning of property, the error may be as dramatic or as easy for a county board of appeals to identify as a newly discovered abandoned mine shaft under the property in question (Bonnie View Club v. Glass, 242 Md. 46, 1966), making the previous zoning designation open to reevaluation in light of the since-acquired information. Other

times, though, the "mine shaft" of error may be equally profound in significance, but perhaps more subtle, it being the chasm between intent and effect, between perceived goals and actual results, between faulty assumptions and scientific data, between the best intentioned misconceptions of one time and the improved analysis of a later time.

Such is the case here. In looking for something as tangible as a mine shaft, the County Board of Appeals for Baltimore County overlooked the much more significant depths of the error which the petitioner, Universal Housing and Development Company ("Universal") presented to the Board. Much as a geologist would demonstrate the nature and location of the previously unobserved mine shaft, so Universal's witnesses, with equal precision, addressed the dominant issue acknowledged by all parties to be of primary concern in the zoning of the property in question - its proximity to the Loch Raven Reservoir - and proceeded to show how the County had failed to deal adequately or correctly with that issue. Universal's case demonstrated that the County, at the time of the 1980 comprehensive zoning, did not have adequate information from which to develop a coherent water quality protection program with regard to Universal's property and, from the variety of land-use control tools available to it, incorrectly chose D.R. 3.5 zoning (Density Residential, 3.5 units per acre) as its method of implementing water quality protection. But

Universal's case showed the Board of Appeals that which the County did not know or could not know or chose not to know in 1980: that zoning could not be used as the water protection tool the County envisaged. Universal showed that present scientific knowledge of environmental engineering demands a total reevaluation of the tools the County used to promote water quality protection. Universal having brought to light the error lying beneath the surface of the County's zoning for the property, then went on to demonstrate unequivocally that there was, in fact, a way to accomplish the County's goals of water conservation, albeit one which the County, in error, failed to use. Through detailed plans and expert testimony, Universal set forth a way out of the error, justifying its application for a change of zoning designation to D.R. 5.5. (Density Residential. 5 5 units per acre). It is that application which Universal seeks to be upheld by this Court.

Universal filed an application on August 14, 1981 for the rezoning of 175± acres of its property located on either side of Ashland Road in Baltimore County (the "Property") from D.R. 3.5. In accordance with Baltimore County Code, Article V, Section 2-58.1, the matter was heard by the County Board of Appeals (the "Board") over the course of six days of hearings. At the close of Universal's case on the sixth date, People's Counsel for Baltimore County moved for a dismissal. The Board, rejecting Universal's request to submit memoranda of

law setting forth the standards for mistake or error as established by precedents set by the Maryland courts, granted the Motion to Dismiss that day. Thereafter, as required by law, the Board sent notice to Universal of its decision by its Order dated March 24, 1983. 1/

The Board, in the Opinion setting forth the grounds of its decision, also revealed the error it committed in that decision. Having noted that it was impressed with Universal's presentation, the Board stated that, nevertheless, Universal had not overcome the threshhold test of demonstrating the occurrence of a substantial change in the neighborhood of the Property since the last rezoning or of an error at the time the existing zoning was established (see Baltimore County Code, Section 2-58.1(j)(i). It was in applying its perception of the definition of legal error to the evidence presented to it that the Board, a lay body acting, again, in this instance, without the benefit of any legal briefs or closing arguments that the Board committed its own error.

1/ While the disturbing breach of due process of law committed by the Board in refusing Universal the opportunity to present such memoranda is itself evidence of the Board's error, Universal is focusing this memoranda on the substantive legal issues in question, believing that a fair hearing by this Court will serve to rectify the dubious procedural policies of the Board. Universal, is not, however, waiving its rights regarding that denial of basic procedural fairness.

The often-cited standard for reviewing the actions of the legislative body charged with zoning powers is that, in order to overcome the presumption of correctness in a comprehensive rezoning, the applicant for a rezoning must produce enough strong evidence of the existence of an error or mistake in the original zoning so as to make the question of the correctness of that zoning "fairly debatable." Stratakis v. Beauchamp 268 Md. 643 (1973). Because of its misapplication of the legal standard for error or mistake, the Board failed to see the error committed by the Baltimore County Council at the time of the 1980 rezoning of the Property. The evidence presented by Universal in fact presented, beyond debate, a portrait of error, in the sense defined and expounded by the courts, let alone one which was "fairly debatable." Furthermore, because the hearing was terminated prior to the presentation of People's Counsel's or the protestants' case, Universal's testimony, largely uncontradicted and constituting the only evidence heard by the Board, must be viewed in the light most favorable to Universal.

The definition of legal error, as most recently reiterated by the Court of Appeals in Howard County v. Dorsey, 292 Md. 351, 356 (1982), citing Boyce v. Sembly, 25 Md. App. 43, 50-53 (1975), holds that:

> "the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the

> assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. [cases cited] Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect.

Universal's uncontested evidence showed that such was the case here: (1) the Council failed to take into account key facts, including scientific and technological studies and the County's available regulatory powers; (2) in so doing, the County was unable to provide adequately for then existing and recognized goals and trends; and (3) the subsequent unfolding of knowledge and events has shown that the pivotal underlying assumptions of the County Council at the time of the 1980 rezoning regarding the utility of density residential zoning to promote water quality protection were invalid.

Having been presented with a case for legal mistake that was at least fairly debatable, the Board should then have gone on to consider the second phase of the duty with which it was charged by Baltimore County Code 2-58.1(j)(2): to determine whether the reclassification proposed by Universal was warranted by the demonstrated error. The Board, however, felt constrained in its ability to make that determination because

it initially misapprehended the existence of legal mistake on the part of the County Council. It is the place of this Court to correct the Board's conclusion regarding the mistake in the comprehensive zoning so that the Board can then be free to go on to determine, on the basis of the evidence presented, whether the rezoning requested by universal should be granted.

1. The County Failed to Take Into Account Critical Information

Error in comprehensive zoning occurs when the zoning body's vision of the then-existing situation is distorted by its incorrect view of existing information or its ignoring of facts and trends of which it was aware or should have been aware if it were to act in a fashion not subject to error, all of which shows a failure to take into account critical information. See Boyce v. Sembly, 25 Md. App. 43, 50-51 (1975) and Quinn v. County Commissioners of Kent County, 20 Md. App. 413 (1974). In this case, Baltimore County's vision of the appropriate zoning for the Property was colored by its misunderstanding of the efficiency of the land-use tools at its disposal, and by its false conclusions distinguishing this Property from other properties with regard to impact on water quality. In this, as in other areas set forth below, Universal demonstrated that the County did not use or made incorrect use of the scientific, planning, and engineering knowledge which was critical to its decision-making.

a. Misapprehension of Zoning as a Tool in Promoting Water Quality.

The protection of water quality cannot be accomplished by the mere application of zoning categories.

Dr. John T. Cookson, an expert in environmental matters, testified that differences in zoning, except for differences in major categories, was not a factor in achieving or maintaining water quality (Transcript IV, 59-60 and 98)2/, and Mr. William F. Kirwin former chairman of the Baltimore County Planning Board (Transcript V, 26 and 35) testified that zoning was an ineffective tool in dealing with water quality issues. The Board, in saying in its Opinion at page 5 that:

> "if engineering and design is a better tool to protect the watershed, it can logically be assumed that it is not the only test. Zoning remains a tool, if not the best tool. Certainly, the utilization of zoning for the purposes of protecting a watershed does not constitute error ..."

clearly mistates the evidence. Both Dr. Cookson and Mr. Kirwin ruled out zoning completely as an effective tool in promoting watershed protection (Transcript IV, 99; V 35-36). Such testimony is the only discussion on the record and was never refuted. The attempt to use the D.R. 3.5 zoning as a means of

2/ Citations to the Transcript are to the transcript of the hearing before the Board of Appeals, indicated by the date of the hearing (I through VI) and the page of the transcript for that day.

effecting water quality protection was fallacious, demonstrating the County's failure to take into account critical information about water quality protection.

The case of Pressman v. Baltimore, 222 Md. 330 (1960) is instructive. There, the Baltimore City zoning regulations provided for commercial uses by zoning narrow bands of commercial development along major arterial highways. Experts testified that this did not constitute sound zoning. The Court of Appeals, in finding error by Baltimore City, said that the City's earlier concept of zoning to meet these purposes "has not stood the test of time and experience." 222 Md. at 339. This misapprehension regarding the proper and effective use of zoning was an error, within the legal sense of Maryland zoning cases, justifying a rezoning of the property to allow for a broad parcel for a shopping mall. In the same sense, Universal demonstrated that the County Council's view of the use of zoning to achieve water quality protection was misguided at its inception and, as a method of dealing with a justifiable goal of zoning, "has not stood the test of time."

b. Misapprehension of the Significance of Location as a Factor in Water Quality Protection.

Errors cited by Universal in the statements of County officials (See, e.g. Petitioner's Exhibits 10, 24-H, 24-J, and 24-L) reveal that the County significantly overstated and thereby misunderstood the relationship between the

proximity of property to the Loch Raven Reservoir and its impact on water quality.

In addressing the reported concerns of Baltimore County officials that the Property's proximity to the reservoir mandated a lower density, Charles E. Fick, an engineering expert testifying for Universal, cited (Transcript IV, 191) the higher density zoning of the adjacent Broadmead community (the average density of which was stated by Mr. Kirwin to be eight to ten units per acre [Transcript II, 101]) and the nearby Loveton Estates property, zoned at D.R. 5.5 (see also Kirwin testimony, Transcript V, 16), both of which drain into the Loch Raven Reservoir. In fact, the entire neighborhood of the Property, including office park and commercial centers, drain into the reservoir in the same sense that the Property does (Transcript II, 164-165). Yet Dr. Cookson (Transcript IV, 60-61), in uncontradicted testimony, said that there was no difference between the Property and other properties in the neighborhood further upstream in terms of the impact of storm water draining off those properties on the Loch Raven Reservoir. Universal's experts, therefore, could give no rational reason why the Property would be treated differently from neighboring tracts of land, all of which were zoned for much more intense uses. The County, of course, never produced any reason for this disparity at the hearing before the Board. The only explanation, then is that the County, as evidenced by

statements produced through the time of the hearing, mistakenly believed that those other properties would have no impact on water quality while Universal's Property would have an effect on some larger order of magnitude. This, of course, is not the case, as Universal demonstrated, and the County's diverse zoning categories for comparable properties must therefore be grounded in mistake.

c. Failure to Make Use of Critical Information.

The Court in Boyce v. Sembly, 25 Md. App. 43, 50 and 52, first stated that "Error could be established by showing that at the time of the comprehensive zoning, the Council failed to take into account then existing facts or projects or trends which were reasonably foreseeable of fruition in the future" and, thereafter, that one could show a failure to take into account such facts or events by "producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning."

The Board in this case misapplied this standard by saying that if the County ignored data it did not have, then it could not be considered to have erred in failing to consider it. But the Council cannot, without committing legal error, blindly choose a zoning designation to meet that need, and dispense with the benefit of the studies, data, and techniques that would have, in fact, effectuated the desired result.

Universal's testimony revealed that whereas the County had long recognized the need for undertaking actions to protect the quality of water in the Loch Raven Reservoir, it never obtained the data necessary to make the distinctions between zoning categories on the basis of their relative effects on water quality; never developed appropriate guidelines or criteria for meeting water quality needs; failed to examine the ineffectiveness of the methods chosen to effectuate water quality; and did not consider utilizing the tools available to meet that need.

Mr. Kirwin testified (Transcript V, 16-18) that the County had been aware of and had been concerned about the quality of water in the Loch Raven Reservoir at least since 1975 as evidenced by the report of Harold Wiltse, a copy of which was introduced as Petitioner's Exhibit 27. The Wiltse report cited the problem but, as the report itself recognized in calling for additional studies and as Mr. Kirwin stated (Transcript V, 20), the report did not quantify its concerns nor quantify the relationships between different types of land uses and resultant pollution. Mr. Kirwin went on to say that, to his knowledge as chairman of the Baltimore County Planning Board, the County never went on to obtain quantified studies of the issue (Transcript V, 21), which opinion was not refuted.

The Board, in its Opinion, said the County could not be held to have erred if it did not have the benefit of

information which it did not have. Yet, Dr. Cookson testified that the report of the Northern Virginia Planning Commission, setting forth just the sort of quantified information the County had been lacking, regarding the effect of residential densities on pollutant loadings, was produced in 1979 (Transcript IV, 78). He acknowledged that the report would not have been generally recognized early in 1980, it taking possibly a year for it to gain general acceptance (Transcript IV, 87). Therefore, the County Council certainly could have had the benefit of this report in the summer of 1980 when it was conducting hearings on the comprehensive rezoning, but did not. In that case, the failure to take into account critical information with which the County could have determined whether its distinctions between zoning classifications based on water quality protection were valid, but without which they were acting arbitrarily, certainly constitutes error. In Bonnie View Club v. Glass, 242 Md. 46 (1966), for example, certain facts and information, such as subsurface rock formations and abandoned mine shafts on the property, were in existence at the time of the zoning of the property R-10, but were unknown to the County at that time. When that information became known later, it became clear that this was critical information which revealed the error in the earlier zoning.

However, even if the County did not, at the time, have the benefit of the information in question, it still committed

error at the time of the comprehensive zoning, within the meaning set forth by the Maryland courts. In Overton v. County Commissioners, 225 Md. 212 (1961), the planning staff at the time of the prior rezoning had determined that the property was not suitable for commercial purposes requested by the owner, but did not have enough resources or information at that time to determine what type of residential zoning was most appropriate. Although it had recommended R-R (rural residential) at that time, the disclosure of additional factual information regarding the topography, configuration, and drainage of the land, showed that the utilization of the land for residential purposes could better be achieved by allowing for denser development of certain portions of the property under R-18 (multi-family, low density residential) zoning.

Similarly, in the case of this Property, as discussed by the Baltimore County Planning Board in its January 21, 1982 report to the Board of Appeals (Petitioner's Exhibit 14), the property had been zoned M.L.R. and R.C. 4, and Universal, at the time of the 1980 rezoning, requested a mixture of heavier density residential zones. The Planning Staff and the Planning Board recommended the lower density D.R. 3.5 zoning based on a concern for water quality, but did not have the information or tools to distinguish between the effects of D.R. 3.5 versus D.R. 5.5 zoning on water quality. With the information now presented by Universal to the planning staff and the Board of

Appeals, it is now possible to make that distinction. Dr. Cookson described this kind of information, as presented in the Northern Virginia report, as "critical information" if one is "going to evaluate different density residential land activities." (Transcript IV, 87) The availability of this information at this time, much like the new information in Overton, supra, serves to reveal the error made at the time of the previous zoning.

2. The County Failed to Make Provisions for a Recognized Goal.

At the same time that the County was acting without critical information regarding the implementation of the water quality protection measures which the Country had itself acknowledged were needed, it failed to establish any guidelines or criteria for effectuating the desired goal and, thereby, failed to realize the ineffectiveness of the existing tools at its disposal.

Charles Fick, an expert on engineering matters, testified (Transcript IV, 14) that although there are extremely technical requirements set by the County for storm water management, he was not aware of any comparable County criteria for water quality protection. He later testified that there were no provisions, in his experience as an engineer, in Baltimore County for providing water quality management in conjunction with storm water management, and that he had never attempted to comply with water quality management standards in

any work he had performed in the County (Transcript IV, 172) William Kirwin, planning expert for Universal and former chairman of the County Planning Board, testified that the County had never established a written policy setting forth guidelines or standards for water quality protection (Transcript V, 28-29). While a County official cited Section 34-1 of the Baltimore County Code (Petitioner's Exhibit 24-L), Mr. Fick testified (Transcript IV, 179-180) that those provisions have never required any water quality treatment features of the type in question nor have they set any standards, guidelines, criteria, regulations, or other means to determine what is required in the way of best management practices for water quality (Transcript IV, 184; also Kirwin testimony, Transcript V, 33). This was corroborated by the County's Head of Environmental Studies, Paul J. Solomon when in January, 1980, at the time of the comprehensive rezoning in question in this matter, he wrote to the County's Director of the Office of Planning and Zoning saying: "The developer [Universal] does mention that some thought will be given to treating the storm-water to reduce the pollutants that it contains. It must be stressed, however, that this is not a county requirement and whether or not the developer does become involved in this very expensive undertaking, remains to be seen." (Petitioner's Exhibit 26, pg. 2).

Thus, the County, while recognizing the need for implementation of stormwater treatment to promote water quality, had and continues to have no available effective tools with which to deal with the situation. The County's goal of promoting water quality protection could only be effectuated by a study of the property in question and by implementing appropriate water quality controls (testimony of Dr. Cookson, Transcript IV 59-61), not merely zoning (Transcript IV, 59). The engineered solution to the problem the County recognized, proposed by Universal as part of its application, is far beyond that which the County has or could require (Cookson testimony, Transcript IV, 128; also Fick testimony, IV, 180), and would not be implemented as a result of D.R. 3.5 zoning (see, again, the statement of Paul Solomon, supra, Petitioner's Exhibit 26). Yet the implementation of such a system is necessary to achieve one of its major goals in controlling and protecting water quality in the Loch Raven Reservoir (testimony of Dr. Cookson, IV, 74).

The tool which is available to the County to achieve this goal is the use of County Bill 46-79, now incorporated as Sections 2-58.1 and 2-58.2 to Article V of the Baltimore County Code, by which a property owner, as Universal has done in this case, can request a rezoning based on a specific plan and then, if the rezoning is granted, become bound to develop the property

only in accordance with the submitted plan. Because, in this instance, Universal is submitting a specific plan addressing the water quality issue in a way existing County mechanisms cannot, Universal is providing the County with the means of rectifying its original error in zoning the Property. The Court of Appeals has found that failing to account for and make provisions for a need or trend constitutes legal error, justifying a rezoning (see Rhode v. County Board of Appeals for Baltimore County, 234 Md. 259 (1964) and Jobar Corporation v. Rogers Forge Community Association, 236 Md. 106 (1964) discussing the failure to take into account a need for apartment development). In the present instance, the County ignored the gap created between the need it acknowledged in its Master Plan and various pieces of legislation (Kirwin testimony, Transcript V, 6) for water quality protection, and the means available at its disposal for dealing with the problem. Contrary to the Board of Appeals' assumptions in its Opinion (page 7), Universal never contended there had been an error in the Master Plan. Rather, the references to water quality in the Master Plan and other official statements of county policy merely testify to the fact that the County recognized the need for water quality protection measures at the time of the 1980 comprehensive rezoning but failed, as Universal's uncontested evidence showed, to take any real, effective measures in that direction. To the extent the County

failed to act effectively because it lacked certain critical data or information, it committed an error at the time of the rezoning because it dealt with an acknowledged problem with tools which the County Council should have been able to foresee were not adequate. Subsequent events and subsequent knowledge reaffirm that original error and demonstrate its continuing nature. The fact that Universal has, at this later date gone forward with a proposed solution does not change the fact that the original error was made in 1980; much the same way as Baltimore City was seen as having erred when it dealt inadequately with the need for commercial uses in the Pressman v. Baltimore case, supra. Although Baltimore City might not have been able to foresee the evolution of regional shopping malls when it zoned the property in the Pressman case in error, it nevertheless failed at the time of the zoning to deal with a situation effectively. The petitioner in that case proposed a solution applicable to the particular piece of property in question. The fact that the granting of the one petition would not correct a larger general error in the overall zoning scheme was not important, the Court said, since a "correction in part seems preferable to none." 222 Md. at 339.

3. Key Underlying Assumptions of the County Were Incorrect

Testimony of William F. Kirwin, former chairman of the Baltimore County Planning Board and a planning expert for Universal (Transcript V, 13-14), the report of the Baltimore

County Planning Board to the Board dated January 21, 1982 (introduced as Petitioner's Exhibit 14 at the hearing), and the comments of several County officials (introduced as Petitioner's Exhibit 24 at the hearing) all indicate that the protection of water quality in the Loch Raven reservoir and the proximity of the Property to the reservoir were primary concerns in the zoning of the Property. This contention was never disputed before the Board, and the Board, in its Opinion, at page 5, refers to Mr. Kirwin's testimony in this regard and, in effect, accepts it as being the case. The continuing commentary of all County officials to the Planning Board, the Board, and Universal, which was presented at the hearing by Universal and uncontradicted by any witnesses or evidence presented by the County or the protestants, all emphasized and re-emphasized the concern of County officials with the impact of development of the Property on the reservoir. The current zoning for the Property is the result of those concerns.

Yet, Universal demonstrated that the zoning of the Property as D.R. 3.5 based on those underlying assumptions, was erroneous.

As stated above, the County incorrectly assumed that D.R. 3.5 zoning could effectuate water quality protection and incorrectly assumed that the proximity of the Property to the Loch Raven Reservoir distinguished it from other neighboring properties. The decisions of the Courts of this State have

held that when the assumptions underlying a zoning classification prove to be incorrect, a rezoning is justified. The Court of Appeals in Dill v. The Jobar Corporation, 242 Md. 16 (1966) upheld a finding of mistake justifying a rezoning to more intense uses. In that case property had been zoned for residential apartment uses based on the assumption that apartments would make a good buffer between surrounding commercial uses and other residential uses. Testimony indicated that the concept of using apartments as a buffer/transition in that instance was "illusory," 242 Md. at 22. Here, the property was also zoned based on a misconception of the role of its location vis-a-vis surrounding land uses. As in Dill, zoning property on the assumption that its location suits it for or precludes it from certain uses, when that assumption is "illusory," jusitifies a finding of mistake.

Again, in Rockville v. Stone, 271 Md. 655 (1974), the Court found that the underlying assumption regarding the inability to develop the property in question for residential purposes, leading the Court to endorse a rezoning of the property to light industrial uses, had proven to be incorrect. The location of the property in proximity to industrial uses did not preclude the land being developed for housing, as evidenced by the revitalization of the neighborhood as a residential area. Therefore, the misapprehension about the appropriateness of residential zoning on the site was a

fundamental error at the time of the earlier rezoning which justified a new rezoning. The Court held that "when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize a rezoning." 271 Md. at 662.

Petitioner's evidence and the testimony of its expert witnesses established that the assumptions at the time of the 1980 rezoning that D.R. 3.5 zoning could effectuate better water quality and were required by the proximity of the Property to the reservoir have, like the beliefs regarding the utility of strip commercial zones in Pressman, supra., the use of the property in Dill, supra, to serve as a buffer, and the inability to build residences on the Rockville v. Stone property, supra., have been shown to be wrong at the time they led to the current zoning, continue to be wrong now, and have not, in the words of the Court in Pressman, "stood the test of time."

4. Conclusion

Universal, in proceeding under Baltimore County Code, Article V, Sections 2-40.1 undertook a two-fold endeavor to demonstrate that an error had been committed in the original zoning of the Property as well as to demonstrate that the error committed warrants the rezoning requested. Since Universal put forth a specific site plan in conjunction with its petition, certain of the detailed features of which were specifically

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designed to correct the County's error and thereby warrant the granting of the petition as a means of rectifying the error, it was, of course, necessary for Universal, in presenting its case, to spend a good deal of time in describing its proposed site plan. In doing so, Universal was not ignoring the change/mistake threshhold issue, as the Board seems to imply. Rather, it was establishing in the first instance the nature of that error as follows:

(i) the County had long been aware of the need of promoting the protection of water quality in reservoirs located within the County;

(ii) having recognized that need, it never developed any appropriate tools to deal with it;

(iii) on the incorrect assumption that zoning was such a tool, it zoned this Property D.R. 3.5, mistaking the uses and limits of zoning;

(iv) at the same time, further demonstrating its fundamental error, it had zoned other properties in the neighborhood at higher densities even though the locations of those properties were no more significant in terms of water quality protection than the proximity of this Property to the reservoir;

(v) however, the distinctions the County attempted to make in zoning this Property were meaningless in terms of water quality protection;

0054u 01/01/83

(vi) what is needed to meet that goal is a designed, engineered approach;

(vii) such an approval is not incorporated into the D.R. 3.5 zoning classification nor in any other regulation of the County;

(viii) the powers of the Board of Appeals in County Code Section 2-58.1 can, however, require the incorporation of such measures and are, in fact, the only means of effectuating the desired goal.

Under the case law developed by the Maryland courts, this establishes a case of original mistake. This is especially true when, as here, the requested rezoning is from one subcategory of residential use to another, in which case a "more liberal standard" is employed, making the burden on the petitioning landowner lighter. Tennison v. Shomette, 38 Md. App. 1 (1977), Missouri Realty, Inc. v. Ramer, 216 Md. 442 (1958); and see Chapman v. Montgomery County Council, 259 Md. 641 (1970 citing 26 Md.L.Rev. 48, 51 (1966).

Further, because the Board terminated the hearing at the conclusion of Universal's case, none of the above points were contradicted or brought into question. The posture of this case is such that all evidence and testimony must be viewed in the light most favorable to the petitioner.

Much of Universal's case was not meant merely to put on an impressive show, as the Board implies. It was necessary

to demonstrate that, in light of the County's error, the proposed rezoning in accordance with the specific site plan was warranted by the error. The Board never reached this latter question because it truncated its analysis at the level of the change/mistake issue. The Board's Opinion, in places, seems to indicate that the Board could be willing to rule affirmatively on the second question, but that it could not agree that the above-described case presented by Universal constituted error.

In that regard, the Board, itself, was in error. The Board's Chairman acknowledged "there is a strong possibility that we will be found not correct in the ruling; but as it stands with what we have before us right now, I don't see where the Board has any choice but to grant the motion to dismiss." (Transcript VI, 30). The Board is seeking guidance, then, from this Court as to what constitutes error in this case. Viewed by any standard, but certainly in the light most favorable to Universal within the procedural setting of the motion to dismiss, that test has been amply overcome. This Court should now remand the case to the Board to make the factual determination with which it is charged and which it never made:

the finding of whether the County's error warrants Universal's requested rezoning.

Respectfully submitted,

Mark Pollak, Esq.

Joel J. Feinberg, Esq.

Attorneys for Petitioner
36 South Charles Street
Baltimore, Maryland 21218
(301) 243-5841

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June, 1983, I have caused to be mailed, postage prepaid to the County Board of Appeals of Baltimore County a copy of the within Memorandum in Support of Petition of Universal Housing and Development Company to the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204 with an additional copy to Peter Max Zimmerman, Deputy People's Counsel, at his office at Baltimore County People's Counsel, 400 Washington Avenue, Towson, Maryland 21204, and to Jeffrey B. Hazard, Esquire, 13919 Green Branch Drive, Phoenix, Maryland 21131.

Joel J. Feinberg

Re'd 6/21/83

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
July 7, 1983.

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

John Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Encolano — 494-2662
Master Assignment Clerk
Medical Records

TO: Mark Pollak, Esq.
Joel J. Feinberg, Esq.
John V. Eversen, III, Esq.
Peter Max Zimmerman, Esq.
County Bd. of Appeals of Balto. Co.
Thomas J. Bollinger, Esq.

RE: MCH JUNE - 83 M 147 - UNIVERSAL HOUSING & DEV. CO. VS BD. OF APPEALS OF BALTO. CO.

HEARING DATE: Wednesday, September 14, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 2 hours
Hotel Corrected notice, confirming an agreed counsel date.

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, 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 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 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.

7/8/83

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
July 18, 1983.

John Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Encolano — 494-2662
Master Assignment Clerk
Medical Records

TO: Mark Pollak, Esq.
Joel J. Feinberg, Esq.
John V. Eversen, III, Esq.
Peter Max Zimmerman, Esq.
County Board of Appeals of Balto. Co.
Thomas J. Bollinger, Esq.

RE: MCH JUNE - 83 M 147 - UNIVERSAL HOUSING & DEV. CO. VS BD. OF APPEALS OF BALTO. CO.

HEARING DATE: Wednesday, September 21, 1983, @ 9:30 a.m.

ON THE FOLLOWING: Appeals 2 hours
Hotel Corrected notice.

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, 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 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 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.

7/18/83

Re'd 6/21/83

LAW OFFICES OF
PIPER & MARBURY
100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202-785-9150

June 3, 1983

Jeffrey B. Hazard, Esq.
13919 Green Branch Drive
Phoenix, Maryland 21131

Re: Universal Housing & Development Co.

Dear Mr. Hazard:

With reference to your letter to Mark Pollak dated May 27, 1983, please be aware that Maryland Rule B2(c) and (e) only requires that the appellant serve a copy of the applicable court papers on the agency whose action is appealed from. It is the responsibility of the agency to give written notice by mail or otherwise to every other party to the proceeding or that party's representative. Accordingly, as a representative of a party at the hearing, you should have received copies from the Baltimore County Board of Appeals. You might request that the clerk for the Board check to see if you are, in fact, on the appropriate mailing list.

However, as an accommodation to you, I am glad to enclose a copy of the Petition you requested.

Please do not hesitate to call if you have any questions.

Very truly yours,

Joel J. Feinberg

Enclosure

JPM:brm

cc: Peter Max Zimmerman

Rec'd 6-7-83
10 am

JEFFREY B. HAZARD, CPA
ATTORNEY AT LAW
13919 GREEN BRANCH DRIVE
PHOENIX, MARYLAND 21131
(301) 667-1858

May 27, 1983

Mr. Mark Pollak, Esquire
36 South Charles Street
1100 Charles Center South
Baltimore, Maryland 21201

RE: Universal Housing &
Development Co.

Dear Mr. Pollak:

I received in the mail today an Answer to Petition for Appeal filed by Peter Zimmerman and Jack Hessian. Apparently this means that there must be a Petition for Appeal filed by someone, presumably yourself, in this matter.

Assuming this to be the case, I would appreciate some explanation as to why I have not been served with this Petition so that I may prepare an appropriate response. If I have not heard from you within ten (10) days from the date of this letter, I will file a motion asking that the Petition be dismissed due to lack of proper process.

Sincerely,

Jeffrey B. Hazard

JBH/as

CC: Mr. Peter Max Zimmerman
Deputy Peoples Counsel
Room 223, Court House
Towson, Maryland 21204

Rec'd 6-7-83
10 am

Form 1M

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland 21204-0754
May 19, 1983

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

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

Jodi Adams — 494-2660
Civil Assignment Commissioner
Settlement Court

Maria Ercolano — 494-2662
Assignment Clerk
Medical Records

TO: Mark Pollak, Esq.
Joel J. Feinberg, Esq.

John W. Hessian, III, Esq.
Peter Max Zimmerman, Esq.

County Board of Appeals of Balto. Co.
Thomas J. Bollinger, Esq.

RE: NON JURY - 83 M 149 - IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEV. TO BD. OF APPEALS OF BALTO. CO.

HEARING DATE: Monday, August 15, 1983, @ 9:30 a.m.
ON THE FOLLOWING: Appealed 2 hours

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

POSTPONEMENTS: If the above date is not agreeable to any counsel a requ...st for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all co..nsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments — Joyce Grimm — 494-3497.

SETTLEMENT CONFERENCES: All counsel must secure the ...ttendance of all parties necessa ry 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 Jodi 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.

In the Matter of the Application of
Universal Housing & Development Co.

Vs.

Board of Appeals of Baltimore County

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
Docket 15 Folio 184
Case No. 83-M-149

NOTICE OF FILING OF RECORD

TO: Mark Pollak - Joel J. Feinberg
1100 Charles Center South
36 S. Charles St. Balto. Md. 21201

June Holmen
Co. Bd. of Appeals of Balto. Co.
Room 200, Courthouse, Towson, Md. (04)

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on May 11, 1983.

Edward H. Gable Jr.
Clerk

5 55

CASE NO. 15/184/83-M-149 AT LAW
Universal Housing & Development Co. vs.

RECEIVED FROM THE COUNTY BD. OF APPEALS CERTIFIED DOCUMENTS, EXHIBITS, AND BOARD'S ANSWER FILED IN THE ABOVE ENTITLED CASE.
ALSO, TRANSCRIPT - 6 volumes
Clerk's Office

Date: May 11, 1983

April 22, 1983

BILLED TO: Joel Feinberg, Esq. and
Mark Pollak, Esq.
1100 Charles Center South
36 S. Charles St. (21201)

Cost of certified documents filed
in Case No. CR-82-187 . . . . . $ 80.00

Universal Housing and Development Co.
E/s of Paper Mill Rd. 611.86' from center-
line of Ashland Rd.; E/s of Paper Mill Rd.
649.39' W. of int. of Paper Mill Rd. and
Ashland Rd.; and W/s of Paper Mill Rd.
667.20' W. of int. of Paper Mill Rd. and
Ashland Rd.
8th District

MAKE CHECKS PAYABLE TO: Baltimore County, Md.

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

BALTIMORE CO. MD.
RECEIVED
Apr 22 4 PM '83
CLERK'S OFFICE

Pd. 4/29/83
J.R.

494-3180

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

April 22, 1983

John W. Hessian, Esq.
People's Counsel
Court House
Towson, Md. 21204

Re: Case No. CR-82-187
Universal Housing & Dev. Co.

Dear Mr. Hessian:

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: Catherine Motz
Linda Tavin
Dr. & Mrs. Edward Hopkins
Margaret Resnick
Jeffrey Hazard
Board of Education
W. E. Hammond
J. Dyer
N. Gerber
J. Hoswell

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

No. 85122

DATE April 29, 1983 ACCOUNT 01.712

AMOUNT $80.00

RECEIVED FROM Joel Feinberg and Mark Pollak, 36 S. Charles St., Baltimore, Md. 21201

FOR Cost of certified documents filed in Case No. CR-82-187, Universal Housing and Development Co.

B 8015******8000:a 8292F

VALIDATION OR SIGNATURE OF CASHIER

494-3180

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

April 22, 1983

Joel J. Feinberg, Esq.
Mark Pollak, Esq.
1100 Charles Center South
36 S. Charles St.
Baltimore, Md. 21201

Re: Case No. CR-82-187
Universal Housing & Development Co.

Gentlemen:

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: John M. Jones, Jr., Esq.
Universal Housing and
Development Co.

John Marvin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

March 18, 1982

NOTICE OF HEARING

RE: Petition for Conditional Re-classification
Paper Mill and Ashland Roads
Universal Housing & Development Company-
Petitioner
CASE #CR-82-187

TIME: 10:00 A.M.

DATE: Wednesday, April 14, 1982

PLACE: Room 218, Courthouse, Towson, Maryland

cc: John W. Hessian
People's Counsel

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

7/27/82 - Continued hearing scheduled for WEDNESDAY, SEPTEMBER 22, 1982 at 10 am and THURSDAY, SEPTEMBER 23, 1982 at 10 am

9/24/82 - Continued hearing scheduled for TUESDAY, Dec. 7th, 1982, at 10 a.m. and WEDNESDAY, Dec. 8th, 1982, at 10 a.m.

12/8/82 - Continued hearing scheduled for Wednesday, Feb. 23, '83, at 10 a.m. ~~and~~ Dismissed at Hearing ~~Thursday, Feb. 24, 1983, at 10 a.m.~~

494-3180

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

December 8, 1982

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. CR-82-187 — UNIVERSAL HOUSING & DEVELOPMENT CO.

For reclassification from D.R. 3.5 & D.R. 1 to D.R. 5.5

E/S Paper Mill Rd., W. of Ashland Rd.

8th District

ASSIGNED FOR: WEDNESDAY, FEBRUARY 23, 1983, at 10 a.m. and THURSDAY, FEBRUARY 24, 1983, at 10 a.m.

cc: John M. Jones, Jr.,Esq. Counsel for Petitioner
Universal Housing (Mr. Melvin Colvin, Pres.) Petitioner
J. W. Hessian, Esq. People's Counsel
Joel J. Feinberg, Esq. Counsel for Petitioner
Catherine Motz Representing Broadmead
Linda Tavin
Dr. & Mrs. Ed. Hopkins
Margaret Resnick
Jeffrey B. Hazard
W. E. Hammond
J. E. Dyer
N. Gerber
J. Hoswell
Bd. of Education

June Holmen, Secretary

494-3180

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

March 24, 1983

Mark Pollak, Esq.
110C Charles Center S.
36 S. Charles St.
Baltimore, Md. 21201

Re: Case No. CR-82-187
Universal Housing & Development Co.

Dear Mr. Pollak:

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: John M. Jones, Jr., Esq.
Melvin R. Colvin
Board of Education
J. W. Hessian, Esq.
Joel J. Feinberg, Esq.
Catherine Motz
Linda Tavin
Dr. & Mrs. E. Hopkins
Margaret Resnick
Jeffrey B. Hazard
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. Hoswell

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William T. Hackett, Chairman, County Board of Appeals; Norman E. Gerber, Secretary — Date: December 2, 1982

FROM: Baltimore County Planning Board

SUBJECT: Zoning Reclassification Petition No. R-82-187
Cycle II, Item 10 Towson Nurseries Property

The additional documents filed by the petitioner with the County Board of Appeals on September 23, 1982, have been reviewed by interested govermental agencies. Written comments from these agencies are hereby transmitted.

After reviewing these matters, the Planning Board still believes that D.R. 3.5 zoning provides for a reasonable use for the subject property, and that the zoning map is correct. The Board, therefore, reoffirms its earlier recommendation that the petitioner's request not be granted.

Norman E. Gerber
Secretary of Baltimore County Planning Board

NEG:JGH:slc

cc: Peter Max Zimmerman
Deputy People's Counsel

Mark Pollack, Esquire
Piper and Marbury
36 South Charles Street
Baltimore, Maryland 21202

RECEIVED
BALTIMORE COUNTY
Dec 3 3 35 PM '82
COUNTY BOARD OF APPEALS
By: E

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Members of the Baltimore County Planning Board; Norman E. Gerber, Director — Date: November 24, 1982

FROM: Office of Planning and Zoning

SUBJECT: Zoning Reclassification Petition No. R-82-187
Cycle II, Item 10 Towson Nurseries Property

Included in this mailing for the Planning Board are the following items relating to the subject zoning reclassification petition:

1. A memorandum from Paul Solomon to Norman E. Gerber, dated November 27, 1982.
2. Comments Baltimore City Planning and the Water Quality Management Office, dated October 29, 1982.
3. A memorandum from Ian Forrest to Norman E. Gerber, dated November 5, 1982.
4. A memorandum from James Markle to Norman E. Gerber, dated November 18, 1982.

The petitioner has been furnished copies of these items.

The planning staff still does not believe that the petitioner's request for D.R. 5.5 zoning should be granted, nor does this latest document action change our stated position. It is our opinion that the existing zoning provides for a reasonable use for the land, that the zoning of the subject property was delineated as a specific issue before both the Planning Board and the County Council during the preparation and processing of the 1980 Comprehensive Zoning Map, and that the zoning map is correct. We are not opposed, however, to the reclassification of the minute portion of the property zoned D.R. 1 to D.R. 3.5.

Norman E. Gerber,
Director of Planning and Zoning

NEG:JGH:slc

cc: William T. Hackett, Chairman
County Board of Appeals

Peter Max Zimmerman

Mark Pollack, Esquire
Piper and Marbury
36 South Charles Street
Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: NORMAN E. GERBER, Director, Office of Planning and Zoning — Date: November 17, 1982

FROM: PAUL J. SOLOMON, Head, Environmental Planning Section, OPZ

SUBJECT: Towson Nursery Property Reclassification Petition
R-82-187 Cycle II, Item 10 Amended Documentation

The property known as the Towson Nursery property is currently zoned DR 3.5. A petition has been formally submitted which requests a reclassification to 5.5. The basis for the reclassification is to a large degree the claim that the anticipated greater financial return from a higher density will permit a greater investment in water pollution controls.

Currently, various agencies are reviewing a third set of plans submitted by the petitioner for water quality control from the site. The earlier two submittals were judged by the reviewing agencies to be either seriously flawed or incomplete. Comments are anticipated from the Baltimore County Soil Conservation District and the Baltimore County Bureau of Engineering regarding the workability of the most recent submittal.

The recommendation from the Environmental Planning Section, BCOPZ is that an adequate case does not exist based on environmental considerations to support a reclassification.

The property exists at the confluence of the Big Gunpowder Falls and Western Run in close proximity to Loch Raven Reservoir. Most of the properties or zoning classifications surrounding the site are PC 4 or Watershed Protection. The site itself should logically be zoned RC 4 rather than the existing DR 3.5. To increase the density to DR 5.5 would compound the potential for increased water quality problems represented by the current DR 3.5 zoning.

Assuming, for the sake of discussion, that the more recent stormwater management facility can function effectively as designed and will be properly constructed, the issue of adequate operation over time depends on factors external to the petitioner. These factors include a regular program of inspection and maintenance. Considering the potential level of water quality degradation, Baltimore County should not assume or allow this degree of risk in regard to the Baltimore Metropolitan water supply.

Finally, the petitioner to our knowledge has not provided documentation to show that the return from the existing zoning is inadequate to finance the proposed water quality facility or that the petitioner otherwise lacks the financial resources to do so.

Paul J. Solomon
PAUL J. SOLOMON Head

PJS:vh

CITY OF BALTIMORE
WILLIAM DONALD SCHAEFER, Mayor

PLANNING COMMISSION
DEPARTMENT OF PLANNING
LARRY REICH, Director
8th Floor, 222 East Saratoga Street, Baltimore, Maryland 21202

RECEIVED
BALTIMORE COUNTY
NOV 4 1982
COUNTY BOARD OF APPEALS

October 29, 1982

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

Dear Mr. Gerber:

In response to your request dated October 4, 1982, Baltimore City Planning staff and staff in the Water Quality Management Office have jointly prepared the following comments pertaining to the latest amended documentation submitted by the prospective developer of the Towson Nurseries property.

As stated in previous City comments (May 14, 1982, May 4, 1982 and December 11, 1981), the City has several concerns regarding the zoning change, the proposed development and the stormwater management system designed by the engineers for the developer.

The first and foremost concern is maintaining a high level of water quality in Loch Raven reservoir. This regional water supply is the most eutrophic of the three reservoirs which serve the Baltimore metropolitan area. Since the early 1970's, additional treatment costs have averaged about $200,000 per year to deal with nuisance algae blooms. The eutrophication of Loch Raven has led to studies by the City aimed at identifying pollution sources and potential solutions. In addition, many programs are being considered at the local and State level to reduce pollutant loading to the reservoir. These programs include a formal Reservoir Watershed Management Agreement signed in 1980 by Baltimore City, Baltimore County, Carroll County and the State Office of Environmental Programs; a land application program of sewage sludge by the town of Manchester; adoption of a new stormwater management policy by Baltimore County and several other programs aimed at gaining more effective control over the input of potential pollutants to the reservoir.

On the basis of this concern for the water quality in Loch Raven, City Planning staff seriously questions the wisdom of allowing a 968-unit development so close to the reservoir. In fact, a review of the surrounding zoning indicates that the tract under consideration for development could well be considered for a rezoning to RC-4 due to its proximity to Western Run and the reservoir.

Mr. Norman E. Gerber
Page 2
October 29, 1982

Our second concern is the manner in which the stormwater discharge from the proposed development will be handled off-site. The developer will have to obtain an easement from Baltimore City in order to discharge water onto the adjacent City-owned reservoir property. We are not aware of any effort by the applicant to request such an easement. Further, local and State laws exist to regulate discharge of water onto adjacent properties. These laws are designed to protect adjacent property and its owners against damages from flooding and soil erosion.

Our third concern addresses the premise upon which the developer bases the statement that a DR 5.5 zoning classification will provide better stormwater management than under the current DR 3.5. The report did not apply a comparable stormwater management analysis to the DR 3.5 density classification as a basis for valid comparison. Had it done so, the same stormwater management techniques would likely have demonstrated lower pollutant loadings for the DR 3.5 classification. Upon review of the documentation provided by JTC Environmental Consultants, Inc., it appears that theoretically the stormwater detention structure may remove the level of pollutants claimed. However, support of a higher density zoning classification based on technical and theoretical premises has inherent pitfalls. The maintenance of stormwater detention structures is crucial for proper operation. At present, the County lacks sufficient enforcement mechanisms to ensure proper maintenance. In addition, this technical premise will set a dangerous precedent and indeed may threaten all lower density zoning, including RC-4 zoning which acts as a protective to the Loch Raven Reservoir. The City opposes the use of this tactic in justifying zoning changes.

I hope you find these comments helpful in the preparation of your submittal to the Baltimore County Planning Board. If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

Larry Reich
Director

bam

William S. Wolinski
Richard Kretzschmar
Walter Koterwas
Brent Hartley
Paul J. Solomon
Donald Brand
Mark Wasserman

Mr. Hoswell

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Norman E. Gerber, Director, Office of Planning and Zoning — Date: November 5, 1982

FROM: Mr. Ian J. Forrest

SUBJECT: TOWSON NURSERIES PROPERTY
ZONING RECLASSIFICATION PETITION
R-82-187; CYCLE II, ITEM 10
AMENDED DOCUMENTATION

The point of view presented in the study "Stormwater Treatment Efficiency Calculations and Rationale for Towson Nurseries, Baltimore, Maryland" (undated) prepared by JTC Environmental Consultants, Incorporated and prior documents of the same nature presumes that a change in zoning from DR 3.5 to DR 5.5 should be granted for this site if the petitioner can demonstrate that environmental control measures can be designed to produce a quality of stormwater runoff from DR 5.5 zoning which is similar in nature to the quality of stormwater runoff from environmentally uncontrolled DR 3.5 zoning. There are two (2) major reasons why the petitioner's point of view is unsound, which are as follows:

(1) Consideration of Zoning as Applied to Towson Nurseries

The zoning process seeks to allocate the land resources of the County in such a way as to provide for adequate amounts and locations of various land uses throughout the County as a whole and to assign a specific site a zoning category which is compatible with the characteristics of the site within the context of its neighborhood. By its very nature, the zoning process is a balancing process which evaluates many social, economic and environmental factors according to the goals defined in the Master Plan.

In the case of Towson Nurseries, the petitioner seems to presume that the sole reason DR 3.5 zoning was assigned to this site was to protect the water quality of the Loch Raven Reservoir. If water quality had been the sole factor considered, the zoning assigned to this site would logically have been RC 4. Obviously, water quality was only one of several factors evaluated in assigning a zoning category to this site. The petitioner's attempt to focus all attention on the issue of water quality is a distortion of the evaluation process used in zoning.

494-3180

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

September 24, 1982

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. CR-82-187 — UNIVERSAL HOUSING & DEVELOPMENT CO.

For reclassification from D.R. 3.5 and D.R. 1 to D.R. 5.5

E/s Paper Mill Rd. W. of Ashland Rd.

8th District

ASSIGNED FOR: TUESDAY, DECEMBER 7, 1982, at 10 a.m.
WEDNESDAY, DECEMBER 8, 1982, at 10 a.m.

cc: John Martin Jones, Jr., Esq. Counsel for Petitioner
Joel J. Feinberg, Esq. " " "
Mr. Melvin R. Colvin, Pres. Universal Housing & Dev. Co. Petitioner
Catherine Motz — Representing Broadmead
Linda Tavin
Dr. and Mrs. Edward Hopkins
Margaret Resnick
J. W. Hessian, Esq. — People's Counsel
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. G. Hoswell
Bd. of Education
Mr. Jeffrey B. Hazard

June Holmen, Secy.

3. At the close of Universal's case on the sixth day, the People's Counsel for Baltimore County moved for a dismissal. The Board, rejecting Universal's request to submit memoranda of law or a summary of the evidence presented in the case, granted the Motion to Dismiss that day, adding, however, that its decision would be effective as of the date of the formal Opinion it planned to issue.

4. As required by law, the Board sent notice to Universal of its decision by its Opinion and Order of March 24, 1983, granting the dismissal of Universal's Petition for Reclassification.

5. Universal is appealing that Order of the Board and the Opinion of the Board setting forth the Board's grounds for its Order, copies of which are attached as Exhibit A.

II. Error committed

1. Section 2-58.1(j)(1) of Article V of the Baltimore County Code, as well as the precedents set by the courts of Maryland, require that the Board find that an error had been committed at the time of the zoning of the property as part of the previous comprehensive rezoning or that a substantial change had occurred in the neighborhood of the property since that time in order to warrant the granting of a petition for rezoning. The Board opined that it did not find that Universal had made a sufficient showing of change or mistake to warrant a rezoning.

2. Universal, through materials and testimony it presented, produced sufficient evidence to make the existence of error or mistake in the original zoning at least "fairly debatable," the standard to be applied in reviewing the reasoning of Board's decision.

3. Universal's evidence demonstrates the existence of legal error by any standard, although this is especially so in light of the fact that no evidence contradicting any

of Universal's case was presented and no witnesses were called to rebut or even question any of Universal's testimony. Because the Board dismissed Universal's petition at the conclusion of Universal's case, all evidence must be viewed in the light most favorable to Universal.

4. The Board's determination that no change or mistake had occurred, a determination made without the benefit of any memoranda or arguments of law, was made in error.

III. Relief sought by Universal

1. To reclassify the zoning of property pursuant to Article V, Section 2-58.1(j) of the Baltimore County Code, the County Board of Appeals must find, first, that a substantial change in the neighborhood or an error at the time of the last zoning classification of the property has occurred and, second, that the prospective reclassification set forth in the petition before the Board is warranted by that change or error.

2. The Board, having erroneously ruled on the first question, never reached the second question.

3. Therefore, Universal respectfully requests that this Court (i) find that the first test of the existence of change or mistake has been met and so direct the Board and (ii) instruct the Board to make a factual determination as to whether the rezoning proposed by Universal is warranted by that change or mistake.

Respectfully submitted,

Mark Pollak, Attorney for Petitioner

36 South Charles Street
1100 Charles Center South
Baltimore, Maryland 21201
(301) 539-2530

Joel J. Feinberg, Attorney for Petitioner

36 South Charles Street
1100 Charles Center South
Baltimore, Maryland 21201
(301) 539-2530

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th DISTRICT- PARCEL 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT- PARCEL 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT- PARCEL 3 FROM D.R. 3.5 and D.R. 1 TO D.R. 5.5	: BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY : NO. CR-82-187 : APPEAL TO THE CIRCUIT COURT FOR BALTIMORE COUNTY : IN LAW : CASE NO. 15 / 184 / 83-M-149

ORDER FOR APPEAL BY APPLICANT,
UNIVERSAL HOUSING AND DEVELOPMENT COMPANY

To the Clerk:

Please enter an appeal on behalf of Universal Housing and Development Company, Applicant, from the Order of the County Board of Appeals of Baltimore County passed in the above case on March 24, 1983.

Mark Pollak
Attorney for Applicant

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

(301) 539-2530

Joel J. Feinberg
Attorney for Applicant

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201

(301) 539-2530

RECEIVED
BALTIMORE COUNTY
APR 21 9 54 AM '83
COUNTY BOARD OF APPEALS
BY:

RECEIVED
RECORDED
1983 APP 21 PM 2:32
CLERK OF CIRCUIT
COURT, BALTIMORE COUNTY

CERTIFICATE OF SERVICE

I hereby certify that on this day of April, 1983, I have caused to be served by personal service this day on the County Board of Appeals of Baltimore County a copy of the within Order For Appeal at the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204 with an additional copy to Peter Max Zimmerman, Deputy People's Counsel, at his office at Baltimore County People's Counsel, 400 Washington Avenue, Towson, Maryland 21204.

Mark Pollak

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 1983, I have caused to be served by personal service this day on the County Board of Appeals of Baltimore County a copy of the within Petition of Petitioner, Universal Housing and Development Company at the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204 with an additional copy to Peter Max Zimmerman, Deputy People's Counsel, at his office at Baltimore County People's Counsel, 400 Washington Avenue, Towson, Maryland 21204.

Joel J. Feinberg

Rec'd. Bd. of Appeals
5-2-83-
3 PM
ETC.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th DISTRICT- PARCEL 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5 UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER-APPELLANT Zoning File No. CR-82-187	: IN THE CIRCUIT COURT FOR BALTIMORE COUNTY : AT LAW : Misc. Doc. No. 15 : Folio No. 184 : File No. 83-M-149

PETITION OF PETITIONER,
UNIVERSAL HOUSING AND DEVELOPMENT COMPANY

In accordance with Rule B2(e) of the Maryland Rules of Procedure, petitioner Universal Housing and Development Company ("Universal"), having filed an Order for Appeal on April 21, 1983, with the Circuit Court for Baltimore County, hereby files this Petition:

I. Action appealed from

1. Universal filed an application on August 14, 1981 for the rezoning of 175± acres of its property located on either side of Ashland Road in Baltimore County (the "Property") from D.R. 3.5 and D.R. 1 (Density Residential, 3.5 and 1 unit per acre, respectively) to D.R. 5.5 (Density Residential, 5.5 units per acre).

2. In accordance with Baltimore County Code, Article V, Section 2-58.1, the matter was heard by the Baltimore County Board of Appeals (the "Board") over the course of six days of hearings.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th DISTRICT- PARCEL 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5	: BEFORE : COUNTY BOARD OF APPEALS : OF : BALTIMORE COUNTY : No. CR-82-187

OPINION

The above captioned matter came before this Board on a petition for reclassification from D.R. 1 and D.R. 3.5 to D.R. 5.5. The subject property is located on the north and south sides of Paper Mill Rd., 611 feet north of Ashland Rd., in the 8th Election District of Baltimore County.

Following six days of hearings and the introduction of 28 exhibits, the Petitioner concluded its case. Thereafter, People's Counsel and Counsel for Protestants moved for a dismissal. After due consideration, in a light most favorable to the Petitioner, for reasons to be addressed in the balance of this Opinion, the Motion to Dismiss was granted.

Petitioner presented five expert witnesses. Four of those witnesses testified on several different occasions.

George P. Fizzell, an expert in marketing, real estate and real estate appraisals, characterized the area surrounding the subject property as one of growth. Mr. Fizzell indicated that D.R. 5.5 was a reasonable zone for the subject property, that the area needs additional price sensitive housing and, finally, that a reclassification of the subject site to D.R. 5.5 would have no adverse impact on the neighborhood.

AUG 1

Inter-Office Correspondence
November 5, 1982
Page 2

(2) Consideration of Water Quality Comparisons

The petitioner presents a comparison of projected water quality resulting from DR 5.5 with control measures versus water quality resulting from DR 3.5 without control measures. This is an inappropriate comparison because water quality best management practices would also be required by Section 34-1 of the Baltimore County Code for development of the site at the present DR 3.5 zoning. The Baltimore County Health Department in conjunction with the Baltimore City Department of Public Works has developed a policy of "no further degradation of Loch Raven Reservoir." Considering the proximity of the Towson Nurseries site to the Reservoir, water quality best management practices will be required for this site no mater how it is developed.

Other Considerations

(3) The petitioner presents a design for a settling basin which has technical merit as one type of water quality best management practice. However, the petitioner has not addressed the issue of maintenance of this structure (cleaning and disposing of settled material) and eventual reconstruction of the device due to its limited functional life.

(4) The petitioner has not adequately addressed the increase in solubls pollutants and increase in stormwater runoff associated with DR 5.5 zoning as compared to DR 3.5 zoning.

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF:jb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Norman Gerber, Director of Planning and Zoning Date November 18, 1982

FROM James A. Markle

SUBJECT Towson Nurseries Property

ATTENTION: Jim Hoswell
Paul Solomon

RECEIVED
BALTIMORE COUNTY
NOV 22 1982
OFFICE OF PLANNING AND ZONING

I have reviewed the stormwater treatment efficiency calculations for Towson Nurseries and wish to offer the following comments:

1. The Department of Public Works will not accept the proposed water quality facility for maintenance. A maintenance schedule and the name of the person or persons responsible for maintenance would be required.

2. The RCN of 69 used to develop the runoff hydrograph seems low for the proposed zoning density.

3. Hydraulic calculations in much greater detail will be required.

4. The comparison in Table 12 is very misleading since it compares the DR 3.5 with no treatment to the DR 5.5 with treatment. Either development would be required to provide 2-year stormwater management under the Department of Public Works' criteria regardless of any water quality facility the developer wanted to provide.

JAMES A. MARKLE, P.E., Chief
Storm Drain Design & Approval Section

JAM:dhs

Baltimore County Soil Conservation District
9811 Van Buren Lane · Cockeysville, Maryland 21030 · Phone (301) 666 1188

Chairman: LORING T. SPARKS Supervisors: WAYNE C. McGINNIS, ROLAND E. MANGER, VERNON R. FOSTER, ROBERT G. THOMAS
Secretary: G. RICHARD CURRAN

November 23, 1982

Mr. Paul Solomon, Chief
Environmental Planning Section
Office of Planning and Zoning
Room 406
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Re: Towson Nurseries

Dear Paul:

Enclosed is a copy of the comments of John Wickley, the State Conservation Engineer, on the report prepared by J.T.C. Environmental Consultants.

Additional comments are as follows:

Page 3 - Report states that "...application of even simple storm water treatment techniques will improve the D.R. 5.5 development over that of the 3.5 zoning." This statement does not take into account that storm water management for 3.5 zoning would also be required.

Page 4 - A particle size distribution analysis should be provided for drainage areas on this site.

Page 9 (corrected numbering of pages) - John Wickley questions whether the ponds, as described, meet the criteria for "prolonged detention storage facilities."

Page 9 and 10 - John Wickley states that EPA misused the Universal Soil Loss Equation.

Most importantly, until a complete set of plans are submitted, the effectiveness of the planned facilities cannot be judged.

Sincerely,

John H. Grease
District Manager

JHG:nal

Enclosure

TO: JACK GEASE 11/16/82
RE: TOWSON NURSERIES

GENERAL NOTES

The best way to remove sediment is by detention in a permanent pond situation; and the most acceptable way to remove other pollutants is by filteration either veg or soils.

The entire document deals with sediment w only one small section on Phosphorus, what about other pollutant nitrogen, etc.

The present technology would allow the increase in density w/ no increase in pollutants.

OTHER NOTES

1. The system will only provide SWM and water quality for the 2YR storm - when the structure is empty.
2. Will offsite area (54 acres) remain in open space
3. What are the effects and proposed treatment for areas not draining into the sewer system.
4. Page 9 states prolonged detention storage will remove 85-89% of sediment. This would depend on soil particles vs time of retention, for fine grained soils prolonged is measured in days not hours.
5. Hydrographs are for AFTER Development only and no comparison can be made with existing conditions. RCN appear low.
6. I feel the proposal should include some provisions for monitoring - both before and after

---

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

NORMAN E. GERBER
DIRECTOR

October 4, 1982

Mr. Mark Pollack
Piper and Marbury
36 South Charles Street
Baltimore, Maryland 21202

Re: Towson Nurseries Property
Zoning Reclassification Petition
R-82-187; Cycle II, Item 10
Amended Documentation

Dear Mr. Pollack:

It has been brought to my attention that additional documents for the subject reclassification were given to Mr. Hoswell of my staff at the County Board of Appeals on September 23, 1982. Please be advised that these documents have been distributed to interested governmental agencies for comment. When such comments are received by this office, the subject matter will be scheduled for review and action by the Baltimore County Planning Board.

If you have any questions concerning this matter, please contact Mr. J. G. Hoswell at 494-3480.

Sincerely,

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:dme

cc: William T. Hackett, Chairman
County Board of Appeals

Peter Max Zimmerman
Deputy People's Council

J. G. Hoswell
Community Planning Division

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COUNTY BOARD OF APPEALS

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

NORMAN E. GERBER
DIRECTOR

September 16, 1982

RECEIVED
BALTIMORE COUNTY
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COUNTY BOARD OF APPEALS

Mr. Charles E. Fick
George William Stephens, Jr. and
Associates, Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Re: Towson Nurseries Property
Zoning Reclassification Petition
R-82-187; Cycle II, Item 10
Amended Documentation

Dear Mr. Fick:

It has been brought to my attention that additional documents for the subject reclassification were delivered to this office on September 13, 1982. Please be advised that these documents should be submitted to the County Board of Appeals in conformance with Section 2-58.1(m) of the Baltimore County Code, 1978, as amended.

Sincerely,

Norman E. Gerber
Director of Planning and Zoning

NEG:JGH:dme

cc: William T. Hackett, Chairman, County Board of Appeals
John W. Hessian, III, People's Counsel
Mark Pollack, Piper and Marbury, 36 South Charles Street, Baltimore, Md. 21202
Frank H. Fisher, Chief, Community Planning Division

LAW OFFICES OF
PIPER & MARBURY
800 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE 202-788-8180

February 19, 1982

Baltimore County Planning Board
County Courthouse
Towson, Maryland 21204

Re: Cycle II, Issue No. 10
Towson Nurseries Property

Dear Members of the Board:

On January 7, 1982, a presentation was made before you on the petition by Universal Housing and Development for the rezoning of 175 acres of the Towson Nurseries property from DR-3.5 to DR-5.5. While we appreciate the opportunity provided to make such a presentation, we feel quite strongly that the Board, in considering the matter, was improperly swayed by completely erroneous and in some cases improper statements made by Mr. Benjamin Bronstein. We have attached a transcript of that proceeding prepared by Towson Reporting Company at our request. In reviewing that transcript we were extremely distressed by the thrust of the statements made by Mr. Bronstein. His particular suggestions that either Universal or its counsel misrepresented the case before the Board or engaged in a "deception" (Page 16) or a "sleight-of-hand" (Page 57) are irresponsible and totally without substance. However, the tone and substance of his remarks throughout the hearing evidenced a general indifference to the law.

Initially he asked for a statement of the basis for change or mistake. As the members no doubt know, an applicant for rezoning must demonstrate that he can overcome these threshhold questions before a rezoning can be granted. But these are legal issues, properly determined by the Board of Appeals and not ordinarily the subject of concern to a lay body. Mr. Bronstein seemed unaware of that fact.

More importantly, contrary to Mr. Bronstein's statements, it is not a crime nor is it improper to seek greater density, even if the motive were solely financial. Whether a grant of additional density through rezoning is proper if the basis for the rezoning is limited to financial reasons, is, of course, a separate issue.

Baltimore County Planning Board
February 19, 1982
Page Two

PIPER & MARBURY

Mr. Bronstein's repeated caustic remarks suggesting that the applicant should have come forward on that basis, demonstrated a glaring ignorance of the law. In addition, his disparaging comments on the economic motives of the applicant, which suggested in strong and bitter language that the profit motive was an improper basis for any petition, were both naive and nonsensical. I am sure the Board has seen very few instances of applicants offering to provide benefits to the County without economic benefits flowing back to them. We found particularly appalling Mr. Bronstein's suggestion that

> "there is a sleight of hand here that I resent, and the sleight of hand is that we are, the County, is being given something, that we are bestowing upon you wonderful things. You are not. You are not bestowing anything on us or doing anything more. What you are saying is give us a hell of a lot more money. Say it in those words. At least that is an honest representation of it, and this is not. I am frankly incensed by it." (Page 57)

Not only do we object to Mr. Bronstein's suggestion that any portion of the presentation was anything less than totally honest and forthright, but we find ingenuous the idea that the various best management practices presented for environmental protection would otherwise be required of a developer, absent approval of a petition under the opportunities of Bill 46-79 as we suggested.

In view of the unfortunate effect of Mr. Bronstein's repeated statements, and the questionable nature of the decision made by the Planning Board as a result, we would suggest that the recommendation deserves little or no consideration as an ultimate part of the record.

Very truly yours,

Mark Pollak, Partner

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COUNTY BOARD OF APPEALS

MP/pms

cc: Baltimore County Board of Appeals
Mr. Donald P. Hutchinson, County Executive
Leonard S. Jacobson, Esquire
Mr. Norman E. Gerber
Mr. Melvin Colvin
Mr. Leroy Posner
Mr. Charles E. Fick, P.E.
Dr. John T. Cookson

PETITION FOR CONDITIONAL RE-CLASSIFICATION

8th DISTRICT

ZONING: Petition for conditional re-classification

LOCATIONS: Parcel 1 - East side of Paper Mill Rd., 611.86 ft. North...st of Ashland Road
Parcel 2 - East side of Paper Mill Road, 649.39 ft. Northwest of Ashland Road
Parcel 3 - West side of Paper Mill Road, 667.2 ft. Northwest of Ashland Road

DATE & TIME: Wednesday, April 14, 1982 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.3.5 and D.R.1
Proposed Zoning: D.R.5.5

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

Being the property of Universal Housing and Development Company, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, April 14, 1982 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

LAW OFFICES OF
PIPER & MARBURY
800 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

1666 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202-785-8150

April 7, 1982

County Board of Appeals of
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: Cycle II
Zoning Reclassification
Petitions - Item 10

To the Honorable Board Members:

This firm represents Universal Housing and Development Company, the petitioner in the above-referenced matter, now scheduled for a hearing for April 14, 1982. In a telephone conversation earlier today with your honorable Chairman, I asked for a postponement of the hearing until such time as three consecutive days could be allotted to this matter. In preparing for the hearing, it became clear to us that the petitioner's presentation would require at least one and one-half days of testimony, without accounting for the time needed for cross-examination and the case to be put forward by People's Counsel. A fair hearing - one which would allow for a coherent presentation of complicated issues, and for an equitable apportioning of time for preparation and presentation of the petitioner's and the opposition's cases - requires that this case be heard as a whole over consecutive days. This would also be the only way in which we could properly arrange for the appearance of our expert witnesses at the hearing.

Although in our earlier conversation, your honorable Chairman declined our request for a postponement, I would like, by this letter, respectfully to reiterate and formalize our request. We recognize that this could result in a delay until late June or July, but we would be willing to accept that delay, based on our strong conviction that ... begin the case next Wednesday and attempt to pick up on it again after a long interval could not result in a hearing that would best meet the

County Board of Appeals of
Baltimore County
April 7, 1982
Page TWO

PIPER & MARBURY

interest of all parties concerned.

Thank you very much for your attention.

Very truly yours,

Joel J. Feinberg

cc: Leroy Posner

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COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

...ORDER II
...ORDER 10

...ORDER OF ...
...BOARD OF APPEALS
...BALTIMORE COUNTY

AMENDMENT No. 1

Developer will assume the cost of doing the ... as shown on Exhibit A and Exhibit B as and when the ... determines the need exists for such improvements.

Cycle II
Item No.10

Universal Housing &
Development Company
Reclassification Petition
For Towson Nurseries

AMENDMENT No. 2

Developer will provide the water quality protection measures shown on Exhibit C, generally in the location show for storm water management on the site plan, (Sheet No. 1 of the Application).

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Norman E. Gerber, Director, Office of Planning & Zoning Date April 20, 1982

FROM William T. Hackett, Chairman, County Board of Appeals

SUBJECT UNIVERSAL HOUSING & DEVELOPMENT CO., R-82-187, Item #10
Paper Mill Rd. - Ashland Rd. - 8th District
DR 3.5 & DR 1 to DR 1 & 5.5

The hearing on the above entitled case was held as advertised on Wednesday, April 14, 1982, at which time the attorney for the Petitioner submitted amended material. In compliance with the provisions of County Council Bill No. 46-79, we are forwarding the amended materials to you for appropriate action.

William T. Hackett, Chairman
County Board of Appeals of Baltimore County

jh

Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
M. S. Caltrider
Administrator

May 12, 1982

Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

Att: Mr. James G. Hoswell

Re: Item #10, Cycle II
Universal Housing &
Development Company
Reclassification Petition
for Towson Nurseries
E/S Paper Mill Road
Route 145, 611'± from
Centerline of Ashland Rd.

Dear Mr. Hoswell:

The State Highway Administration - District #4 Traffic Engineer has reviewed the plans of the proposed housing subdivision on Ashland Road east of the subject intersection.

He finds the plan generally acceptable and recommends the southeast quadrant of the intersection of York Road and Ashland Road be widened parallel to and tie into the curb line of Valley View Farms. The proposed 50' section for Ashland road is sufficient at the intersection.

With Amendment No:1 stating the developer will assume the costs of the improvements described in Exhibit A & B, as and when the County determines the need exists for such improvements, the State Highway Administration will require the same courtesy as Baltimore County.

In addition to highway intersection improvements, all signal modifications will be chat of the developer and reviewed by the State Highway Administration District Traffic Engineer.

The State Highway Administration - District Traffic Engineer would prefer to see the extension of Paper Mill Road from Shawan Road at York Road to the existing Paper Mill Road constructed for access to the site.

My telephone number is (301) 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro — 565-0451 D.C. Metro — 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

Mr. J. Hoswell -2- May 12, 1982

However, the 1980 State Highway Needs Inventory makes reference to the improvement in the secondary system for Baltimore County with no funding projected at this time or in the near future.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

cc: Mr. P. Zimmerman
Mr. S. Plemens
Mr. W. Hammond

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William T. Hackett, Chairman, County Board of Appeals — Date: June 4, 1982
Norman E. Gerber, Secretary
FROM: Baltimore County Planning Board

SUBJECT: Amended documentation for Zoning Petition No. R-82-187
Cycle II, Item 10: Universal Housing & Development Co.

Attached please find the Planning Board resolution concerning the subject matter. Additionally, I am transmitting copies of related correspondence received by the Office of Planning and Zoning in its review of the amended documentation submitted by the petitioner.

Norman E. Gerber, Secretary
Baltimore County Planning Board

NEG:JGH:slc

Attachments: Planning Board resolution adopted June 3, 1982
Memorandum dated May 17, 1982 - Paul J. Soloman to Norman E. Gerber
Letter dated April 23, 1982 - John Gease to Paul Soloman
Memorandum dated May 4, 1982 - James A. Markle to Paul Solomon
Letter dated May 4, 1982 - William S. Wolinski to Paul Solomon
Letter dated May 14, 1982 - Larry Reich to Paul Solomon
Letter dated December 11, 1981 - Larry Reich to Norman Gerber
Memorandum dated May 12, 1982 - Glenn Miller through Brooks Stafford to Ian J. Forrest
Letter dated May 12, 1982 - Charles Lee to James G. Hoswell
Memorandum dated 14, 1982 - C. Richard Moore to James Haswell

cc: Piper & Marbury
36 South Charles Street
Baltimore, Maryland 21202
ATTENTION: Mark Pollak, Esquire

John W. Hessian, III
People's Counsel

Frank H. Fisher, Chief
Community Planning Division

Frank J. Shearer, Jr.
J.G. Hoswell

BALTIMORE COUNTY
JUN 7 9 10 AM '82
COUNTY BOARD OF APPEALS

BALTIMORE COUNTY PLANNING BOARD

RESOLUTION

June 3, 1982

WHEREAS, Pursuant to Subsection 2-58.1(m, of the Baltimore County Code 1978, as amended, the Baltimore County Planning Board has reviewed the amended documentation for Zoning Petition No. R-82-187 (Cycle II, Item 10) submitted by Universal Housing & Development Company; and

WHEREAS, The petitioner did not submit sufficient information to enable appropriate governmental agencies to make a complete and meaningful review of the amendments to the orginal petition; now, therefore, be it

RESOLVED, That the Baltimore County Planning Board reaffirms its earlier recommendation to the County Board of Appeals that the petitioner's request for D.R. 5.5 zoning be denied.

I HEREBY CERTIFY that this resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland, on June 3, 1982.

DATE: 6/4/82

Norman E. Gerber, Secretary
Baltimore County Planning Board

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: NORMAN E. GERBER, Director, Office of Planning and Zoning — Date: May 17, 1982
FROM: PAUL J. SOLOMON, Head, Environmental Planning Sec., OPZ

SUBJECT: Towson Nursery - Stormwater Management Proposal

Attached for your information are comments from the Baltimore County Bureau of Engineering, the Baltimore City Department of Public Works, and the Baltimore County Soil Conservation District regarding the stormwater management design submitted by Towson Nursery. As you will note, there is strong agreement with respect to the deficiencies of the proposal as regards what aspects are understood along with the incompleteness of what has been submitted. It is apparent, therefore, that serious questions exist with regard to the workability and completeness of what has been provided us.

Concurring with these comments, it is recommended that the Board of Appeals request additional information so that a complete and meaningful review can be completed. It would then be possible to request Planning Board review.

PJS:vh

Attachments:
Comments from Engineering,
Balto. City Public works,
Soil Conservation District

Baltimore County Soil Conservation District

9811 VAN BUREN LANE COCKEYSVILLE, MARYLAND 21030 PHONE (301) 666-1188

April 23, 1982

Mr. Paul Solomon, Chief
Environmental Planning Section
Office of Planning and Zoning
Room 406
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Dear Paul:

I have reviewed the water quality plan for Towson Nurseries and have the following comments:

1. A storm water management (swm) plan is required to be submitted to the District for review.
   a. This plan should contain all the computations associated with a typical swm plan.
   b. A breach analysis will be required to go along with this plan.
2. A complete hydraulic workup should be done for the entire system including the sand filter.
3. A written explanation of the process should be submitted with the plan.
4. One possible problem I noted is the placement of the emergency spillway. As there are no elevations, it is difficult to tell whether it is to be used to transport water from the swm pond to the filter or vice versa. If it is to be used for excess flows in the pond, it is not acting as a emergency spillway, since the filter system would then circulate the water back to the swm pond itself.

I hope these comments are of use to you. If you have any questions, please do not hesitate to call.

Sincerely,

John H. Gease
District Manager

JHG:nal

CONSERVATION - DEVELOPMENT - SELF-GOVERNMENT

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Paul Solomon, Planning & Zoning — Date: May 4, 1982
FROM: James A. Markle, Chief, Storm Drain Design and Approval

SUBJECT: Towson Nurseries - Review Comments

1. 100-yr. floodplain does not look right.
2. The pipe from the settling pond inlet to the distribution chamber will silt up very quickly. The storm water that is diverted to the settling pond should be a free discharge condition.
3. The perforated riser wrapped with filter cloth will be a maintenance problem.
4. Who is going to maintain the system?
5. Not enough information provided for a complete review.

JAM:mom

CITY OF BALTIMORE
WILLIAM DONALD SCHAEFER, Mayor

DEPARTMENT OF PUBLIC WORKS
BUREAU OF WATER AND WASTE WATER
900 Municipal Building
Baltimore, Maryland 21202

May 4, 1982

Mr. Paul Solomon, Head
Environmental Planning Section
Department of Planning and Zoning
Room 406, County Courts Building
Towson, Maryland 21204

Subject: Towson Nurseries

Dear Mr. Solomon,

We have just completed a review of a plan prepared by George Stephens, Jr. and Associates, Inc., entitled "Towson Nurseries: Potential Water Quality Alternatives", prepared in December 1981, and revised on March 26, 1982. It is my understanding that the facilities described herein address both stormwater quantity and quality control. Furthermore, I understand that the water quality structure (settling pond) not required under the present County stormwater management policy, is designed such that the quality of the runoff at the proposed DR 5.5 density will be equal to or better than that of the "untreated" runoff at the existing DR 3.5 density. From our review, I fail to see any substantiation of this claim. We feel that the designer should at minimum address the following points:

1. A narrative explaining how the structure works, as it appears that the head loss attributed to the filtration devices will prevent the pond from filling up.
2. How is the volume of this structure determined?
3. What fraction of the total pollutant load will be removed and how is this determined?
4. What provisions will be made, if any, to remove dissolved substances?
5. What effect will these structures have in treating water from large storms (greater than two years)?
6. If stormwater quantity management is waived, what provisions will be used to prevent channel erosion on City property?
7. All estimates of land use loading factors and pollution removal efficiencies should be included with the appropriate statistical confidence intervals.

8. What bearing will the new County stormwater management policy have on the design of this project?

A final point to mention is that the efficacy of structures such as proposed ultimately depend on an effective maintenance program. The designer should include a tentative maintenance plan.

Sincerely,

William S. Wolinski
Water Quality Coordinator

WSW/tad

cc: Mr. Theodore M. Andriotis
Mr. Walter Koterwas
Mr. Richard Kretzschmar
Mr. Brent Hartley
Ms. Virginia Kearney

CITY OF BALTIMORE
WILLIAM DONALD SCHAEFER, Mayor

PLANNING COMMISSION
DEPARTMENT OF PLANNING
LARRY REICH, Director
8th Floor, 222 East Saratoga Street, Baltimore, Maryland 21202

May 14, 1982

Mr. Paul Solomon, Section Head
Environmental Planning Section
Baltimore County Office of Planning and Zoning
Room 406, County Courts Building
Towson, Maryland 21204

Dear Mr. Solomon:

The Planning Department has reviewed the most recent development proposal for the Towson Nurseries property. This review follows previous comments submitted by my department in a letter to Mr. Gerber, dated December 11, 1981, regarding a similar, earlier proposal (see attached). Although the plan has been modified somewhat, the comments contained in this letter remain valid for the revised plan.

The plans included in the latest proposal, "Potential Water Quality Alternatives" for the Towson Nurseries site illustrate the storm water detention and settling pond system to be used in the development. Three such structures are indicated on the site plan. From these drawings, it is impossible to support the workability of the proposed system.

The developer claims that this design will result in runoff quality at a D.R. 5.5 which will be equal to or better than untreated runoff at D.R. 3.5 density. Based on the meager design presentation for the storm water management structure and the lack of land use loading factors and calculations of the expected pollutant removal levels, this claim lacks substantiation.

Baltimore City's concern in this project stems firstly from the proximity of the site to the Loch Raven reservoir, which is already stressed from several sources of pollution. Secondly, the site plan shows that two of the three storm water management ponds will discharge onto City-owned

HIGHWAY COMMENTS: (Cont'd)

In accordance with Bill No. 32-72, street lights are required in all developments. The Developer's engineer shall indicate on the preliminary plan the locations of the light standards so that comments can be given on these, as well as other County requirements. The Developer will be responsible for the full costs of installation of the cable, poles and fixtures. The County will assume the cost of the power when the streets have been accepted for County maintenance.

STORM DRAIN COMMENTS:

In accordance with the drainage policy, the Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - including the deeding in fee to the County of the rights-of-way. Preparation of all construction, rights-of-way and easement drawings including engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

Western Run is adjacent to and crosses this site on the west. 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. For tentative approval of this plat, the Developer must furnish the Bureau of Engineering with a drainage study containing the following information:

a. A map of scale 1"=200' for the entire drainage area which contributes to the open stream including a tabulation of flow quantities.

b. Field run cross-sections of the stream with the flood plain of a 100-year design storm indicated on them. These sections are to be taken at 50-foot intervals and are to be shown on standard cross-section paper at 1"=5' horizontal to 1"=5' vertical scale.

c. A profile of the stream on the same scale as the aforementioned cross-sections.

d. A plat with the limits of a 100-year design storm and the location of the field run cross-sections indicated.

e. Hydraulic computations which were used to establish the elevation of the flood plain for each cross-section based on Manning's formula.

The Developer shall be responsible for 25% of the cost of the culvert required for Western Run under Paper Mill Road relocated.

Construction drawings are required for offsite drainage facilities and any onsite facilities serving offsite areas. The plans are to be designed in accordance with Baltimore County Standards and Specifications, and the drawings submitted for review and approval by the Baltimore County Bureau of Engineering. Construction is to be accomplished under County inspection.

STORM DRAIN COMMENTS: (Cont'd)

The Developer 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 Developer.

The Developer is responsible for the cost of temporary structures and measures required in the case of sectional development.

SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS:

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

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

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

A permanent method for retaining storm water runoff in excess of the original runoff based on a 2-year, 10-year and 100-year frequency storm must be provided on the site. Controlled release allowing the original runoff based on a 2-year, 10-year and 100-year frequency must also be provided.

The Developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road rights-of-way following completion of the initial grading of the boxed-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the Baltimore County Sediment Control Manual. Minimum acceptable stabilization measures will be as specified in the Baltimore County Sediment Control Manual under "Critical Area Stabilization (With Semi-Permanent Seedings)".

Failure by the Developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

In accordance with Baltimore County Council Grading Ordinance (Bill No. 10-77) a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

WATER COMMENTS:

A preliminary print of this property has been referred to the Baltimore City Water Division, for review and comment in regard to adequacy of water pressure in this development. If Baltimore City has any comment, it will be forwarded.

Public water can be made available to serve this property by constructing a public 12-inch water main extension, approximately 2,200 feet in length, from the existing 30-inch water main in York Road.

The public 12-inch water main shall be constructed in Paper Mill Road and all interior roads.

The Developer is responsible for any deficit to be incurred by the construction, under County contract and inspection, of public water main extension required to serve this property. He is responsible for the preparation and the cost of construction drawings and right-of-way plats required. He is further responsible for conveying any required right-of-way to Baltimore County at no cost to the County.

This property is subject to a Water System Connection Charge based on the size of water meter utilized. This Charge will be in addition to the normal front foot assessment and permit charges. The total Water System Connection Charge is determined, and payable, upon application for the Plumbing Permit.

SANITARY SEWER COMMENTS:

Public sanitary sewerage can be made available to serve this property by constructing a public sanitary sewer extension from the existing Ashland Sub-Interceptor, shown on Drawing #[illegible]-0320. Public 8-inch sanitary shall be constructed in all interior roads and in Paper Mill Road.

The Developer is responsible for any deficit to be incurred by the construction, under County contract and inspection, of the public sanitary sewerage required to serve this property. He is responsible for the preparation and cost of construction drawings and right-of-way plats required. He is further responsible for conveying the required right-of-way to Baltimore County at no cost to the County.

Right-of-way is required through this property for future construction and maintenance of public sanitary sewerage to the north. The Developer is responsible for the establishment of the right-of-way, and the conveyance thereof, to Baltimore County at no cost to the County.

This property is subject to a Sanitary Sewer System Connection Charge based on the size of water meter used. This Charge is in addition to the normal front foot assessment and permit charges. The total public Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit.

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

A Public Works Agreement must be executed by the owner and Baltimore County for the above mentioned improvements, prior to the recording of a record plat.

(SIGNED) EDWARD A. McDONOUGH

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:CLM:ss

cc: File

baltimore county
department of public works
TOWSON, MARYLAND 21204

RECEIVED
OCT 6 1978
ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
BUREAU OF ENGINEERING

THORNTON M. MOURING, P.E.
DIRECTOR

October 5, 1978

Universal Housing & Development Company
9901 Langs Road
Baltimore, Maryland 21220

Re: Paper Mill Industrial Park
District 8-C3

Gentlemen:

The enclosed Bureau of Engineering comments dated September 26, 1978, are supplementary to those comments from this agency dated August 3, 1978.

Very truly yours,

(SIGNED) ROBERT A. MORTON

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

RAM:DHL:hm

Enclosure

cc: George Wm. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Edward A. McDonough
William Greenwalt
Eugene Bober
Pauline Foos
PWA File
Subdiv. File

Maryland Department of Transportation
State Highway Administration

James J. O'Donnell
Secretary
M. S. Caltrider
Administrator

October 28, 1981

Mr. William Hammond
Zoning Commissioner
County Office Bldg.
Towson, Maryland 21204

Attention: Mr. N. Commodari

Re: Z.A.C. Meeting of 9/14/81
ITEM: #10.
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road, Route 145, 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 - 28.695 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.508
District: 8th

Dear Mr. Hammond:

On review of the site plan and field inspection, the State Highway Administration offers the following comments.

The Shawan Road Extension east of York Road to tie to existing Paper Mill Road, traversing a portion of this site, is in the State Highway Administration Baltimore County 1980 Needs Inventory - State Secondary System.

I am sending a copy of the 1980 State Highway Needs Inventory and a sketch showing the possible connection from Shawan Road at York Road (Route 45) to the existing Paper Mill Road (Route 145).

With the proposed 968 units permitted and the proposed tie to Shawan Road at York Road by way of Paper Mill Road in the State Secondary System, the connection at York Road and Ashland Road will result in a breakdown of the existing intersection.

My telephone number is (301) 659-1350

P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203

The State Highway Administration has no plans or funds available at this time for improvements to this York Road and Ashland Road Intersection.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

Attachment

cc: Mr. J. Wimbley

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: September 26, 1978

FROM: Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

		IDCA PLAN	
PROJECT NAME:	Paper Mill Industrial Park	PRELIMINARY PLAN	X
PROJECT NUMBER:	#7164	TENTATIVE PLAN	
LOCATION:	N. of York Road, N. & S. of Paper Mill Road	DEVELOPMENT PLAN	
DISTRICT:	8C3	FINAL PLAT	

These comments are supplementary to those transmitted to your office.

SUPPLEMENTARY HIGHWAY COMMENTS:

The Department of Traffic Engineering originally called for a 120-foot right-of-way for Paper Mill Road. We have discussed the right-of-way width and it is agreed between the Department of Traffic Engineering and the Department of Public Work. that an 80-foot right-of-way shall be provided along the frontage of the Paper Mill Industrial Park. Please revise future plans and/or right-of-way plats accordingly.

[SIGNED] EDWARD A. McDONOUGH

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:CLM:ss

cc: File
Dept. of Traffic Engineering

reservoir land. No provisions have been indicated by the developer to prevent channel erosion on City property. The omission of these and other important facets of a well-engineered storm water management design underline the lack of an environmental basis for rezoning the property.

Based on the need by both Baltimore City and Baltimore County to protect the region's water supply reservoirs and on the environmental problems associated with the proposed development, I urge that the requested zoning change should not be approved.

Thank you for the opportunity to comment on this proposal.

Sincerely,

Larry Reich
Director

mv

December 11, 1981

Mr. Norman F. Gerber, Director
Baltimore County Office of Planning and Zoning
New Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Dear Mr. Gerber:

Thank you for the opportunity to review the proposed zoning change and development for the Towson Nurseries site. The proposal requests that rezoning be approved from D.R. 3.5 to D.R. 5.5 on approximately 176 acres, for a total of 968 allowable units. The present zoning allows a maximum of 612 units. The developer's site plan proposes maximum allowable development.

After a review of the proposal and its environmental assessment, my staff, with comments provided by the City Water Quality Management Office in the Department of Public Works, has raised the following concerns regarding proximity of the development to the Loch Raven Reservoir. As you know, Loch Raven is a major source of raw water for the metropolitan water supply system. The reservoir has been experiencing repeated algal blooms, related to eutrophic conditions. The contributors to this eutrophization include both point and non-point sources from agricultural practices and increasing urbanization.

The importance of the reservoir as a major water supply source mandates a careful analysis of the short and long-term effects of development occurring immediately adjacent to the reservoir. The water quality impacts of the development may include increased amounts of nutrients such as nitrogen and phosphorus (found to be the limiting nutrient in Loch Raven), heavy metals such as lead and zinc, and sediment loading to Western Run and the reservoir.

It is suggested in the Environmental Assessment for the development, that a zoning change to a higher density will result in smaller sediment and pollutant contributions to the stream and reservoir than if the site were developed at the existing D.R. 3.5. This is based on the statement that implementing best management practices (BMP) for stormwater at the D.R. 3.5 density is not cost-effective. The assessment compares development at the D.R. 5.5 density for which BMP is provided, with development at the D.R. 3.5 density with no stormwater management. This comparison and the premise upon which it is based are misleading for several reasons. First, a development of 187 acres at D.R. 3.5 will require stormwater management, unless waived by the County government. It is therefore misleading to present the impacts of development at the lower zoning density without the effects of stormwater management. Second, the proposal at D.R. 3.5 will result in the disturbance of 18% more of the site than under the present

zoning. U.S. E.P.A. Report No. 600-2-79-0506 (July, 1979) showed evidence that disturbed soils in developing areas lose their capability to remove nutrients through infiltration of stormwater runoff. The increase in disturbed area will therefore increase pollutant loads in the runoff, as well as increase soil loss by the physical disturbance. The proposal claims that the BMP will remove 90% of the sediments. EPA, however, has estimated that even with 100% compliance, only 70% effectiveness can be achieved with current technology.

Another concern is that, due to the location of the proposed development in the lower portion of the Western Run drainage area, the requirement for stormwater detention or retention may be waived by the County, to avoid an increase in the watershed peak discharge. This is sound from a water quantity control standpoint. However, waiving this requirement will not decrease the total volume of water, with its pollutant load, entering the reservoir. As the Environmental Assessment shows, the contribution of non-point source pollution from the proposed development with no stormwater management exceeds, for all components, the contribution from a development at the existing zoning. At the present time, there are no legal provisions for water quality management in Baltimore County's stormwater management program

The increased units allowable under the proposed zoning result in a site plan with inadequate open space in proximity to City property. A substantial vegetation buffer along the perimeters of the development should have been shown to indicate the use of infiltration to the extent possible in stormwater management on the site. The site plan as shown indicates that two of the three ponds will discharge directly onto City property. No outlet is shown for SWM pond #1, which will discharge into Western Run, yet the size and orientation of the outlet will directly affect the integrity of the stream. The outflow pipe for SWM pond #2 is shown to directly discharge onto City land. The City is opposed to the use of its land as a receiving site for stormwater runoff, on the basis of potential erosion of stream banks, additional sedimentation, and the attendant pollutants from the proposed development.

It is therefore felt that the developer has not adequately proven that an increased zoning density will actually contribute less pollutant and sediment loading to the reservoir. In addition, it is felt that the stormwater structures shown do not properly address the situation on the development site.

I feel that an increase in zoning density from D.R. 3.5 to D.R. 5.5 should not be approved, on the basis of the need to protect a major water supply reservoir which serves both Baltimore City and Baltimore County.

If you wish to discuss this matter further, please contact Alfred W. Barry III, Chief of Current Planning at 396-5171.

Sincerely,

Larry Reich
Director

WK/ jh

Francie Kuchta
Mark Wasserman

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. Ian J. Forrest Date May 12, 1982

FROM Glenn E. Miller through Brooks H. Stafford BHS

SUBJECT Towson Nurseries

The Engineering Service Section and Water Quality Management Section have completed review of the information shown on the plats entitled "Towson Nurseries - Base Site Plan" dated November 24, 1981, and "Towson Nurseries - Potential Water Quality Alternatives" dated revised March 26, 1982.

It was first necessary to estimate the water quality impacts of the existing site and the proposed development. Existing land use was determined from plats on file which delineate levels of vegetative cover. It can best be described as woodland and pasture. The proposed land use can best be described as fully urbanized. Since both existing and proposed land uses can be categorized in broad terms, it was decided to adapt existing computer programs which can project sediment delivery and nutrient loadings from such land uses, to this problem, and thus, determine relative differences in water quality impact. Printed reports of the computer analysis are attached. The analysis indicates that, while sediment loadings should nearly be halved by developing the property, nitrogen and phosphorus loadings should double and quadruple respectively. The computer analysis assumes that nitrogen and phosphorus are attached, to a great extent, to particles of sediment. It is known that different land uses yield sediments with substantially different amounts of nutrients attached, which is taken into consideration by this analysis. Accordingly, the analysis appears to have produced reasonable results.

If the engineer who prepared the two drawings mentioned above had conducted such an analysis, then a logical choice for nutrient reduction would have been sediment control. There are a myriad of best management practices which can be effective in nutrient reduction. Each of these practices should be evaluated to determine which one or combination of them would provide the most effective treatment as well as be cost effective.

For whatever reason, the best management practice which is presented is a sedimentation lagoon. The sedimentation pond is followed by a storm water management lagoon which is intended to manage quantities of water only. A diversion box is shown, indicating that only a portion of the storm water would receive treatment.

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MAY 12 1982
ENVIRONMENTAL

Mr. Ian J. Forrest
Towson Nurseries
May 12, 1982
Page 2

The effectiveness of the proposed sedimentation lagoons cannot be determined, due to incomplete plans and specifications. Important factors in evaluating such a device are expected flows into the pond and projected detention times.

In summation, then, it is clear that the water quality issue has not been carefully scrutinized in the preparation of these plans. The selection of a sedimentation lagoon for storm water quality improvement was likely a lucky guess. Variations in effectiveness of the device have not been examined, based on treatment quantities and detention times nor has an optimum design been selected.

It is recommended that additional study be performed to provide definitive information for all areas of uncertainty noted in this memorandum.

BHS:GEM:pb

TOWSON NURSERIES
EXISTING LAND USE
EROSION AND SEDIMENTATION PROJECTIONS

CATEGORY	ACRES	PERCENTAGE OF SITE	SOIL LOSS TONS/YEAR		SEDIMENT DELIVERY RATIO
1) CULTIVATED	--------	--------	--------		--------
2) PASTURE	47.00	26.35	147.58		0.14
3) WOODLAND	131.50	73.67	318.23		0.13
4) URBANIZED	--------	--------	--------		--------
5) URBANIZING	--------	--------	--------		--------
6) MINE SPOIL	--------	--------	--------		--------
7) ROADBANK	--------	--------	--------		--------
8) STREAMBANK	--------	--------	--------		--------
TOTAL	178.50	100.00	465.81	AVG	0.14

NUTRIENT LOADING PROJECTIONS
TONS / YEAR

LAND USE	ACRES	NITROGEN	PHOSPHORUS
CULTIVATED	------	------	------
PASTURE	47.00	10.50	0.49
WOODLAND	131.50	14.65	0.53
URBANIZED	------	------	------
URBANIZING	------	------	------
MINE SPOIL	------	------	------
ROADBANK	------	------	------
STREAMBANK	------	------	------
TOTAL	178.50	25.14	1.03

TOWSON NURSERIES
PROPOSED LAND USE
EROSION AND SEDIMENTATION PROJECTIONS

CATEGORY	ACRES	PERCENTAGE OF SITE	SOIL LOSS TONS/YEAR		SEDIMENT DELIVERY RATIO
1) CULTIVATED	--------	--------	--------		--------
2) PASTURE	--------	--------	--------		--------
3) WOODLAND	--------	--------	--------		--------
4) URBANIZED	178.50	100.00	225.13		0.60
5) URBANIZING	--------	--------	--------		--------
6) MINE SPOIL	--------	--------	--------		--------
7) ROADBANK	--------	--------	--------		--------
8) STREAMBANK	--------	--------	--------		--------
TOTAL	178.50	100.00	225.13	AVG	0.60

NUTRIENT LOADING PROJECTIONS
TONS / YEAR

LAND USE	ACRES	NITROGEN	PHOSPHORUS
CULTIVATED	------	------	------
PASTURE	------	------	------
WOODLAND	------	------	------
URBANIZED	178.50	39.87	4.46
URBANIZING	------	------	------
MINE SPOIL	------	------	------
ROADBANK	------	------	------
STREAMBANK	------	------	------
TOTAL	178.50	39.87	4.46

Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
S. Gaither
Administrator

May 12, 1982

Baltimore County
Office of Planning & Zoning
Towson, Maryland 21204

Att: Mr. James G. Hoswell

Re: Item #10, Cycle II
Universal Housing & Development Company
Reclassification Petition
for Towson Nurseries
E/S Paper Mill Road
Route 145, 611'+ from
Centerline of Ashland Rd.

Dear Mr. Hoswell:

The State Highway Administration - District #4 Traffic Engineer has reviewed the plans of the proposed housing subdivision on Ashland Road east of the subject intersection.

He finds the plan generally acceptable and recommends the southeast quadrant of the intersection of York Road and Ashland Road be widened parallel to and tie into the curb line of Valley View Farms. The proposed 50' section for Ashland road is sufficient at the intersection.

With Amendment No:1 stating the developer will assume the costs of the improvements described in Exhibit A & B, as and when the County determines the need exists for such improvements, the State Highway Administration will require the same courtesy as Baltimore County.

In addition to highway intersection improvements, all signal modifications will be that of the developer and reviewed by the State Highway Administration District Traffic Engineer.

The State Highway Administration - District Traffic Engineer would prefer to see the extension of Paper Mill Road from Shawan Road at York Road to the existing Paper Mill Road constructed for access to the site.

My telephone number is (301) 659-1350
Teletypewriter for Impaired Hearing or Speech
383-7555 Baltimore Metro — 565-0451 D.C. Metro — 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

M. J. Hoswell -2- May 12, 1982

However, the 1980 State Highway Needs Inventory makes reference to the improvement in the secondary system for Baltimore County with no funding projected at this time or in the near future.

Very truly yours,
Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George Wittman

CL:GW:maw

cc: Mr. P. Zimmerman
Mr. S. Plemens
Mr. W. Hammond

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO James Hoswell
Office of Planning
Date May 14, 1982

FROM C. Richard Moore

SUBJECT Universal Housing & Development Property

Ashland Road and Paper Mill Road with existing horizontal and vertical alignment are not adequate to serve this property when fully developed, even with improvements to the intersection of Ashland Road and York Road. Also, the existing bridges on Ashland Road and Paper Mill Road, which are the only access to this site, are rated at 12 tons over Western Run and 6 tons over the railroad tracks, which severely limits access of large trucks to this site.

The extension of Shawan Road to serve this site is needed, even with improvements to the intersection of York Road and Ashland Road.

The proposed improvements to York Road and Ashland Road appear to favor traffic to and from the site at the expense of through traffic on York Road. York Road should be improved to the standard design of two through lanes in each direction with a single left turn lane, rather than single straight through lanes on York Road, with a double left turn lane and exclusive right turn lane for this site. With the standard section on York Road, the widening on Ashland Road can be reduced at the intersection.

C. Richard Moore
Assistant Traffic Engineer

CRM/GMJ/rlj

494-3180

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

June 10, 1982

Piper & Marbury
36 South Charles Street
Baltimore, Md. 21202

Attention: Mark Pollak, Esquire

Re: Case No. R-82-187
Universal Housing & Development Co.

Dear Sirs:

The County Board of Appeals received on June 7, 1982 from the Baltimore County Planning Board a packet of correspondence relating to the above captioned petition, which you should also have received.

The second sheet, dated June 3, 1982, from Norman E. Gerber is a Resolution requesting the Board of Appeals to deny your zoning request because, in the Planning Board's opinion, insufficient material was provided them. Apparently, the concerns evidenced in this packet of correspondence have to do with storm water control and road requirements.

The Board respectfully requests that you notify our office as to whether you intend to further address these two matters to the Planning Board, or whether we should proceed and schedule a hearing on this matter.

Very truly yours,

William T. Hackett, Chairman

W/TH:e

cc: Norman E. Gerber
John W. Hessian, III, Esq.
Frank H. Fisher
Frank J. Shearer, Jr.
James G. Hoswell

LAW OFFICES OF
PIPER & MARBURY
900 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE 202-785-9150

June 18, 1982

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

Re: Case No. R82-187
Universal Housing & Development Co.

Dear Mr. Hackett:

This is in response to your letter to this office dated June 10, 1982, regarding the resolution of the Baltimore County Planning Board denying Universal Housing and Development Company's request for a zoning reclassification.

We appreciate your giving us the choice of proceeding further with the Planning Board or resuming the hearing before the Board of Appeals. For the reasons we stated before the Planning Board on June 3 and restate below, we respectfully suggest that the best course of action would be to schedule a date for the resumption of the hearing at your earliest convenience and to continue then with the presentation of evidence before the Board of Appeals.

At the June 3 Planning Board meeting, Joel Feinberg of this office presented to the Board Universal's position that the Planning Board was not the best forum for delineating in detail all aspects of Universal's commitment to address to the satisfaction of the County the potential traffic and water quality issues arising out of the proposed development of its property at DR 5.5 zoning. Rather, keeping in mind that the Board of Appeals would be hearing several hours of testimony on these very issues and that these questions would no doubt require some further fine tuning throughout the subdivision and building permit processes, Universal suggested that the two amendments before the Planning Board be viewed as outlines of what Universal

PIPER & MARBURY

Mr. William T. Hackett
June 18, 1982
Page Two

is proposing, combined with a commitment to incorporate positive suggestions of appropriate County and Baltimore City officials and to take all reasonable efforts to satisfy the concerns of those officials. To do otherwise would be to lock all those concerned into a rigid formula that might require another round of hearings, instead of affording everyone the benefit of the flexibility inherent in Bill 46-79.

Universal proposed on June 3 that the Planning Board resolve that Universal be required to discuss these aspects of its proposal with the responsible governmental officials with the goal of establishing standards and outlines of an approach which Universal would obligate itself to meet. Although the Planning Board chose not to take that alternative, Universal has, nevertheless, asked its consultants to meet with County and City officials and to address themselves to their concerns. It is our hope that this will help eliminate some issues and focus others by the time of the hearing before the Board of Appeals.

Thank you for your attention to this matter. Please feel free to call either Joel Feinberg or me if you have any questions regarding the above or the rescheduling of the hearing.

Very truly yours,
Mark Pollak

MP:tl

cc: Mr. Leroy Posner
Mr. Melvin Colvin
John W. Hessian, III, Esquire
Mr. Charles E. Fick, P.E.
Mr. John T. Cookson
Mr. Wes Guckert

RECEIVED
BALTIMORE COUNTY
JUN 21 11 49 AM '82
COUNTY BOARD OF APPEALS
BY: [illegible]

LAW OFFICES OF
PIPER & MARBURY
900 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE 202-785-9150

September 14, 1982

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

Attention: Mrs. June Holman

Re: Universal Housing and Development Co.:
Case R-82-187

Dear Mrs. Holman:

As we discussed earlier today, we are requesting that the board subpoena certain witnesses to appear before the hearing scheduled for next Wednesday and Thursday, September 22 and 23 regarding the above-referenced petition. Enclosed are seven subpoenas in the format we discussed.

Please do not hesitate to call if you have any questions.

Very truly yours,
Joel J. Feinberg/brm
Joel J. Feinberg

Enclosures

cc: Peter Max Zimmerman, Esquire

JJF:brm

RECEIVED
BALTIMORE COUNTY
SEP 15 11 12 AM '82
COUNTY BOARD OF APPEALS
BY: [illegible]

LAW OFFICES OF
PIPER & MARBURY
900 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

888 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006

TELEPHONE 202-785-9150

March 25, 1982

County Board of Appeals of Baltimore County
County Courts Building
Towson, Maryland 21204

Re: Cycle II Zoning Reclassification
Petitions - Item No. 10

To the Honorable Board:

Please enter my name and that of Mark Pollak, Esq., as attorneys of record for the petitioning property owner, Universal Housing and Development Company in connection with the above-referenced zoning reclassification petition, for which a hearing is now scheduled on April 14, 1982.

Also, please advise me as soon as possible as to the arrangements which we should make to obtain a transcript of the proceedings at the hearing.

Thank you for your attention.

Very truly yours,
Joel J. Feinberg

JJF:brm

RECEIVED
BALTIMORE COUNTY
MAR 26 10 15 AM '82
COUNTY BOARD OF APPEALS
BY: [illegible]

PETITION FOR CONDITIONAL RE-CLASSIFICATION 5th DISTRICT

ZONING: Petition for Conditional re-classification

LOCATIONS:
Parcel I—East side of Paper Mill Road 611.86 ft. Northwest of Ashland Road
Parcel II—East side of Paper Mill Road, 649.39 ft. Northwest of Ashland Road
Parcel III—West side of Paper Mill Road, 667.2 ft. Northwest of Ashland Road

DATE & TIME: Wednesday, April 14, 1982 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. 3.5 and D.R. 1

Proposed Zoning: D.R. 5.5

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

Description to Accompany Zoning Petition for Reclassification from an existing DR 1 Zone to DR 5.5 Zone.

Parcel I—Containing 1.698 Acres of land more or less July 10, 1981

Beginning for the same on the east side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 12°08'01" West 611.86 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, thence binding on the east side of Paper Mill Road (1) northeasterly by a curve to the right having a radius of 845.00 feet for the distance of 42.22 feet, said curve being subtended by a chord bearing North 15°59'43" East 42.21 feet to intersect the existing zoning line between the DR 1 Zone and DR 3.5 Zone, thence binding on said zoning line (2) South 86°09'56" East 1368.27 feet to intersect the outline of the property of the herein named petitioner, thence binding on the outlines of said property the two following lines, viz: (3) South 26°41'55.2" West 73.02 feet and (4) North 85°03'37.6" West 1349.04 feet to the place of beginning.

Containing 1.698 Acres of land more or less.

Description to Accompany Zoning Petition for Reclassification from an existing DR 3.5 Zone to DR 5.5 Zone.

Parcel II—Containing 28.405 Acres of land more or less July 10, 1981

Beginning for the same on the east side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 10°22'39" West 649.39 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, said point of beginning being on the existing zoning line between the DR 3.5 zoning and the DR 1 zone; thence from said point of beginning, binding on the east and southeast side of said Paper Mill Road, the five following lines: (1) northeasterly by a curve to the right having a radius of 845.00 feet for the distance of 475.12 feet, said curve being subtended by a chord bearing North 33°32'04.9" East 468.89 feet, (2) North 49°38'32.6" East 123.82 feet, (3) northeasterly by a curve to the right with a radius of 1470.00 feet for a distance of 433.08 feet, said curve being subtended by a chord bearing North 58°04'56.8" East 431.51 feet, (4) North 66°31'21" East 541.06 feet and (5) northeasterly by a curve to the left with a radius of 1830.00 feet for a distance of 376.56 feet, said curve being subtended by a chord bearing North 60°37'39.4" East 375.90 feet, thence leaving said Paper Mill Road (6) South 64°26'31.4" East 375.72 feet; thence binding on the northwest side of the Northern Central Railroad right-of-way (7) South 26°41'55.2" West 1151.24 feet to intersect the herein mentioned zoning line, thence binding on said zoning line and leaving said railroad right-of-way (8) North 86°09'56" West 1368.27 feet to the beginning.

Containing 28.405 acres of land more or less.

Description to Accompany Zoning Petition for Reclassification from an existing DR 3.5 Zone to DR 5.5 Zone.

Parcel III—Containing 142.705 acres more or less July 10, 1981

Beginning for the same on the west side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 10°22'39" West 997.20 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, said point of beginning being on the existing zoning line between the DR 3.5 zoning and the RC 4 Zone; thence from said place of beginning, binding on the existing zoning line between the DR 3.5 zone and the RC 4 Zone; thence from said place of beginning, binding on said zoning line, (1) North 86°09'56" West 412.54 feet to the end of said zoning line, thence binding on the existing DR 3.5 zone line and Baltimore City property Zoned RC 4 the two following lines, viz: (2) North 32°53'49" West 281.47 feet and (3) North 35°12'11.4" West 659.80 feet; thence binding on the zoning line between the existing DR 3.5 Zone and the existing RC 4 Zone (4) North 43°23'12.3" East 1687.61 feet and (5) North 17°34'09.4" West 580.00 feet; thence binding on the zoning line between the existing DR 3.5 Zone and the existing RC 4 Zone (6) North 66°52'27.8" East 2507.89 feet; thence binding on the zoning line between the existing DR 3.5 Zone and Baltimore City property zoned RC 4 (7) South 23°58'17" East 1196.34 feet; thence binding on the centerline of the Northern Central Railroad right-of-way and binding on the existing zoning line between the DR 3.5 Zone and the RC 4 Zone the two following courses, viz: (8) southwesterly by a curve to the left with a radius of 2292.00 feet for a distance of 558.13 feet, said curve being subtended by a chord bearing South 33°40'29.1" West 556.75 feet and (9) South 26°41'55" West 511.65 feet; thence leaving said railroad right-of-way (10) North 25°54'39.2" West 275.16 feet, (11) North 22°59'43.3" West 292.57 feet, (12) South 65°36'12" West 125.87 feet, (13) South 2°38'59.7" West 255.75 feet, (14) South 20°46'00.3" East 322.30 feet, (15) South 60°38'19.8" West 218.81 feet, (16) South 23°38'28.6" West 14.02 feet; thence binding on the northwest and west sides of said Paper Mill Road the seven following lines, viz: (17) southwesterly by a curve to the left with a radius of 713.80 feet for a distance of 182.47 feet, said curve being subtended by a chord bearing South 57°03'44.9" West 181.97 feet, (18) South 49°44'21" West 6.75 feet, (19) southwesterly by a curve to the right with a radius of 1770.00 feet for a distance of 518.48 feet, said curve being subtended by a chord bearing South 58°07'51" West 516.62 feet, (20) South 66°31'21" West 541.06 feet, (21) southwesterly by a curve to the left with a radius of 1530.00 feet for a distance of 450.76 feet, said curve being subtended by a chord bearing South 58°04'56.8" West 449.13 feet, (22) South 49°38'32.6" West 123.82 feet and (23) southwesterly by a curve to the right with a radius of 905.00 feet for a distance of 523.34 feet, said curve being subtended by a chord bearing South 33°04'33.9" West 516.08 feet to the place of beginning.

Containing 142.705 acres of land more or less.

Being the property of Universal Housing and Development Company, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, April 14, 1982 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

Mar. 25.

CERTIFICATE OF PUBLICATION

TOWSON, MD., March 25, 1982

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published and published in Towson, Baltimore County, Md., ~~appearing~~ once in ~~each~~ of one time ~~successive weeks~~ before the 14th day of April, 1982, the ~~first~~ publication appearing on the 25th day of March 1982.

THE JEFFERSONIAN,

L. Edward Shanken
Manager.

Cost of Advertisement, $

CR-82-157

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 3 Date of Posting 3/27/82

Posted for: Petition for Reclassification

Petitioner: Roosevelt Mooring & Development Co.

Location of property: E/S Paper Mill Rd. 611.86' N/c Ashland Rd., etc., etc.

Location of Signs: Up a lane from Ashland Rd. & property lies on north side of lane, Ashland Rd. appx. at

Remarks:

Posted by Signature Date of return 4/2/82

regular Mervals.
4 signs

The Times

Middle River, Md., March 24 1982

This is to Certify, That the annexed Petition

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive weeks before the 24th day of March 1982

Publisher.

99.96

FROM THE OFFICE OF
GEORGE W. LEAN STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVENUE, TOWSON, MARYLAND 21204

Description to Accompany Zoning Petition
for Reclassification from an existing
DR 1 Zone to DR 5.5 Zone.

Parcel I - Containing 1.698 Acres of land more or less July 10, 1981

Beginning for the same on the east side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 12°08'01" West 611.86 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, thence binding on the east side of Paper Mill Road (1) northeasterly by a curve to the right having a radius of 845.00 feet for the distance of 42.22 feet, said curve being subtended by a chord bearing North 15°59'43" East 42.21 feet to intersect the existing zoning line between the DR 1 Zone and DR 3.5 Zone, thence binding on said zoning line (2) South 86°09'56" East 1368.27 feet to intersect the outline of the property of the herein named petitioner, thence binding on the outlines of said property the two following lines, viz: (3) South 26°41'55.2" West 73.02 feet and (4) North 85°03'37.6" West 1349.04 feet to the place of beginning.

Containing 1.698 Acres of land more or less.

STATE OF MARYLAND — FRANCIS W. SEMLER — REGISTERED LAND SURVEYOR

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVENUE, TOWSON, MARYLAND 21204

Description to Accompany Zoning Petition
for Reclassification from an existing
DR 3.5 Zone to DR 5.5 Zone.

Parcel II - Containing 28.405 Acres of land more or less July 10, 1981

Beginning for the same on the east side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 10°22'39" West 649.39 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, said point of beginning being on the existing zoning line between the DR 3.5 Zone and the DR 1 Zone; thence from said point of beginning, binding on the east and southeast side of said Paper Mill Road, the five following lines: (1) northeasterly by a curve to the right having a radius of 845.00 feet for the distance of 475.12 feet, said curve being subtended by a chord bearing North 33°32'04.9" East 468.89 feet, (2) North 49°38'32.6" East 123.82 feet, (3) northeasterly by a curve to the right with a radius of 1470.00 feet for a distance of 433.08 feet, said curve being subtended by a chord bearing North 58°04'56.8" East 431.51 feet, (4) North 66°31'21" East 541.06 feet and (5) northeasterly by a curve to the left with a radius of 1830.00 feet for a distance of 376.56 feet, said curve being subtended by a chord bearing North 60°37'39.4" East 375.90 feet, thence leaving said Paper Mill Road (6) South 64°26'31.4" East 375.72 feet; thence binding on the northwest side of the Northern Central Railroad right-of-way (7) South 26°41'55.2" West 1151.24 feet to intersect the herein mentioned zoning line, thence binding on said zoning line and leaving said railroad right-of-way (8) North 86°09'56" West 1368.27 feet to the beginning.

Containing 28.405 acres of land more or less.

STATE OF MARYLAND — FRANCIS W. SEMLER — REGISTERED LAND SURVEYOR

FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVENUE TOWSON, MARYLAND 21204

Description to Accompany Zoning Petition
for Reclassification from an existing
DR 3.5 Zone to DR 5.5 Zone

Parcel III - Containing 142.705 acres more or less July 10, 1981

Beginning for the same on the west side of Paper Mill Road (also known as Ashland Avenue) at a point measured North 15°30'48" West 667.20 feet from the intersection of the centerline of said Paper Mill Road and the centerline of Ashland Road, said point of beginning being on the existing zoning line between the DR 3.5 zoning and the RC 4 Zone; thence from said place of beginning, binding on said zoning line, (1) North 86°09'56" West 412.54 feet to the end of said zoning line, thence binding on the existing DR 3.5 zone line and Baltimore City property Zoned RC 4 the two following lines, viz: (2) North 32°53'49" West 281.47 feet and (3) North 35°12'11.4" West 659.80 feet; thence binding on the zoning line between the existing DR 3.5 Zone and the existing RC 4 Zone (4) North 43°23'12.3" East 1687.61 feet and (5) North 17°34'09.4" West 580.00 feet; thence binding on the zoning line between the existing DR 3.5 Zone and the existing RC 4 Zone (6) North 66°52'27.8" East 2507.89 feet; thence binding on the zoning line between the existing DR 3.5 Zone and Baltimore City property zoned RC 4 (7) South 23°58'17" East 1196.34 feet; thence binding on the centerline of the Northern Central Railroad right-of-way and binding on the existing zoning line between the DR 3.5 Zone and the RC 4 Zone the two following courses, viz: (8) southwesterly by a curve to the left with a radius 2292.00 feet for a distance of 558.13 feet, said curve being subtended by a chord bearing South 33°40'29.1" West 556.75 feet and (9) South 26°41'55" West 511.65 feet; thence leaving said railroad right-of-way (10) North 25°54'39.2" West 275.16 feet, (11) North 22°59'43.3" West 292.57 feet, (12) South 65°36'12" West 125.87 feet, (13) South 2°38'59.7" West 255.75 feet, (14) South 20°46'00.3" East 322.30 feet, (15) South 60°38'19.8" West 218.81 feet, (16) South 23°38'28.6" West 14.02 feet; thence binding on the northwest and west sides of said Paper Mill Road the seven following lines, viz: (17) southwesterly by a curve to the left with a radius of 713.80 feet for a distance of 182.47 feet, said curve being subtended by a chord bearing South 57°03'44.9" West 181.97 feet, (18) South 49°44'21" West 6.75 feet, (19) southwesterly by a curve to the right with a radius of 1770.00 feet for a distance of 518.48 feet, said curve being subtended by a chord bearing South 58°07'51" West 516.62 feet, (20) South 66°31'21" West 541.06 feet, (21) southwesterly by a curve to the left with a radius of 1530.00 feet for a distance of 450.76 feet, said curve being subtended by a chord bearing South 58°04'56.8" West 449.13 feet, (22) South 49°38'32.6" West 123.82 feet and (23) southwesterly by a curve to the right with a radius of 905.00 feet for a distance of 523.34 feet, said curve being subtended by a chord bearing South 33°04'33.9" West 516.08 feet to the place of beginning.

Containing 142.705 acres of land more or less.

STATE OF MARYLAND — FRANCIS W. SEMLER — REGISTERED LAND SURVEYOR

LAW OFFICES OF
PIPER & MARBURY
100 CHARLES CENTER SOUTH
36 SOUTH CHARLES STREET
BALTIMORE, MARYLAND 21201

TELEPHONE 301-539-2530
CABLE PIPERMAR BAL
TELEX 908054

1200 SIXTEENTH STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE 202-785-8180

MARK POLLAK

February 25, 1983

HAND DELIVERY

County Board of Appeals of
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: Case No. CR-82-187
Universal Housing and
Development Company

Gentlemen:

We feel the action you took at the hearing on February 23, 1983 in the above-referenced case was without any basis in law. However, it was very clear that you feel your action was proper and that any legal arguments we wish to raise should be raised at the circuit court level. That being the case, we would respectfully urge you to issue a prompt order so that further delays are kept to a minimum.

Very truly yours,

Mark Pollak

Mark Pollak

MP/pms

cc: Peter M. Zimmerman, Esq.
Jeffrey B. Hazzard, Esq.

BALTIMORE COUNTY
FEB 25 1983
OFFICE OF
BOARD OF APPEALS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

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

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

February 22, 1983

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Street South
36 S. Charles Street
Baltimore, Maryland 21201

RE: Item No. 10 - Cycle No. II
Petitioner - Universal Housing & Dev. Co
Reclassification Petition

Dear Mr. Jones:

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

Enclosures

cc: G. W. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Mr. Al Barry, Chief of Current Planning
8th Floor
222 E. Saratoga Street
Baltimore, Maryland 21202

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

February 18, 1983

PAUL H. REINCKE
CHIEF

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

CC: William Hackett, Chairman
Board of Appeals

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Universal Housing and Development Company

Location: E.S. Paper Mill Road - 611.86' from centerline of Ashland Road

Item No.: 10 Zoning Agenda: Meeting - September 14, 1981

Gentlemen: "ADDITIONAL 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.

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

(X) 2. A second means of vehicle access is required for the site. (SEE ATTACHED SHEETS)

( ) 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.

( ) 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: Capt. Jay Hilly 2/18/83
Planning Group
Special Inspection Division

Noted and Approved: _____
Fire Prevention Bureau

/mb

Owner: Universal Housing and Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Item: 10
Zoning Agenda: Meeting of September 14, 1981

Comment #2:

Baltimore County Fire Department, Fire Prevention Plans Review Division, is concerned about posted weight limits for Baltimore City Bridges #6501 and #6505 which are presently posted at 12 tons. (See attached sheet for vehicle weights). The first alarm assignment for this area would be Engine 391, E-17, EL71, B301 and truck 17. The second alarm assignment would be Engine 473, E-1 and E-302. Engines from Cockeysville, Jacksonville, Texas, Lutherville and Towson will cross these bridges. In my conversation on February 18, 1983 with Jerry Silhan from Mr. Kretzschmar's Office at 396-4162, he stated that to his knowledge, Baltimore City has no immediate plans to upgrade Bridges #6501 and #6506. At the present, one million dollars a year is allocated for watershed repair and maintenance by Baltimore City. Also Mr. Richard Chen from Baltimore City Bridge Section at 396-3353 was contacted by this office about the response of emergency vehicles over these bridges and what total weight limits for emergency vehicles would be allowed to cross these bridges. A report by Mr. Chen will be forwarded upon its arrival. Although these bridges are posted on daily basis for a 12 ton limit, it is my understanding that a special permit may be granted for emergency vehicles exceeding posted limit on bridges on an infrequent basis.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Battalion Chief Herbert Naylor
Fire Department
Date: April 16, 1981

FROM: Ellsworth N. Diver

SUBJECT: Bridge No. 16 - Paper Mill Road
over Penn Central Railroad

As requested the emergency equipment shown on the attached sketches was studied to determine if they could use the subject bridge. The vehicles are:

Vehicle	Gross Weight
Truck No. 17	37,550 lb.
Engine No. 17	28,860 lb.
Engine No. 391	26,500 lb.
Engine No. 399	33,200 lb.
Engine No. 493	33,280 lb.
Engine No. 494	30,000 lb.

Although posted for 6 tons, these vehicles may cross subject bridge on an infrequent basis, provided speeds are less than 15 mph.

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:JRL:dhs

cc: Bridge Posting File

FIRST LINE

No. of Unit	Wheel Base	Front Axle Weight	Rear Axle Weight	Tiller Axle Weight	Gross Weight Pounds	Tons
E 1	184"	11380	17800		29180	- 14.6
E 101	184"	11380	17800		29180	- 14.6
T 17	140" - 295"	9220	22900	12740	44860	- 22.5
E 2	178"	11500	17080		28580	- 14.3
E 3	184"	11380	17800		29180	- 14.6
E 4	178"	11200	17900		29100	- 14.5
F 41	184"	13180	25000		38180	- 19.1
E 5	184"	14180	25600		39780	- 19.9
T 5	162" - 339"	10920	19320	14880	45720	- 22.9
E 6	184"	11380	17800		29180	- 14.6
E 61	178"	11500	17080		28580	- 14.3
E 7	178"	11200	17900		29100	- 14.6
E 71	184"	11380	17800		29180	- 14.6
E 8	184"	11748	19050		30798	- 15.4
T 8	220"	11470	27770		32240	- 19.6
E 9	192"	13480	18550		32030	- 16
E 10	184"	11380	17800		29180	- 14.6
E 11	184"	14180	25600		39780	- 19.9
E 12	184"	14180	25600		39780	- 19.9
E 13	178"	11200	17900		29100	- 14.6
T 13	221" - 50"	10580	14655	14655	39890	- 19.9
E 14	178"	11200	17900		29100	- 14.6
E 15	178"	11200	17900		29100	- 14.6
T 15	140" - 295"	9220	22900	12740	44860	- 22.4
E 16	178"	11200	17900		29100	- 14.6
E 17	178"	11200	17900		29100	- 14.6
T 17	226"	10620	26960		37580	- 18.8
E 18	178"	11500	17080		28580	- 14.3
T 18	140" - 310"	10120	25480	11880	47480	- 23.7
E 19	184"	11380	17800		29180	- 14.6

RESERVE APPARATUS

No. of Unit	Wheel Base	Front Axle Weight	Rear Axle Weight	Tiller Axle Weight	Gross Weight Pounds	Tons
RT 64	140" - 310"	10120	25480	11880	47480	- 23.7
RT 85	144" - 271"	5900	11600	9400	26900	- 13.5
RE 51	166"	9880	16080		25960	- 13
RE 52	166"	9880	16080		25960	- 13
RE 53	166"	9880	16080		25960	- 13
RE 54	178"	10260	16060		26320	- 13.2
RE 55	178"	10260	16060		26320	- 13.2
RE 56	178"	10260	16060		26320	- 13.2
RE 62	178"	10260	16060		26320	- 13.2
RE 64	180"	8010	11310		19320	- 9.7
RE 65	180"	8010	11310		19320	- 9.7
RE 67	180"	8010	11310		19320	- 9.7
RE 68	180"	8010	11310		19320	- 9.7
RE 69	160"	10700	15680		26380	- 13.2

VOLUNTEER APPARATUS

E 201	182½"	13000	21800		34800	- 17.4
E 202	182½"	13000	21000		34000	- 17
E 211	160½"	10760	16900		27660	- 13.8
E 212	166½"	11340	15460		26800	- 13.4
Sq 213	156"	5840	11920		17760	- 8.9
E 222	166"	11400	17500		28900	- 14.5
E 223	182"	8800	22000		30800	- 15.4
E 231		9060	22540		31600	- 15.8
E 233		9660	19280		28940	- 14.5
E 241	153"	7860	17800		25760	- 12.9
E 243	168½"	7100	16240		23400	- 11.7
E 251	166"	8880	17560		26440	- 13.2
E 252	150"	12100	19600		31700	- 15.9
E 261	175"	8640	17340		25980	- 13
E 263	178"	9840	20040		29880	- 15
Sq 262	135"	8730	11230		20020	- 10
E 271	164"	12000	23000		35090	- 17.5
E 272	164"	12000	23000		35000	- 17.5
Fl 273	114"				16000	- 8
E 281	188"	13460	19920		33380	- 16.7
E 282	186"	8700	16760		25460	- 12.7

VOLUNTEER APPARATUS (CONT'D)

No. of Unit	Wheel Base	Front Axle Weight	Rear Axle Weight	Tiller Axle Weight	Gross Weight Pounds	Tons
E 291	166"	12200	17100		29300	- 14.7
E 292	178"	12080	21200		33280	- 16.6
Fl 293	134"	8300	11600		19900	- 10
E 301	179"	9480	18000		27480	- 13.7
E 302	185"	12520	19180		31700	- 15.9
Sq 303	174"	11320	18340		29660	- 14.8
E 312	176"	16000	24000		40000	- 20
T 313	205" - 51"	13200	15600	15900	44700	- 22.4
SU 314	135"	3800	7500		11300	- 5.7
Amb 315	159½"	3800	7500		11300	- 5.7
E 321	178"	14356	20667		35023	- 17.5
Sq 322	186"	12900	20920		33820	- 17
SU 324	143"	3220	8120		11340	- 5.7
AU 328	153"	10461	11784		22245	- 11.1
E 331	190"	12390	18940		31330	- 15.7
E 332	178"	12580	22870		35750	- 17.9
SU 334	133"	3160	6030		9190	- 4.6
E 341	150"	7750	13300		21050	- 10.5
RE 342	197"	6150	13800		19950	- 10
E 343	166"	11700	17400		29100	- 14.6
E 351	183"	10440	16920		27360	- 13.7
E 352	196"	13980	19420		33400	- 16.7
Sq 354	197"	10860	20280		31140	- 15.6
E 361	164½"	11550	18050		29600	- 14.8
E 362	160"	10550	14350		24900	- 12.5
E 371	178"	11500	21200		32700	- 16.4
E 372	166"	13000	23000		36000	- 18
E 381	178½"	10200	23190		33690	- 16.8
E 382	186½"	9700	20590		30290	- 15.2
E 391	175"	11760	16500		28260	- 14.1
E 399	185"	11400	~~16600~~ 20560		33060	- 16.5
E 401	163"	9640	19960		29600	- 14.8
E 403	162"	9120	18720		27860	- 14
T 404	260"	10900	22440		33340	- 16.7
E 412	165"	14000	15000		29000	- 14.5
F 413	165"	14000	15000		29000	- 14.5
Sq 414	165"	14000	16000		30000	- 15

VOLUNTEER APPARATUS (CONT'D)

No. of Unit	Wheel Base	Front Axle Weight	Rear Axle Weight	Tiller Axle Weight	Gross Weight Pounds	Tons
E 422	176"	9000	22000		31000	- 15.5
E 424	175"	12000	23000		35060	17.5
E 431	180"	9550	16450		26000	- 13.
E 432	185"	12370	23620		35990	- 18
E 434	200"	8500	20350		28850	- 14.5
E 441	186"	10470	22460		32930	- 16.5
E 442	184"	12110	19890		32000	- 16
E 451	153"	7900	17450		25350	- 12.7
E 452	153"	10100	18600		28700	- 14.4
TT 454	148"	6200	23800		30000	- 15
E 461					39000	- 19.5
TT 462	175"				32320	- 16.2
E 464	184"	10920	20090		31010	- 15.5
E 471	186"	9320	21680		*31400	- 15.5
E 473	184"	13720	22140		*36200	- 18.1
E 481	178"	10700	22200		32900	- 16.5
E 482	184"	13720	21880		35600	- 17.8
E 493	176"	12080	21200		33280	- 16.6
E 494	164"	12000	18500		30500	- 15.3
E 501	179"	14400	24000		38400	- 19.2
E 503	186"	14000	21000		35000	- 17.5
Sq 523	131"	11500	14400		25.00	- 13
M 535	139"	3450	5680		9130	- 4.7

Universal Hearing - send notice to:

Catherine G. MOTZ - representing Broadview -
13801 York Road - # 21030

Dr. Mrs Edward A. Hopkins - residents
1320 Paper Mill Rd.
Cockeysville, Md 21030

Linda Tarin
1240 Paper Mill Rd.
Cockeysville Md. 21030

MEMORANDUM OF ACTION OF DIRECTOR HAL KASSOFF
OFFICE OF PLANNING AND PRELIMINARY ENGINEERING

September 10, 1982

Director Kassoff, Office of Planning and Preliminary Engineering, executed an Agreement dated June 16, 1982, between the State Highway Administration, Baltimore County, Maryland and the City of Baltimore, Maryland, relative to the transfer of the following sections of road, subject to the conditions more fully set forth in the agreement.

STATE HIGHWAY ADMINISTRATION TO BALTIMORE COUNTY

Md. 143 (Warren Road) - from Md. 45 (York Road) to North of Bosley Road.
A total distance of ± 1.45 miles.

Md. 143 (Merrymans Mill Road) - from the Reservoir to Md. 146.
A total distance of ± 1.61 miles.

BALTIMORE COUNTY TO STATE HIGHWAY ADMINISTRATION

Ashland Road - from Md. 45 (York Road) to the beginning of City maintenance.
A total distance of ± 0.18 mile.

Ashland Road/Paper Mill Road - from the beginning of County maintenance to the Reservoir. Removal of the existing single lane bridge, its approaches and the replacement roadway over the abandoned Penn Central Railroad by the "County" at their expense in Fiscal Year 1983.
A total distance of ± 0.84 mile.

BALTIMORE CITY TO STATE HIGHWAY ADMINISTRATION

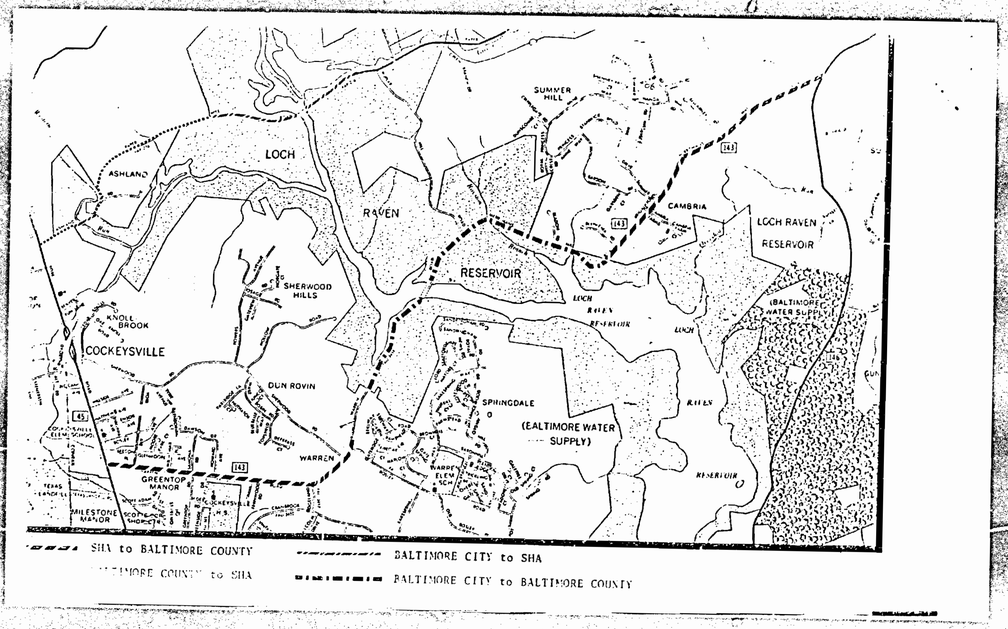
Ashland Road - from City Maintenance to County Maintenance (this includes minor maintenance and snow removal to the bridge over Western Run).
A total distance of ± 0.86 mile.

BALTIMORE CITY TO BALTIMORE COUNTY

Warren Road/Merrymans Mill Road - through Loch Raven Reservoir (this includes snow removal to the bridge over Loch Raven Reservoir).
A total distance of ± 1.87 miles.

Said Agreement had previously been executed by the Baltimore County Executive and the Mayor and City Council of Baltimore and approved as to form and legal sufficiency by Assistant Attorney General Polski.

cc: Mr. F. Gottemoeller
Mr. W. K. Lee, III
Mr. C. T. Carter
Mr. G. E. Dailey
Mr. H. Kassoff
Mr. H. J. McCullough
Mr. C. W. Reese
Mr. J. L. White
Mr. R. C. Davison
Mr. J. N. Day
Mr. K. V. Dodson
Mr. E. S. Freedman
Mr. T. Hicks
Mr. W. W. Knipple
Mr. P. S. Jaworski
Mr. C. Lee
Mr. E. M. Loskot
Mr. R. C. Pazourek
Mr. R. Weaver
Secretary's File



Tabular Discharge Summary Table
After Development Condition

Project: Towson Nurseries - Pond #1

Date: 6/15/82

Hydrographs for 24-hour Storm - For Pond #1.

Reference: Soil Conservation

2 yr & 10 yr Storm

Service Tables

Sub-area	T_c	T_L	Drainage area	Rainfall	RCN	Runoff	11.0 hr.	11.5 hr.	11.7 hr.	11.8 hr.	11.9 hr.	12.0 hr.	12.1 hr.	12.2 hr.	12.3 hr.	12.4 hr.	12.5 hr.	12.6 hr.	12.7 hr.	12.8 hr.	12.9 hr.	13.0 hr.	13.2 hr.	13.5 hr.	14.0 hr.	14.5 hr.	15.0 hr.	16.0 hr.	17.0 hr.
	(Hr.)	(Hr.)	($Mi.^2$)	(In.)		(In.)	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs	cfs
1	0:30	-	0.209	3.2 (2 yr)	69	0.78	3	7	23	53	96	107	87	61	41	30	24	20	17	14	13	12	10	8	7	6	5	4	3
1	0:30	-	0.209	5.1 (10 yr)	69	2.03	9	18	60	137	247	279	227	158	106	78	63	53	43	36	33	30	26	22	17	14	13	10	7

LAW OFFICES OF
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ELIZABETH A. McKENNON
E. ELIZABETH WEAVER

August 14, 1981

County Board of Appeals of
Baltimore County
County Courts Building
Towson, Maryland 21204

Re: October - April Rezoning Cycle

Gentlemen:

On behalf of the Universal Housing & Development Company ("Petitioner") and consistent with both the Rules of Practice and Procedure of the County Board of Appeals (the "Board Rules"), as approved by Bill 59-79, and Section 2-58.1 (the "Application Law") of the Baltimore County Code (1978 ed., 1979 Supp.) (the "Code"), we are submitting the petition form and accompanying materials, statements and information required of a petition for a zoning reclassification (the "Petition").

This application requests that the Board of Appeals (the "Board") approve the rezoning of approximately 176 gross acres (the "Land"), forming part of the property generally known as "Towson Nurseries", to D.R. 5.5 from the present zoning of D.R. 3.5 on substantially all of the Land. As will be described in greater detail below and in materials to be presented with this application and again at the public hearing, the application is consistent with the goals and objectives of the County, has a positive impact on the environment and is in the best interest of all parties. Moreover, the Board has jurisdiction to grant the Petition in view of (i) the significant "mistakes", as defined in Maryland appellate rulings, made by the County Council during the 1980 Comprehensive Rezoning process, and (ii) the substantial change in the character of the neighborhood surrounding the Land.

As authorized by subsection (1) of the Application Law, the Petition includes documentation relating to the proposed use of the Land. Consistent with those provisions, the site plan included as part of the application utilizes building envelopes, maxima/minima in lieu of fixed values, possible uses and other elements of flexibility, all subject to the precise limits set out on the plan and within the permitted limits established in the Baltimore County Zoning Regulations (the "Zoning Regulations") and other applicable controls.

I. Requested Relief

The Land is part of a larger parcel of 178.5 ± acres, of which 2.5 acres are presently zoned R.C.-4 and are not included in this Petition. The remaining gross acreage of 176 ± acres contains 172.808 net acres; the balance of the Land is part of the right-of-way for Paper Mill Road.

The Land is outlined on the official 1" = 200' scale zoning maps accompanying this Petition. That outline identifies three separate parcels --

(a) Parcel I is a 1.698 ± acre strip zoned D.R. 1

(b) Parcel II lies south and east of Paper Mill Road, contains 28.405 ± acres and is currently zoned D.R. 3.5

(c) Parcel III lies north and west of Paper Mill Road, contains 142.705 ± acres and is currently zoned D.R. 3.5

This Petition requests that all three parcels be rezoned to D.R. 5.5.

II. Materials Submitted

In accordance with applicable provisions of the Application Law, the Zoning Regulations and the Board Rules, the following materials form part of the Petition:

1. Three typewritten petition forms executed by the Petitioner, per BABC - Form 2 "Guide for Preparation of Reclassification Petitions" (the "Guide"), paragraph (1).

2. Seven copies of the property descriptions of all three parcels of the Land, prepared by George William Stephens, Jr. & Associates, Inc. ("Stephens"), registered engineers. [Guide, paragraph (2)]

3. Three copies of this letter, which constitutes an explanation of the reasons for granting the Petition and a precise description of the elements of "change" and "mistake". [Application Law, subsection (b); Guide, paragraph (3)]

4. Two xerox copies of both the 1" = 200' and 1" = 1000' scale of local zoning maps, with the land outlined on each. [Guide, paragraph (4)]

5. A check in the amount of $50.00 to cover the filing fee. [Guide, paragraph (5)]

6. Twelve copies of a site plan, prepared by Stephens, and including as part of each plan:

   (a) the 23 checklist items on pages 3-4 of the Guide; [Application Law, subsection (1); Guide, paragraph (7)(b)]

   (b) building envelopes, including entrances, driveways, parking facilities, landscaping, screening and retained vegetation; [Application Law, subsection (1); Guide, paragraph (7)(c)]

   (c) floor plan and elevations, interior and exterior materials of typical units, including floor areas, lot coverage and heights of structures; [Application Law subsection (1); Guide, paragraph (7)(c)]

   (d) written, detailed notes setting forth the maxima and minima criteria, including floor areas, lot coverage and heights of structures.

7. Twelve copies of an environmental impact statement, prepared by JTC Environmental Consultants,

Inc. and Dr. John T. Cookson ("Cookson"), consistent with Section 101 of the Zoning Regulations, as amended by Bill 98-75 [Application Law subsection (1); Guide, paragraph (7)(a)]

III. Basis for Granting Relief

Prior to the adoption of the 1980 Comprehensive Rezoning Map for the Third Councilmanic District by Bill 186-80, the Land was zoned ML-R, restricted light manufacturing. During the rezoning process, the Petitioner requested that the Land and certain adjoining property be rezoned to a combination of categories, with the Land proposed for rezoning to 145 ± acres of D.R. 5.5 and 30 ± acres of D.R. 16. The Petitioner submitted a series of consultant reports in support of that request. Many of the affirmative and positive aspects to be derived from the grant of this Petition were described at that time and are summarized below. Further data and information is contained in the consultant reports which will supplement this application. Also analyzed below is the compliance and consistency of this application with various plans and land-use controls in effect in the County.

A. Positive Impact of the Proposal:

The proposal offers a positive, constructive approach to the use of the Land. While blessed with great beauty and wonderful features, the Land nonetheless brings with it the conflicting demands of an existing infrastructure that lacks users, a reservoir watershed that can only accomodate development based on community facilities and natural features that encourage a project which takes advantage of the nursery. By providing a project large enough to accept and absorb feasibly the extremely expensive land development costs associated with the Land, the Petitioner believes that a multitude of declared public objectives can be achieved in concert with a handsome, well-planned community.

This belief is well-supported by the conclusions stated in the environmental impact report prepared by Dr. Cookson (the "EIS"):

> The proposed community offers a positive, constructive approach which can minimize environmental effects because of its size. The proposed development is large enough that it permits costly environmental controls,

> referred to as "Best Management Practices", to avoid environmental impacts that could not be prevented under the present D.R. 3.5 zoning. These controls result in dramatic differences for water quality, making the proposed development far better than that of the alternative (development under D.R. 3.5) as discussed in detail in this evaluation. [EIS, p. 1-1]

B. Consistency with D.R. Zoning

The density residential (D.R.) zoning categories were established by Bill 100 in 1970. The purpose of these new categories, which are based on density rather than lot size, is stated in Section 1B00.2 of the Zoning Regulations:

> The D.R. zoning classifications are established . . . in order to:
>
> A. Foster a greater variety in housing types within future residential developments;
>
> B. Allow more feasible preservation of natural features and induce the reservation of ample and more suitably designed open spaces and parks, in order to better satisfy the needs of residents without economic disadvantage to developers;
>
> C. Allow greater flexibility in subdivision-development planning and provide for the inducement of more creative as well as more economic approaches to residential development, with the goal of desirable and distinctive identity and character of individual residential locales;
>
> D. Provide the means to satisfy differing housing-market requirements without rezoning, and thus without disruptive changes in density potential; and
>
> E. Provide for the application of residential zoning classifications in a manner more nearly in accord with comprehensive plans and comprehensive - planning goals.

This Petition seeks to achieve these objectives by combining a density and mix of housing types acceptable to the marketplace, with the minimum number of units needed to develop and utilize the Land feasibly and consistent with stringent environmental standards. The proposed density is achieved with due respect for adjoining uses and with far more open-space than is required by the applicable regulations.

C. Consistency With Master Plan

Resolution 71-79, approved November 19, 1979, adopted the "Baltimore County Master Plan, 1979-1990" (the "Master Plan") as the guide for development of the County. The Land-Use Element locates the Land as part of the County's "fringe development areas". The Master Plan provides the following definitions and goals for such areas:

> Fringe development areas are those areas presently sewered, or planned to be sewered within ten years, that are not developed at present and are not included within the boundaries of any New Development Area or Town or Community Center.
>
> The boundaries of these areas are based upon the recommended extension of public sewering set out in the 1975 County Water and Sewer Plan, as modified by findings of the Growth Management Technical Studies.
>
> . . .
>
> Recommended County goals for "fringe development areas" are:
>
> To assure that the pace of development does not exceed the schedule of provision of community services in these areas;
>
> To assure that the form of development is compatible with the character of existing development in these areas;
>
> . . .

The development pattern proposed for the Land is both compatible with existing development, notably the high intensity industrial, commercial and residential uses of Hunt Valley Park, the new regional mall and the adjoining Broadmead projects, and fully within the capabilities of existing public services.

As described in Dr. Cookson's report, the Land also lies in areas that are sensitive to reservoir impacts. In view of the need to consider the Loch Raven Reservoir, the Petitioner has accepted the more expensive controls needed to retain vegetation on sloped areas, and extensive soil erosion and storm water facilities needed to protect the reservoir. As described in the Stephens report, such costs preclude development at a density below 5.5; alternatively at existing densities, development can only be achieved if such environmental benefits are ignored. The Cookson EIS notes that the "higher density development of the [Petition] allows the implementation of Best Management Practices to control pollutant runoff ...", with the result that such "measures reduce pollutant discharge by as much as 50 percent for some parameters under that which would occur under present zoning." [EIS, p. 1-4]

The Petition proposes the only feasible development which can adhere to the Master Plan objectives of --

> Strict regulation of development on steeply sloping lands to assure that permitted development does not result in increases in erosion and stream sedimentation;
>
> . . .
>
> Strict enforcement of sediment control regulations, particularly on lands adjacent to tributaries of municipal water supplies;
>
> . . .
>
> Adoption of stormwater management policies intended to maximize on-site infiltration of overland flow;
>
> . . .
>
> Increased environmental sanitation to reduce urban runoff from impervious surfaces and developed areas;
>
> . . .
>
> Promotion of groundwater recharge through stormwater management policies emphasizing on-site recharge;

The summary provided by Dr. Cookson in his EIS provides an excellent recitation of the various environmental benefits to be derived by development of the Land in accordance with the Petition:

1. No adverse effects on Western Run or Loch Raven Reservoir are expected. Long term effects indicate that an improvement with regard to sediment loading can be achieved through implementation of the proposed action. In addition, the proposed action will significantly reduce pollutant discharges that would occur if developed as presently zoned.

2. The development will preserve much of the nursery stock existing on site as open space and buffered areas.

3. The proposal will not have any adverse impact on any historical sites or archeological finds.

4. No endangered species of animals are threatened by the proposed development.

5. Topography and soils of the site will not be altered to any significant degree. Recommendations have been made for specific control measures that will minimize any adverse impact from erosion.

6. Noise and air pollution levels will not change significantly due to the proposed development or traffic generated by the development.

7. Public utilities are available, removing any potential impacts from wastewater handling.

With regard to other major elements of the Master Plan, the development of the Land pursuant to this Petition is consistent with various factors:

(1) Transportation: Although existing road facilities serving the Land are well within capacities and far from congested, the Master Plan, as part of its intermediate range plans for 1985 and beyond proposes improvements and extensions to both Shawan and Paper Mill Roads, and a rail transit line to Hunt Valley.

(2) Open Space: While no special open space needs are identified for fringe development areas in the Master Plan, the proposal provides for more open space than is required under current law.

The Board recognizes that within the surrounding neighborhood, other properties enjoying D.R. 5.5 zoning, have not been fully developed. Consequently, the Board is skeptical as to the suggestion of need for additional housing. More importantly, however, this witness did not address the threshold questions of error and/or change.

John W. Guckert, an expert qualified in the field of Traffic Engineering, testified as to the extensive road improvements contemplated by the Petitioner and that a reclassification of the subject property would not have an adverse impact on the road system. It was established, however, that improvements to the road shall be necessitated whether the subject property is developed consistent with the existing zoning or as proposed in the petition for reclassification.

Again, the issues of error and/or change were not addressed through Mr. Guckert.

As promised, in opening remarks, the underlying theme of the subject petition for reclassification was the advancements made in the field of storm water management and water quality protection. In that vein, Petitioner proauced Charles E. Fick, a civil engineer and Dr. John T. Cookson, an expert environmental consultant. Indeed, the Board is constrained to comment that we were extremely impressed by the presentation of both these gentlemen.

Through the testimony of Mr. Fick and Dr. Cookson, the issues of storm water management, water quality protection, sediment ponds, water supply, sewage, solid waste disposal, road improvements and the substantial costs to be incurred by the Petitioner, were addressed.

Dr. Cookson assured the Board that the environmental impact upon the community and surrounding neighborhood, in the event the reclassification is granted, would be minimal. He explained, in detail, the storm water management and water quality protection system the Petitioner intends to utilize. Dr. Cookson stressed the fact

that although similar facilities for the treatment of storm water management and water quality protection exist, to his knowledge, no system, in the State of Maryland, is as extensive as the facility proposed by the Petitioner.

Mr. Fick elaborated upon the storm water management requirements of Baltimore County. He stressed the fact that Baltimore County has established no standard by which water quality protection can be addressed. Mr. Fick stated that Petitioner's proposed storm water management and water quality protection facility is superior to those facilities required by Baltimore County.

As previously stated, this Board is duly impressed. We are persuaded that the storm water management and water quality protection facility proposed by the Petitioner is excellent. Such a facility could become the standard or model by which all similar future facilities are planned and constructed. We understand the extensive effort expended to impress this Board with the importance of such a facility.

But storm water management and water quality protection, though important considerations, are not dispositive of the ultimate issue. Although this Board is cognizant of Petitioner's manifestations to the contrary, storm water management and water quality protection and the proposals of the Petitioner relating thereto, do not address the threshold question of error and/or change.

The applicable legal standard by which this Board must determine each petition for reclassification is contained in Section 2-58.1(j) of the Baltimore County Code.

> Sec. 2-58.1(j) Before any property is reclassified pursuant to this section, the Board of Appeals must find:
>
> (1) 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 property was established in error; and
>
> (2) That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability

> and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the Planning Board or Office of Planning and Zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

Petitioner attempted to address the issues of change and/or error through the presentation of William F. Kirwin, an expert in landscape architecture, land planning and use. Mr. Kirwin testified as to the substantial commercial and industrial activity in the area, the general goals of zoning and the fact that water quality was a stated goal of the 1980 Master Plan.

Mr. Kirwin contended that physical changes in the area of the subject property have occurred subsequent to the 1980 Comprehensive Zoning Map. Due to the industrial and commercial development in the area, Mr. Kirwin stressed the corresponding lack of development within the residential sector. Further, Mr. Kirwin characterized the existing zoning as consistent with fringe area development. According to Mr. Kirwin, the reclassification of the subject property would not constitute an adverse effect upon the health, education and general welfare of the community.

However, Mr. Kirwin also acknowledged that fringe area development required low density zoning and that the requested reclassification would result in a medium density one. Further, Mr. Kirwin acknowledged that the physical changes to which he alluded were developments consistent with the zoning created by the County Council in the 1980 Comprehensive Zoning Process.

Thus, this Board is not persuaded that the comments by Mr. Kirwin concerning physical changes in the area constitute a substantial change in the character of the neighborhood as contemplated by Section 2-58.1(j) of the Baltimore County Code.

Mr. Kirwin, in addressing fringe area development, admits that no zone abutting the subject property enjoys a density greater than D.R. 1, thus buttressing, in this Board's opinion, the intention of the legislature to maintain low density zoning.

Further, Mr. Kirwin suggested that in the 1980 rezoning process, the Baltimore County Council considered, when zoning the subject site, its proximity to the Loch Raven Reservoir and water quality. He contended that such zoning constitutes an attempt to protect the watershed. Mr. Kirwin contended that the legislative body's efforts in that vein were misguided. According to Mr. Kirwin, zoning is an ineffective tool when addressing water quality. A better method, suggested Mr. Kirwin, is engineering and design.

However, the Board notes that if engineering and design is a better tool to protect the watershed, it can be logically assumed that it is not the only tool. Zoning remains a tool, if not the best tool. Certainly, the utilization of zoning for purposes of protecting a watershed does not constitute error. This Board is persuaded, therefore, that the County Council did not commit error in 1980 if, in fact, one of their stated goals was to protect the watershed.

The Petitioner asserts, through Mr. Kirwin, that during the 1980 Comprehensive Zoning Process the Baltimore County Council was not privy to various reports, documents and data respecting quantitative analysis and its impact on water quality protection. Consequently, according to the Petitioner, inasmuch as this information is now available, it is apparent that the existing zoning, at the subject site, did not reflect the intent of the legislature in 1980, as such was based upon incorrect, faulty and inaccurate assumptions and that in the County Council's effort to protect the Loch Raven Reservoir, that legislative body committed error by zoning this property based upon obvious misconceptions.

Petitioner cites error by the County Council because critical data was not available to them during the 1980 rezoning process up to and including the date of the enactment of the 1980 Comprehensive Zoning Map.

This Board disagrees. The suppositions postulated by Mr. Kirwin are not consistent with reason or the case law of this State. Indeed, this Board finds it implausible to assume the legislative body committed error by not considering information that the Petitioner admits was not available to be considered.

Addressing the threshold question of error and/or change, the Board considers Trainer v Lipchin, 269 Md. 667 (1973); and Coppolino v County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974); both of which quoted from Strutakis v Beauchamp, 268 Md. 643 (1973)

> "While in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced." (emphasis added)

Having established the focal point from which this petition for reclassification must be considered, this Board, once again, states that Petitioner has failed to meet its burden of demonstrating error and/or change.

Earlier we addressed the alleged physical changes cited by the Petitioner. As stated in Clayman v Prince Georges County, 266 Md. 409 (1972) and reaffirmed in Pattey v Board of Commissioners for Worcester County, 271 Md. 352 (1974)

"What Appellants have failed to recognize is that when we speak of "substantial changes in the character of the neighborhood," we mean "changes must occur of such a nature as to have affected its character."

This Board is not persuaded that the physical changes, including the industrial and commercial development in the area, constitutes such a change as to affect the character of the neighborhood. In fact, those changes, in this Board's opinion, are consistent with the existing zoning.

Addressing, again, Petitioner's assertions that the County Council committed error because their decision was based upon faulty, inaccurate and incorrect assumptions, this Board is persuaded that the County Council utilized the data available to it, at the time, and, in so doing, acted correctly.

Actually, we believe that the Petitioner's assertions are meritorious but misdirected or, perhaps misunderstood. Continuously, throughout its presentation, Petitioner made reference to the Master Plan, the Planning Board and the Department of Planning and Zoning. However, we suggest the Petitioner failed to recognize that these agencies are merely advisory and the Master Plan is merely a guide. As stated 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 rezoning map, nor may it be equated with it in legal significance." Clearly, in Baltimore County, the Master Plan's purpose is to set forth comprehensive objectives, policies and standards to serve as a guide for the development of the County.

Section 523 (a) and (b) of the Baltimore County Code states:

(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)

We are, of course, cognizant of Maryland-National Capital Park and Planning Commission v Washington Business Park Associates, 294 Md. 332 (1982) which addressed Coffey v Md. Nat'l. Cap. P. & P. Comm'n., 293 Md. 24 (1982). However, in our judgment, Coffey is distinguishable inasmuch as Coffey held that the Prince George's

County subdivision regulations require that a subdivision plan comply with a Master Plan as in zoning matters and therefore said Master Plan was not considered a mere guide or set of recommendations. Obviously, the Prince George's County Code, with respect to a Master Plan in zoning matters, is more stringent and conformance with the Master Plan, in Prince George's County, is mandatory. It is not mandatory in Baltimore County, with respect to zoning. Therefore, this Board is persuaded that the intention of the County Council, in 1980, with respect to comprehensive rezoning, was to consider the Master Plan as a guide, and not as a mandate.

Pattey v Board of County Commissioners of Worcester County, supra, held "Thus, the trial judge fell into error by ignoring the basic distinction between a Master Plan, on the one hand, and a zoning map, comprehensive zoning, or zoning classification, on the other."

And, in Coppolino v County Board of Appeals of Baltimore County, supra, the recommendations of a planning body were considered and the Court therein held " . . . that the recommendations of a planning body with respect to a comprehensive rezoning are not binding upon the legislative body." (emphasis added)
Further, that same Court stated "Such recommendations, even though emanating from the Planning Staff and the Planning Board, are insufficient to make the issue of mistake or confiscation "fairly debatable"."

Considering those cases, this Board finds nothing in the record to substantiate Petitioner's contentions that the 1980 Comprehensive Zoning Map was enacted based upon faulty assumptions.

Assuming, arguendo, that more accurate data and/or information is now available, upon which a more scientific approach to zoning the subject site is possible, it is nevertheless, apparent that said data and/or information became available subsequent to the enactment of the 1980 Comprehensive Zoning Maps. Consequently, the legislative body cannot be considered to have incorrectly assumed that of which they were, unquestionably, unaware.

People's Counsel for Baltimore County v Williams, 45 Md. App. 617 (1980) addressed that issue. Supportive of Petitioner's contentions, the Court cited Rockwell v Stone, 271 Md. 655 (1974) "On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, that is sufficient to a mistake finding." However, Rockwell v Stone, supra, did not erase the legal standard enunciated in Surkovick v Doub, 258 Md. 263 (1970) "To support a rezoning classification, there must be evidence before the legislative body which establishes that the "mistake" was basic and actual"; and that it was made "at the time" the property was zoned . . . " (emphasis added) and " . . . the mistake "alleged to have occurred must relate to the specific property for which the rezoning is sought, and may not consist of generalities."

Interestingly, Petitioner makes no effort to advance the proposition that the data now available could have been acquired by the County Council prior to comprehensive rezoning in 1980. Therefore, absent extraordinary circumstances, the strong presumption of the validity of the zoning maps shall be upheld.

Clearly, in the case at bar, extraordinary circumstances did not exist. In comparison and distinguishable on the facts is Bonnie View Country Club, Inc. v Louis J. Glass, 242 Md. 46 (1966). In that case the Court held: "Extraordinary situation existing at the time of comprehensive zoning caused by generally unknown mine shafts and subsurface rock formation in tract coupled with topography making it unusually unfit for single family residential development rendered conclusions that there was error in original zoning of property for residences fairly debatable." In this Board's view, nothing extraordinary exists in the discovery, subsequent to 1980, of scientific and engineering data respecting more sophisticated and, arguably, better storm water management and water quality protection facilities.

Petitioner also contends that although a strong presumption of the validity of original zoning exists, and that strong evidence of error is required, Petitioner's burden, in the case at bar, is less onerous. We agree. Boyce v Sembly, 25 Md. App. 43

(3) Community Services: The proximity of extensive community services, such as schools, libraries, police and fire protection, in Cockeysville supports the use and development of the Land as proposed.

(4) Utilities: As analyzed in the Stephens report, utility services are underutilized in the area and need development of this magnitude in order to recover the heavy public investment in the facilities.

D. Growth Management/Water and Sewerage Plan:

The County, as required by Article 43, Seetion 387C of the Maryland Code, has adopted a Water and Sewerage Plan, most recently amended to implement an overall growth management plan. Two vital elements of growth management are the Basic Service Water Supply Map and the Basic Service Sewerage Map. Neither map identifies the Land as being subject to service deficiency. In addition, all of the Land lies within the urban rural demorcation line, establishing the area as one deemed "urban".

Water supply is ample, with a 30" water main in York Road, and a designation for the Land in the W-1 service category. A large 27" sewer interceptor passes very close to the Land, which is designated as part of the S-1 service area. Development of the Land in accordance with the Petition not only complies with utility plans, but helps achieve the use needed to amortize the cost of existing, installed facilities.

IV. Elements of "Mistake"

As described above, the development of the Land in the manner proposed is consistent with all current guides and standards for development in the County. The very basic failure of the Council to consider this in its decision in 1980 constitutes mistake. Equally important are the critical adverse environmental impacts described by Dr. Cookson which would result if the Land were developed at lesser densities or without the expensive controls proposed by this plan. Finally, it is "mistake" in the legal sense for the Council to ignore the existence of public facilities which would go underutilized absent feasible development.

A. The legal standard of "mistake"

The basic rule for determining what constitutes "mistake" was formulated by the Court of Appeals in Pattey v. Board, 271 Md. 352 (1974). Three elements must be present to constitute sufficient support for the validity of a piecemeal reclassification. The elements are:

(a) evidence which establishes that the mistake was "basic and actual,"

(b) evidence that the mistake was made "at the time" the property was zoned,

(c) evidence that the mistake related to the specific property for which the rezoning is sought, and which does not consist of generalities.

Only certain types of mistake in classification are sufficient to justify piecemeal reclassification of land. If the classification does not reflect the actual intent of the local legislative body, a mistake may be found. Tennison v. Shomette, 32 Md. App. 1 (1977). If the classification is based on a false assumption, mistake may be found. Rockville v. Stone, 271 Md. 655 (1974). Finally if the classification is based on an incomplete consideration of the relevant factors, mistake may be found. Quinn v. County Commissioners, 20 Md. App. 413 (1975). Each of these types of mistake was committed during the 1980 rezoning process.

1. Classification Which Does Not Reflect Legislative Intent:

In view of the legislatively-expressed clear intentions of the County Council regarding the Master Plan and the provision of public services, the current zoning constitutes mistake. As noted earlier, various facets of the Master Plan can only be achieved by development at a minimum density of D.R. 5.5.

2. Classification Based on a Wrong Assumption:

When strong evidence can be produced to show that a particular classification was based on an assumption which later turns out to be false, the courts have allowed reclassification to correct the mistake. In White v. County Board, 219 Md. 136 (1959) the subject land had been

zoned R-40 (single family residential, minimum lot size 40,000 square feet). There was clear evidence that the County Commissioners had restricted development to such large lots on the basis of two assumptions. The first was that the only existing main sewer line (which allowed the County to use the City's sewage treatment plant) could not accommodate a greater number of houses than could be built in an R-40 zone. The second assumption was that no other sewer lines were to be available for the immediate future. Both assumptions were false. The Court upheld reclassification of the subject land to R-10 (single family residential, minimum lot size 10,000 square feet) on the basis of mistake.

In Rockville v. Stone, 271 Md. 655 (1974) the Court of Appeals allowed land to be reclassified from industrial to residential. The industrial classification was based on an assumption that the surrounding area would eventually be used almost entirely for industry. In fact, there was substantial residential growth instead. The Court held that a classification based on a false assumption could be changed:

> "[W]hen the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize rezoning."

In People's Counsel v. Williams, 45 Md. App. 617 (1980) the Court of Special Appeals upheld a reclassification of land from M. L. (Manufacturing Light) to B. M. (Business Major). Although the subject land was in an area surrounded by major highways, of which area two-thirds was used for commercial purposes, and was immediately adjacent to a ninety acre shopping mall, it was classified as industrial. There was evidence presented to the Zoning Commissioner which showed that the County Council had classified the land on the basis of two assumptions. These assumptions were that the land was a prime industrial site and that a failure to zone the land M. L. would have a severe effect on the availability of industrial land in the County. Other evidence showed that both of these assumptions were wrong. The Court affirmed the Commissioner's decision to grant a reclassification based on mistake in the original classification.

With regard to the Land, certain unsupportable assumptions were relied on by the Council in rezoning the Land to D.R. 3.5. For example, in view of the numerous

expressions of concern for groundwater and reservoir protection, the Council no doubt must have assumed that development at a maximum density of 3.5 could be achieved without adverse effects. As the Cookson report reveals, such assumptions were incorrect. Similarly, in view of the Master Plan declarations regarding the development of fringe areas, the Council must have assumed that existing and planned public facilities could not serve a greater density. As the Stephens report shows, that assumption is likewise incorrect.

3. Failure to Consider Relevant Factors:

The Court of Special Appeals in Boyce v. Sembly, 25 Md. App. 43 (1975) identified those factors which if not considered by the legislative body, would be deemed "mistakes":

> "This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive rezoning, [citation]; by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account [citation]; or by producing evidence that the Council failed to make any provision to accommodate any project, trend or need which it, itself, recognized as existing at the time of the comprehensive rezoning [citations]." 25 Md. App. at 52.

Without further analysis of the cases, it should be readily apparent that the critical areas identified by the Council -- reservoirs, ground water, public services -- were not adequately provided for and facts critical to a determination were not taken into account.

The cases in which the courts have found a failure to consider an important factor may be divided into those in which the suitability of land for a particular use was not adequately considered and those in which future needs of the community were not reasonably anticipated in the classification of the land. Quinn v. County Commissioners, 20 Md. App. 413 (1975), is a good example of the former type. The subject land in Quinn had initially been zoned residential. In 1969 a comprehensive rezoning of the County reclassified the land as commercial. An application was filed with the County

Commissioners for reclassification of the land back to residential. Evidence was introduced which showed that the land was unsuited for commercial use, that there was no need for additional commercial land at the time of the commercial reclassification and that commercial use of the land would create a traffic hazard. The Commissioners granted the application. The Court of Special Appeals upheld the validity of this reclassification on the basis that the evidence presented to the Commissioners was sufficient to defeat the presumptive validity of the comprehensive rezoning and to present the Commissioners with a fairly debatable question.

The consultant reports regarding the Land similarly demonstrate the failure of the Council adequately to consider the high development costs associated with the Land, the difficult accommodations needed to protect the Cockeysville aquifer and the Loch Raven Reservoir, and the need to utilize the existing public infrastructure.

In Overton v. County Commissioners, 225 Md. 212 (1961) the Court of Appeals upheld the reclassifying of land from R-R (rural residential) to R-18 (low density multi-family). The Court found that evidence showing problems in terrain and drainage which rendered the property unsuitable for the detached dwellings required in an R-R district had not been considered by the Commissioners. Similar statements are applicable to the Land.

In Bonnie View Club v. Glass, 242 Md. 46 (1966) the Court of Appeals upheld the reclassifying of land from R-10 (single family houses on 10,000 square feet lots) to R-A (townhouse apartments). Evidence had been presented to the County Board of Appeals showing that the Council had failed to consider the severe topography of the land, the presence of numerous abandoned mineshafts under the property, and the use of surrounding land in its decision to classify the property R-10.

In Bowie v. Board, 253 Md. 602 (1969) the Court of Appeals upheld the reclassifying of land designated primarily as R-20 (single family houses on half acre lots) to I-D (industrial development). Sufficient evidence of mistake in classifying the land was found in expert testimony regarding the unsuitability of the land for residential use, which was substantiated by aerial photographs showing the effect of large scale mining on the land.

The other cases in which a failure to consider an important factor has been deemed a mistake sufficient to justify piecemeal rezoning involved the failure of the local legislature to consider the future needs of the community.

In Pressman v. Baltimore, 222 Md. 330 (1960), the Court of Appeals upheld a reclassification of land by the City Council from residential to commercial. The mistake which the Court felt justified this change was a failure to anticipate the need for large commercial areas (for shopping centers), rather than commercial strip zoning, along the major traffic routes. The Court stated:

> "[S]hopping centers were not thought of when zoning regulations were first adopted for a number of subdivisions of this State."

The failure to anticipate the need for apartment units has been held to justify reclassification in Rohde v. County Board, 234 Md. 259 (1964), Jobar Corporation v. Rodgers Forge, 236 Md. 106 (1964), and in Clark v. Wolman, 243 Md. 579 (1966). In each of these cases an initial low density classification was changed to allow development of apartment complexes. The "mistakes" were failures to anticipate the areas' need for apartments.

B. The Elements of Mistake

The various public services, land development and environmental factors described above and in each report by the consultants emphasize the "mistake" committed by the Council in 1980. That evidence is sufficient to permit the Board to consider the application on its merits.

V. Elements of "Change"

A. The legal standards of "change"

The legal standards of change are well-known to this Board and will not be restated. Subsection (k) of the Application Law precludes a reclassification based on change for one year after the adoption of the County maps. Since no decision will be made on this application until spring of 1982, that restriction should not be applicable.

B. The Specific elements of "change"

Proof of "change" requires a demonstration of the applicable neighborhood and recitation of the changes which result in a substantial change in character of that neighborhood. The changes within one mile of the Land since 1980 have been and continue to be dramatic. Continuing expansion at Hunt Valley, the opening of Loveton Business Center, the opening of Hunt Valley Mall and the various other new developments in the area point to a neighborhood in flux, changing very rapidly from a rural to urban character.

VI Conclurion

The analysis provided in this letter is not intended to be exhaustive. Further evidence can and will be provided in response to staff questions and at the public hearings. However, the material provided in this Petition should demonstrate that the proposal is a sound one that the Board can approve within current legal standards. Moreover, the Board should note that this Petition requests a reclassification from a medium density residential category to the immediate next level of medium density residential uses. While of tremendous impact to the Petitioner, such change has been recognized by the courts to be subject to a less "onerous" burden of proof.

In Tennison v. Shomette, 38 Md. App. 1 (1977) the Court of Special Appeals allowed the County Commissioners to reclassify land from one commercial category to another. In its discussion the Court stated that the burden placed on applicants was not as heavy when reclassification of land within a single use category was requested.

> "In considering whether this presumption [of the validity of the original classification] has been overcome a more liberal standard is applied when the property is reclassified from one commercial subcategory to another than is applied when the reclassification involves a change from one use category to another."

In Chapman v. Montgomery County Council, 259 Md. 641 (1970) the Court of Appeals stated that there is a "difference to be observed in the treatment of 'reclassification from one residential subcategory to another,' as distinguished

from 'the removal of land from the use category in which it was placed when originally zoned.'" and acknowledged the validity of the comment from 26 Md. L. Rev. 48, at 51, (1966), that: "Thus, the Court seems to adopt a more liberal attitude when reviewing amendments from one use to a similar use."

In Missouri Realty Co. v. Ramer, 216 Md. 442 (1958), the Court of Appeals noted that the burden on the applicants was lighter because the proposed change was only "from one residential subcategory to another" and further acknowledged

> "The change involved here is the difference between permitting the erection of approximately 7.5 houses per acre and/or about 6 houses per acre. There was testimony that a better and more economical dwelling unit could be achieved by the group housing than by the cottage type home."

Although this Petition is comparable in the nature of the relief requested, the application of a lesser burden is not critical. The evidence presented above and in the balance of the Petition is persuasive in finding that "mistake" in the legal sense has been committed by the County Council and that the proposal serves the best interests of both the Petitioner and the County.

For the various reasons described above, the Petitioner respectfully requests the Board to grant the relief requested.

Very truly yours,

John Martin Jones

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett-Chairman, Board of Appeals — Date: September 23, 1981
CC: Nick Commodari
FROM: Charles E. Burnham
SUBJECT: Cycle II - 1981, Item #10 Zoning Advisory Committee Meeting 9-14-81

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 - 28.105 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705

Acres: 172.808
District: 8th

All buildings, structures and other improvements shall comply with the Baltimore County Building Code and other applicable rules and regulations inforced at the time the permits are applied for.

The structures listed as Home Owners Association shall be separated by 8" masonry fire walls in compliance with Section 909.1.2 of the Building Code as amended or as may be applicable at time of permit application. All ponds shall be fenced in compliance with the code or as amended in Bill 199-79.
Razing permits shall be required for any removal of on site structures.
It appears all construction has been kept clear of the 100 year flood plain.

Charles E. Burnham
Plans Review Chief

CEB:rrj

RECEIVED
SEP 23 10 51 AM '81
BALTIMORE COUNTY
PERMITS AND LICENSES

October 6, 1981

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

Dear Mr. Reiter:

Comments on Item #10, Zoning Advisory Committee Meeting for Cycle II, are as follows:

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5-28.105 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.803
District: 8th

The proposed development of this site is not inconsistent with the Baltimore County Master Water and Sewer Plan.

Environmental Impact and Water Quality Issues must be resolved prior to approval of tentative subdivision plans for the site.

Any existing wells or sewage disposal systems must be properly abandoned and backfilled prior to approval of grading plans for the site.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/fth/JED/ssa

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
February 26, 1982

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Md. 21201

Re: Item #10, Case #R-82-187
Cycle II, Universal Housing & Dev. Co.

Dear Mr. Jones:

Your case has been assigned for hearing before the Board during the normal cycle period for reclassification petitions. Written and public notice of the date of the hearing has either been given or is in the process of publication.

The Board has been informed that there are presently pending in the Circuit Court for Baltimore County three separate suits, all of which directly question the validity of the adoption of the 1980 comprehensive zoning map by the County Council of Baltimore County. The suits to which we refer are:

Home Builders Assn. of Md., Inc., et al. v. Baltimore County, Md., et al - Circuit Court Equity #107047

Isaac A. Jones v. Baltimore County, Md., et al - Circuit Court Equity #108029

Shopco Reisterstown Associates, et al v. Baltimore County, Md., et al - Circuit Court Equity #107318.

The Board, of course, is not involved in those suits and consequently will not be asked to express any opinion on the enactment question. However, we are concerned that the parties to the pending reclassification cases be made aware that there will probably be a judicial decision on the question sometime in the future, and if the Circuit Court should find that the maps were, in fact, improperly enacted, and that decision is affirmed by an appellate court, the various parties to reclassification cases might then be placed in the position of having expended time and money in the preparation and trial of their cases based on the comprehensive map which legally might not exist. The Board has, therefore, determined that it will afford each of the petitioners in the pending reclassification cases the opportunity to review the pending Circuit Court cases and make their individual determination as to whether they wish to proceed at this time to fully try their reclassification case or whether they would prefer not to take that risk and ask the Board for a continuance of their case without hearing until such time as there has been a definitive ruling by the courts on the question of the validity of the 1980 maps.

Since there must be some limit to the period of time within which a decision should be made and communicated to the Board, it has been decided that all requests for postponements made pursuant hereto must be delivered in writing to the Board on or before March 15, 1981.

The Board has attached one very important provision to its willingness to co-operate in the granting of postponements for the purpose outlined above, which is that it will not countenance the use of the reasons given above for a postponement for other reasons and, therefore, if a case is postponed for the reason given above it must remain inactive until there is a definitive action from the courts. Therefore, parties are cautioned that if they do, in fact, seek a postponement because of the doubt surrounding the validity of the enactment of the 1980 comprehensive maps, they will be required to wait until there is a decision from the courts on the question before the Board will again assign their case no matter how long the case is suspended.

The purpose of this communication is to alert all parties of record involved of the Board's intention if a request is timely submitted.

Very truly yours,

William T. Hackett
William T. Hackett, Chairman

WTH:e

cc: Universal Housing & Deve. Co.

ENVIRONMENTAL ASSESSMENT
ON THE PROPOSED RESIDENTIAL
COMMUNITY AT TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

PREPARED BY:

JTC Environmental Consultants, Inc.
7979 Old Georgetown Rd.
Bethesda, Maryland

PREPARED FOR:

Universal Housing & Development Company
9901 Langs Rd.
Baltimore, Maryland

August 7, 1981

J T C Environmental Consultants, Inc.

7979 OLD GEORGETOWN ROAD · BETHESDA, MARYLAND 20014 · (301) 656-5820

August 10, 1981

Mr. Leroy Posner
Universal Housing & Development Co.
9901 Langs Road
Baltimore, Maryland 21220

Dear Mr. Posner:

I am pleased to submit the Environmental Impact Statement on the proposed residential community at Towson Nurseries. This report addresses the environmental concerns set forth by Baltimore County, utilizing a format that complies with the requirements of NEPA and the current guidelines for preparation of Environmental Impact Statements published by the U.S. Council on Environmental Quality. It is because of these requirements that we have evaluated not only the proposed action but the possible alternate action that can take place under present zoning.

The report is the accumulation of intensive investigation by our staff aided by the cooperation of your consulting staff and individuals in local, state and federal governments. This report is one of several that address various aspects of environmental concern. Studies prepared by other consultants under separate submissions are site plans and storm water controls as developed by the planners William F. Kerwin, Inc., and engineers G. W. Stephens, Jr., and Associates. As a result, this report will not discuss those items in detail, but draw upon their submission to supplement calculations and conclusions in supporting areas.

The assessment is not intended to be a justification for the proposed action. Rather it is a presentation of the environmental assessment of the proposed action and the possible alternate. Procedures are set forth for minimizing any associated impacts of the proposed action. The reports consist of the following major areas of concern:

1. Summary
2. Purpose and Need
3. Alternates Including the Proposed Action
4. Affected Environment
5. Environmental Consequences

The results of this evaluation can be briefly stated below:

1. No adverse effects on Western Run or Loch Raven Reservoir are expected. Long term effects indicate that an improvement with regard to sediment loading can be achieved through implementation of the proposed action. In addition, the proposed action will significantly reduce pollutant discharges that would occur if developed as presently zoned.
2. The development will preserve much of the nursery stock existing on site as open space and buffered areas.
3. The proposal will not have any adverse impact on any historical sites or archeological finds.
4. No endangered species of animals are threatened by the proposed development.
5. Topography and soils of the site will not be altered to any significant degree. Recommendations have been made for specific control measures that will minimize any adverse impact from erosion.
6. Noise and air pollution levels will not change significantly due to the proposed development or traffic generated by the development.
7. Public utilities are available, removing any potential impacts from wastewater handling.

Although this environmental assessment is based on a particular residential mix, it should be recognized that minor changes in this mix would not change the predicted impacts to any significant degree.

Thank you for assistance during this study. We acknowledge the many persons who have provided information for our consideration.

Sincerely yours,

John T. Cookson, Jr., Ph.D.
President

JTC:jr
encls.

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PREFACE

Growth is an imperative goal no less important to the economic health of the nation today than it was a decade or two ago. With growth comes the necessary need for residential communities such as that proposed for Towson Nurseries. But now the concept of growth is tinged with new caution, new constraints and new responsibility. These responsibilities and restraints are no clearer and no stronger emphasized than in Baltimore County, Maryland.

The proposal of any major construction activity and its implementation requires the greatest attention to details, coordination, and information conveyance. It is clear that any project will receive scrutiny from the most specialized and general aspects. This occurs not only because of the extremely knowledgeable and active community groups, but also because of the numerous local, state and federal agencies whose authority shape the policies and constraints within this metropolitan area. For this reason, the success and acceptance of any proposed action places great responsibility on environmental assessments.

Construction of new facilities must be performed within environmental guidelines with a minimum of adverse impact. This environmental effects assessment is based upon preliminary designs set forth by the planning firm of William F. Kirwin, Inc., and the design engineering firm of G.W. Stephens, Jr., and Associates, Inc. The assessment has been prepared concurrently with preliminary planning activities, and in some cases data is not available at this time. However, a comprehensive evaluation of site conditions with regard to environmental parameters was made and procedures set forth for minimizing any associated impact of the proposed action.

CHAPTER I
SUMMARY

PROPOSED ACTION

Universal Housing and Development Company is proposing to develop a residential community of 200 single family units and 768 townhouse units. The site proposed for this community (known as Towson Nurseries) is located in Baltimore County, Maryland and bordered by the vacated Conrail line to the east and crossed by Paper Mill Rd. (Figure 1-1). The site consists of approximately 176 acres. It is located in an area of continual growth, presently consisting of a major business community, Hunt Valley Park as well as the Hunt Valley Mall and the adjoining Broadmead development.

The land being considered for development is presently zoned D.R. 3.5. This zoning would allow development of low density residential units with a maximum number of 3.5 units per acre. The proposed development requests that rezoning be approved to a D.R. 5.5. An additional parcel of 2.5 acres is presently zoned R.C.-4 and is not included in this development. Approximately three acres are part of the right-of-way for Paper Mill Road.

The proposed community offers a positive, constructive approach which can minimize environmental effects because of its size. The proposed development is large enough that it permits costly environmental controls, referred to as "Best Management Practices", to avoid environmental impacts that could not be prevented under the present D.R. 3.5 zoning. These controls result in dramatic differences for water quality, making the proposed development far better than that of the alternative (development under D.R. 3.5) as discussed in detail in this evaluation.

The following environmental evaluation is a comprehensive study of the proposed action and the alternate action, developing under present zoning. The format utilized for this environmental assessment complies with the requirements of NEPA and the current guidelines for preparation of environmental impact statements published by the US Council on Environmental Quality. It is because of these requirements, that the study evaluates not only the proposed action, but the alternate action that can take place under present zoning.

ENVIRONMENTAL CONSEQUENCES

Environmental consequences have been evaluated in terms of the proposed action and that which would be allowed under present zoning (evaluated here as the alternate action). The environmental effect from either of these actions would not impact upon topography, geology, soils, air quality, historical sites, archaeological finds or noise. Neither the proposed action or alternate action differ by any measurable degree with regard to these environmental categories nor do they provide for any impact that would be detrimental to the environment. Long term effects of either action would not differ nor would they influence any resources associated with the site. Thus, the proposed action would not result in any irreversible or irretrievable commitment of resources that would not occur under present zoning.

The following environmental consequences can be briefly stated.

1. Topographical changes due to the proposed development or the alternate that can be undertaken with present zoning will result in minor grading activities. No significant difference will result over that which presently exists.

2. The development of the Towson Nurseries site will have no effect on the geology of the area under the proposed or alternate action.

3. Soils of the site will undergo some displacement from grading and therefore provide erosion hazards. This effect is short-term and construction related. It can be kept to a minimum through proper storm water control measures. During construction the potential impact from erosion is equal for the proposed action and the alternate action. Potential impact on soils will be mitigated by the use of accepted construction techniques and erosion control practices. During construction no significant difference will occur between the proposed action and that which can occur under present zoning. However, after construction, a significant reduction in pollutant discharge and erosion will occur under the proposed action versus development according to present zoning.

In conclusion, there are no adverse environmental impacts that would have any measurable environmental consequence. There is no irreversible or irretrievable commitment of resources that would result under the proposed action, except for land use, which will also occur under present zoning. As set forth in this document, a lower density development would lead to greater pollutant discharge to the receiving stream and Loch Raven Reservoir.

CHAPTER 2
PURPOSE AND NEED

The proposed action is to develop a 176 acre tract of land as a planned community. The concept set forth for this site extends from the need to provide economical housing for mixed economic levels and living styles through single family units and townhouses. The site plan is set forth in a manner that will maintain open space and at the same time protect stream valleys, wooded and natural resources. The amount of acreage attributed to each use is provided in Table 2-1. As proposed here, the community will meet housing needs in this developmental corridor in a manner that is compatible with and in harmony with the natural environment and development in the adjacent areas. The proposed community is compatible with the existing developments of Hunt Valley Park, both residential and commercial uses, the new regional mall and the adjoining Broadmead project.

Universal Housing and Development Company is proposing the development of a residential community of 200 single family units and 768 townhouse units. The site is located in Baltimore County, Maryland, forming part of the property generally known as "Towson Nurseries." The Towson Nurseries site is irregularly shaped and has only one easily definable boundry, that of the Conrail right-of-way. No other property boundary with the exception of a very small frontage on Paper Mill Road forms an easily described feature (Figure 1-1).

The site consists of approximately 176 acres which are located in an area of continued growth. The property is part of a larger parcel of 178.5 acres, of which 2.5 acres are presently zoned R.C.-4 and are not included in the proposed development. The remaining acreage of 176± acres contains the right-of-way for Papermill Road and three separate parcels:

(a) Parcel I is a 1.698 ± acre strip zoned D.R. 1

(b) Parcel II lies south and east of Papermill Road, contains 28.405 ± acres and is currently zoned D.R. 3.5

(c) Parcel III lies north and west of Papermill Road, contains 142.705 ± acres and is currently zoned D.R. 3.5

The proposed development requires that all three parcels be rezoned to D.R. 5.5.

The concept for developing a residential community on this property is not new and it has not been done without considerable expense for preliminary evaluations. This property was originally utilized for Towson Nurseries Inc., and still contains a beautiful nursery which will be maintained to enhance the environmental setting of the community. In 1969 Towson Nurseries entered into an agreement with Baltimore County and contributed $150,000 toward the construction of master water and sanitary sewer facilities to serve this site as well as other sites to the north and west. Thus, a major portion of the property is presently served by public sanitary sewer. There is an existing 8 inch water line at Ashland Road which is only 1,800 feet east of the property. There is presently an existing 30 inch water main along York Road. A 27 inch sewer interceptor passes close to the site, which is designated as part of the S-4 service area. At present, utility services are underused in the area and need development to recover the public investment in these facilities. Thus, the property can easily be served by water and sewer, and site development is needed to amortize the cost of the present public facilities.

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AFFECTED ENVIRONMENT

The Towson Nurseries site is irregularly shaped and has only one easily definable boundary, that of the Conrail right-of-way. No other property boundary, with the exception of a very small frontage on Paper Mill Road is formed by an easily described feature.

The topography of the proposed site is gently sloping to steep. The lowest portions of the site are in the Western Run Valley along the southern edge of the property and along the Conrail right-of-way on the eastern edge. Elevation in these areas are around 240-250 feet above sea level. From there, the property gently slopes upward to a ridge of 400 feet. This general upward slope is interrupted by a roughly Y-shaped valley in the central portion of the site that drains to the east. Some portions of the site have very steep slopes, however, most of these areas are quite small. The largest such area exists in the Western Run flood plain, which is not planned for development. The vast majority of the site has slopes not exceeding ten percent and should present little obstacle to successful and safe development practices.

The site vegetation is quite unusual due to the property's former use as a nursery. The vegetation is not what would be termed "natural" for the area. It will provide an attractive compliment to the finished residential community and the plan that has been set forth will maintain the major growths for natural buffer and open space areas.

Wildlife in the area is that typical of rural suburban areas. One would expect squirrels, raccoons, opossums and chipmunks in the region. Numerous birds would also be expected. Development of the site would drive some of these animals from inhabiting construction areas. However, the large area of undeveloped and semi-developed land around the site can absorb the displaced population. No area of the site has been listed as sensitive in the Maryland Department of State Planning 1975 Report, Compendium of Natural Features Information. The Western Run Valley, however has been listed as a natural feature due to the unique geology of the area and the scenic attribute of the valley. Since Western Run is not located on the proposed site, and since those areas directly adjacent to the stream will be protected as flood plains, proposed development is not expected to impact on the nature of the Western Run Valley.

4. Air pollution emissions from a residential community will result from heating and associated traffic. Differences in air pollution effects between the two actions are insignificant and expected to be minimal.

5. There is no effect on any historical site by the development of the property under the proposed or alternate action. Archaeological potential is not anticipated to exist and no impact or archaeological sites is anticipated.

6. Some disruption of biological communities will occur during and after site development. There will be no significant difference in the degree of wildlife displacement under the proposed action versus that which is allowed under present zoning. High grade specimens of many trees and nursery stock will be preserved. The site has been planned with the concept of maintaining as much of the nursery stock as possible.

7. On-site noise at the Towson Nurseries property will be generated from construction activities, residential activities, and transportation. Construction noise is estimated in the range of 70 to 75 db(A). However, it is short-term and of equal impact for the proposed action and development under present zoning. There are no sensitive areas in the vicinity which require special low noise construction techniques. Residential noise will be typical of such communities and will be essentially the same for either the proposed action or the alternate action.

8. The proposed residential community will utilize a public sewerage system and will not discharge wastewater to the ground or surface waters. The only manner in which waters can be impacted upon is by changes in storm water run-off. Calculations show that the proposed action results in a lower pollutant loading to the receiving stream than that which can occur under present zoning. The higher density development of the proposed action allows the implementation of Best Management Practices to control pollutant run-off. A detention-sedimentation control is recommended. These measures reduce pollutant discharge by as much as 50 percent for some parameters under that which would occur under present zoning.

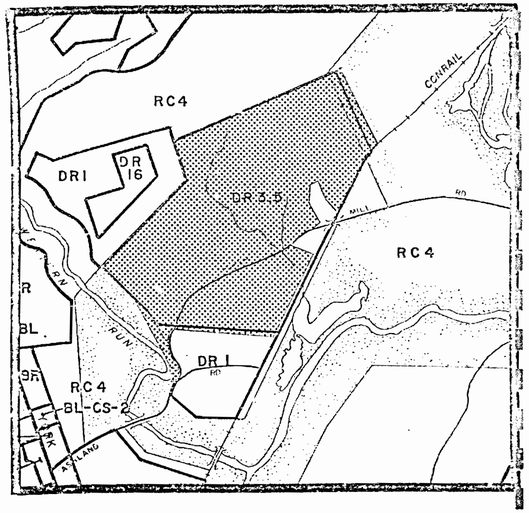


FIGURE 1-1: SITE LOCATION

TABLE 2-1

PROPOSED COMMUNITY PLAN
SITE USEAGE

USE	ACRES	UNITS
Single family	53.7	200
Townhouses	70.4	768
Open space	43.0	
Storm water management	5.6	
Road right-of-way	3.3	
Total	176.0	968

PROPOSED ZONING

DR-5.5	176 acres
RC-4	2.5 acres
Units permitted	968
Open space required	10.6 acres

TABLE 3-1

COMMUNITY PLAN UNDER
PRESENT ZONING

USE	ACRES	UNITS
Single family	60.2	230
Townhouses	36.7	382
Open space	70.6	
Storm water management	5.2	
Road right-of-way	3.3	
Total	176.0	612

PRESENT ZONING

DR-3.5	174.5 acres
DR-1	1.5 acres
RC-4	2.5 acres
Units permitted	612
Open space required	5.2 acres

CHAPTER 3

ALTERNATIVES INCLUDING THE PROPOSED ACTION

THE PROPOSED ACTION

The community proposed at the Towson Nurseries site will incorporate several different kinds of housing for different economic levels and living styles. It will contain a mix of single family as well as townhouses. A total of 968 units is planned for the site; 768 townhouses and 200 single family dwellings(Table 2-1).

Present zoning on the sote is mainly D.R. 3.5. which applies to 174.5 acres. There is also a very small segment zoned DR-1 of 1.5 acres and RC-4 of 2.5 acres. No development is proposed on the RC-4 area which is adjacent to Western Run stream bed. This small segment as well as additional land designated as open space provide a suffer of more than 400 feet between the nearest residential unit and Western Run.

Details on the site plan have been provided in other submissions for the project by the planning and engineering firms of William F. Kirwin, Inc. and G.W. Stephens, Jr., Associates, Inc. Single family homes will be located in the central area of the site which for the most part is flatter than the remaining site, although there are only small areas that have steep slopes. The townhouses will be constructed around the fringes of the centralized single family area. The steeper and more sensitive areas of the site near Western Run will remain undisturbed. The closest residential unit to Western Run is over 400 feet from the stream bed. This buffer area is significantly greater than the 150 foot areas typically utilized for minimizing adverse impact on receiving waters.

Particular attention has been given to the site plan so that family units can be arranged in a manner that would protect the significant growth of nursery stock on the site. These nursery areas will provide aesthetic screens as well as enhancing the available open space. This site plan sets forth 43 acres as open space, although 10.6 acres are required.

Access to the site will be given from Paper Mill Road. Major access to this general area is provided by York Road (Maryland Rt. 45) and the Baltimore-Harrisburg Expressway (Interstate 83). Water and sanitary sewers are provided by an 8 inch water line at Ashland Road, a 30 inch water line along York Road and a 27 inch interceptor sewer.

CHAPTER 4

AFFECTED ENVIRONMENT

LOCATION AND SITE DESCRIPTION

The site of the proposed development is a 176-acre, irregularly shaped parcel located in Phoenix, Maryland. The site lies between York Road and the Conrail right-of-way in the vicinity of Western Run and Paper Mill Road. The eastern boundary of the site is the only one easily defineable, as it is formed by the Conrail right-of-way.

The site was once a tree nursery. It is not covered with extensive forested area, but is spotted with patches of nursery growth. Therefore site conditions are not those of a mature forest area, but one in its early stages of stabilization.

TOPOGRAPHY

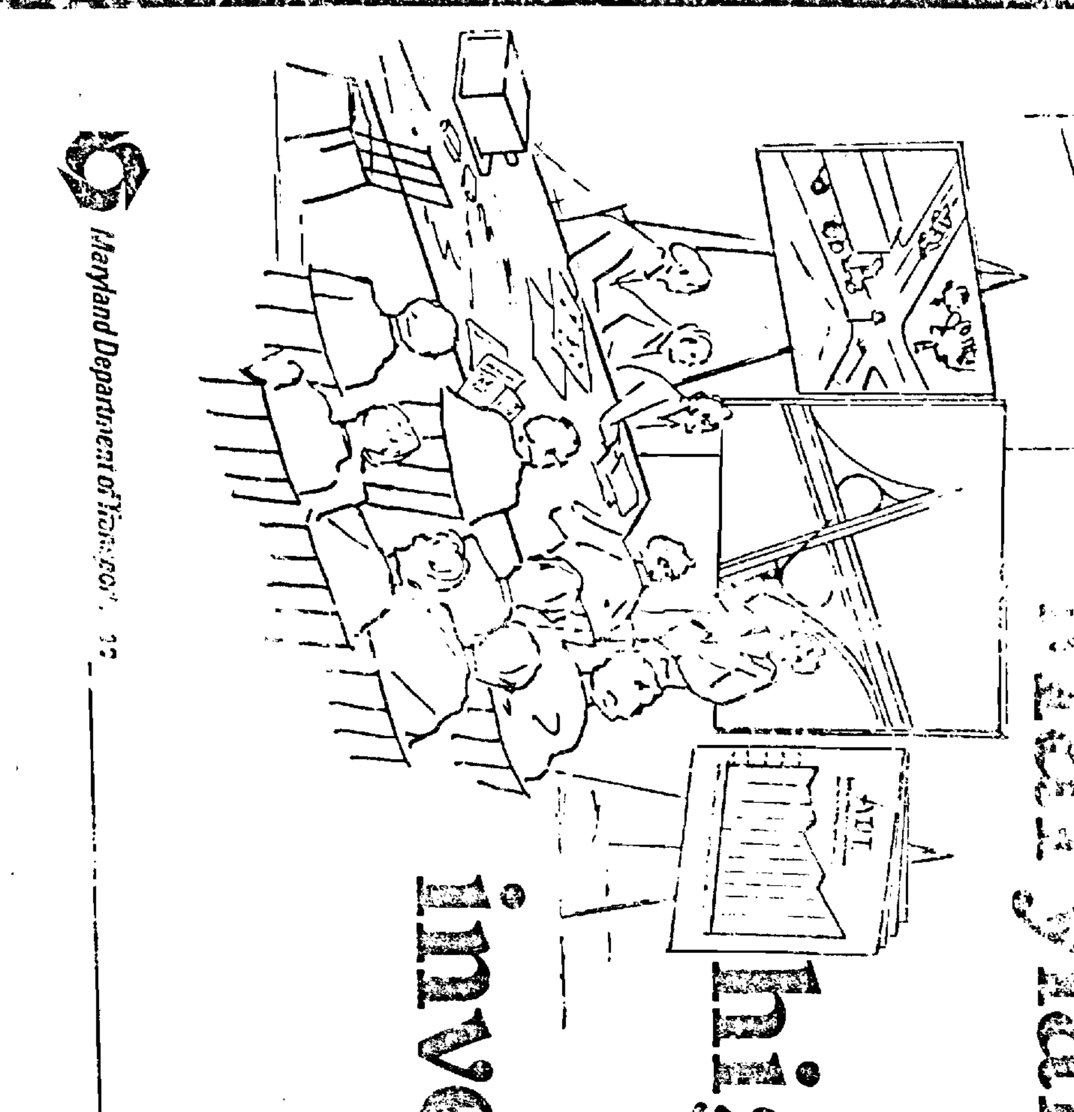
The topography of the proposed site is gently sloping to steep. The lowest portions of the site are in the Western Run Valley along the southern edge of the property and along the Conrail right-of-way on the eastern edge. Elevations in these areas range from 240 to 250 feet above sea level. From there, the property gently slopes upward toward the high ridge (400 feet or more) which crests just beyond the northwestern boundary of the site. This general upward slope is interrupted by a roughly Y-shaped valley in the central portion of the site which drains to the east, and by another smaller valley in the extreme northeastern corner which drains northeastward to Loch Raven Reservoir. Some portions of the site have very steep slopes, however, most of these are areas which are quite small. The largest such area exists in the Western Run flood plain, which is not part of the proposed development. The vast majority of the site has slopes not exceeding ten percent, and can be developed in a successful and safe manner.

GEOLOGY

The State of Maryland is divided into three physiographic provinces: The Coastal Plain, The Piedmont and the Appalachian. Baltimore County lies mostly within the Piedmont region, which is a classic geologic area. The region has

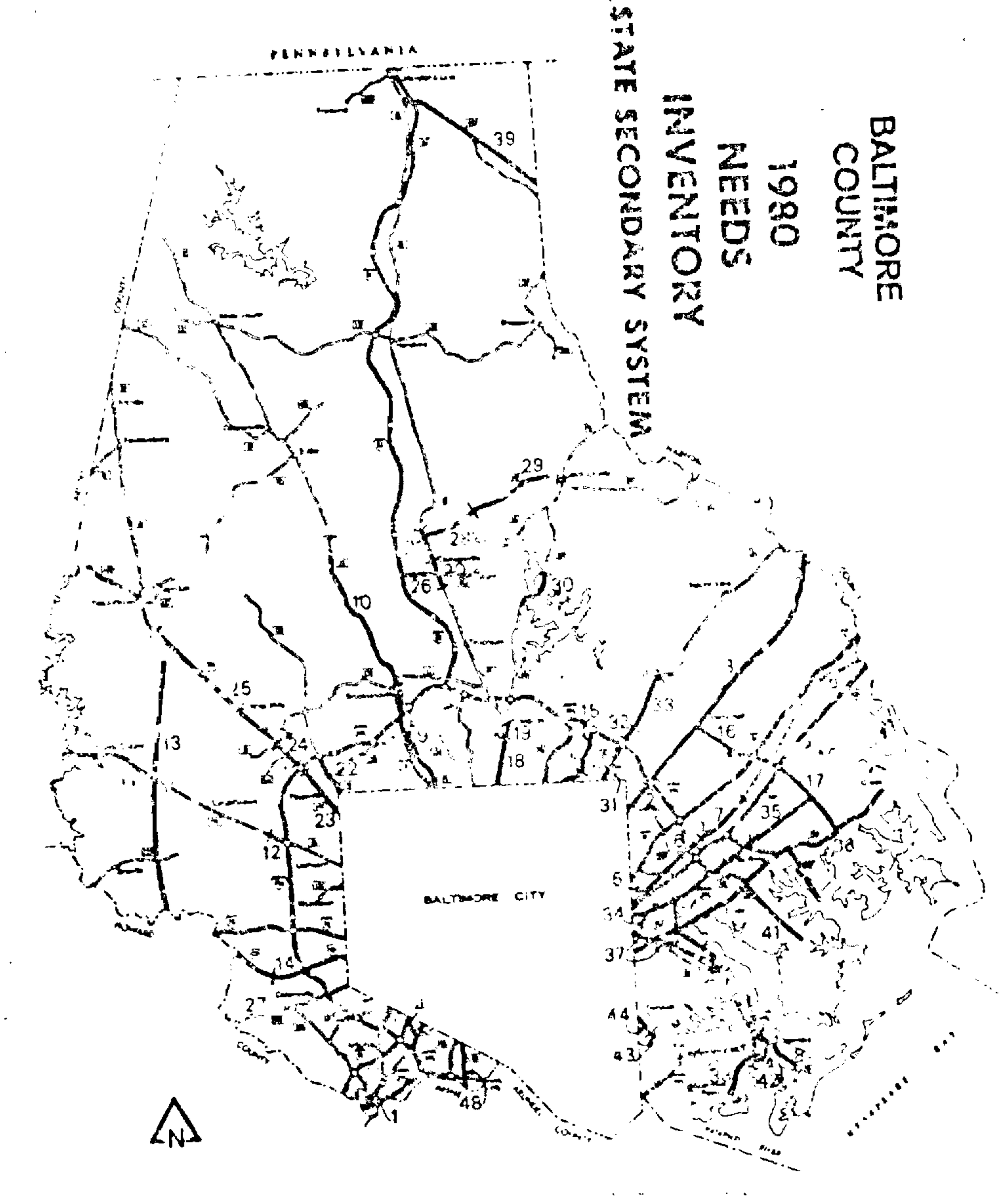
Maryland Department of Transportation

Maryland state highway needs inventory 1980



BALTIMORE COUNTY 1980 NEEDS INVENTORY

STATE SECONDARY SYSTEM



Maryland Department of Transportation
State Highway Administration

Hermann K. Intemann, Secretary
M. S. Caltrider, Administrator

August 17, 1978

Mr. Robert A. Morton, Chief
Bureau of Public Services
County Office Bldg.
Towson, Md. 21204

Re: Paper Mill Industrial Park
Prel. Plans - Project No. 7164
Paper Mill Rd. 2000' East
York Road
Md. 145 Extended

Dear Mr. Morton:

Although the proposed State highway improvement is listed in the Critical Section of the Twenty Year Highway Needs Study, no studies have been made to determine the exact alignment or right of way width. The line on the plan is conjecture and is subject to change. As mentioned at the J.S.P.C. meeting, the intersection of Ashland Road with York Road is substandard and should be improved.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: John E. Meyers

CL:JEM:vrd

cc: Mr. E.A. McDonough
Mr. J.L. Wimbley
Mr. H. Kassoff (w-plan)

RECEIVED
AUG 21 1978
BUREAU OF LAND DEVELOPMENT

My telephone number is (301) 383-4320

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

DATE July 20, 1978

SUBDIVISION REVIEW COMMENTS

BALTIMORE COUNTY FIRE DEPARTMENT - FIRE PREVENTION BUREAU

Lt. Thomas Kelly

PROJECT NAME: Paper Mill Industrial Pk. PRELIMINARY PLAN

PROJECT NUMBER: 7164 TENTATIVE PLAN

LOCATION: DEVELOPMENT PLAN

DISTRICT: 8 FINAL PLAT

The fire hydrant spacing and road layouts are approved as shown. with one exception, Lot #48 shall require on site fire hydrant protection.

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: August 3, 1978

FROM: CURRENT PLANNING AND DEVELOPMENT

PROJECT NAME: Paper Mill Industrial Park	PRELIMINARY PLAN XXXXXXXXXX
PROJECT NUMBER:	TENTATIVE PLAN
LOCATION	DEVELOPMENT PLAN
COUNCIL & ELECTION DISTRICT VIII-257 C-3	FINAL PLAT

The Office of Current Planning and Development has reviewed the subject plat of 175.92 acres of which there are 52 lots presently zoned M.L.R. and has the following comments:

This office concurs with the comments of Department of Traffic Engineering.

As previously stated a 100' setback must be maintained along all residential zones and shown on the site plan.

Thornton Mill Road should terminate at Millcircle Road

Landscaping and individual site details should be shown at the time of building permit applications. However, this office request a general landscape plan for the overall industrial park.

John L. Wimbley
Planner III

DEVELOPMENT PERMITTED UNDER PRESENT ZONING

The Towson Nursery Site is presently zoned D.R. 3.5. This zoning would allow low density, residential units with a maximum number of 3.5 dwelling units per acre. Since alternate modes of action must be considered it is only appropriate to present a development plan based upon the present zoning so that this action can be compared to that proposed by Universal Housing and Development Company. Table 3-1 provides a community plan with site usage under the present zoning conditions. The development plan is illustrated in the site concept plan labeled DR 3.5 and the proposed plan for the requested zoning of D.R. 5.5 is labeled DR 5.5 as prepared by William F. Kerwin Inc. and G.W. Stephens, Jr., and Associates. The comparison of community developed under present zoning to that proposed illustrates that each community plan would follow the same general roadway and lot location patterns. From a standpoint of community development the only significant difference lies in the number of townhouse units permitted and thus the land development cost per unit. The community plan under present zoning would provide 30 more single family units than that for the proposed plan. However, the proposed site plan and zoning would allow 386 additional townhouse units. These townhouse units would not modify the site plan significantly since they would be located in the same area as townhouse development under the present D.R. 3.5 zoning. The nature of the single house development is basically the same under both site plans. The major significance between these plans, then, resides in the number of townhouse units and a decrease in open space amoung the townhouse units of 70.6 to 40.3 acres. This is still a significantly greater amount of open space than that required under zoning regulations. The most significant impact effect resides in the unit cost of land development per dwelling unit. Site development costs will be appoximately 150 percent greater for units built under the existing zoning versus that of the proposed site plan and zoning.

been intensively studied over the years. A recent investigation of the geology of Baltimore County by William Patrick Crowley of the Maryland Geological Survey (Crowley, 1976) resulted in the reclassification and renaming of some of the geological features of the county, as well as up-dated maps. This work is the reference upon which the following discussion is based.

An interesting feature of the geology of Baltimore County is the presence of large domes of Baltimore gneiss, a quartzo-feldspathic gneiss of granodioritic to granitic composition. The Towson Nurseries site lies between two of these domes, the Phoenix Dome and the Texas Dome.

The Baltimore gneiss is probably the oldest of the geologic units in the vicinity of the Towson Nurseries site. About 800 million years ago, the Baltimore gneiss formed an ancient continental shelf. Sediments were deposited on the shelf, and through metamorphosis became the present-day Setters Formation. Later on in geologic time, the water overlying the Setters Formation became quite enriched in marine life. The hard portions of the bodies of these animals rained down on the sea floor, creating an accumulation of carbonate sediment, which eventually became the Cockeysville Marble. Many other formations were created later on in the Baltimore County region, but it is only the Setters Formation, the Baltimore gneiss, and the Cockeysville Marble which are of interest here. The Towson Nurseries property lies between the two gneiss domes on an area of Cockeysville marble, but one corner of the property is probably underlain by the Setters Formation.

The Setters Formation consists of three members, or subdivisions. The youngest of these, the garnet schist member, probably underlies a small portion of the site. This member consists of fine-to-medium-grained biotite-muscovite-plagioclase-quartz schist, usually with abundant garnet.

The Cockeysville Marble has four members, two of which are found beneath this site. The majority of the site lies on the layered metadolostone member, characterized by layering of fine-grained white dolostone, and darker dolostone which contains silicate minerals. These layers are on the order of several tens of centimeters thick. The layered marble member consists of interlayered metalimestone and metadolostone. The metalimestone is medium grained, and the metadolostone usually finer grained. These two components may vary from locality to locality in the content of silicate minerals.

One other type of rock, the alluvium, is found on the site. This is interbedded sand, silt and clay found in the Western Run valley. These sediments are of much more recent age than any of the crystalline rocks mentioned previously.

SOILS

Soil Associations

The soils on the Towson Nurseries Site fall within two different soil associations: the Manor-Glenelg Association and the Baltimore-Conestoga-Hagerstown Association. Each soil association is made up of several different soil series or types which provide more specific descriptions of the soils.

Soil Descriptions

Only one soil of the Manor-Glenelg Association is present on this site. This is the Manor Soil of 25-50 percent slope. This soil is usually mostly wooded and not very deep because of erosion which has occurred due to the slope. It requires a cover of permanent vegetation in order to prevent further erosion.

Soils of the Baltimore-Conestoga-Hagerstown Association located on the site are listed below, along with their more important characteristics.

Conestoga loam, 3-8 percent slopes, moderately eroded (CwB2)

Conestoga soils are found mostly on broad ridge tops and adjacent hillsides. They are strongly acid in the upper profile, but become less acid as depth increases. These soils have few limitations in use, except for those due to erosion hazard or rockiness. The CwB2 soil has a moderate hazard of further erosion, and is well suited to nearly all uses. It is found in the northeastern corner of the site.

Conestoga loam, 8-15 percent slopes, moderately eroded (CwC2)

This soil is thinner than CwB2 due to the steeper slopes. It is otherwise similar, except that the hazard of further erosion is severe in cultivated areas, and requires intensive good management to keep it safe. This soil is

Captina silt loam, 3-8 percent slopes, moderately eroded (CaB2)

This soil has a fairly serious hazard of further erosion, but in some places drainage is needed. Frost-heaving can be a problem. A small area of CaB2 is found in the western section of the site near Western Run. This section is not proposed in the development plan.

BIOLOGICAL COMMUNITIES

It has already been stated that the Towson Nurseries Site is a mixture of growth in the early stages of site stabilization. Nursery stock is found scattered throughout the site. The wildlife on this site, as expected, is that typical of vacated areas. Small mammals frequent the area such as rabbits, squirrels, raccoon, oppossum and skunk.

Endangered and threatened species of plants and animals are protected by the U.S. Endangered Species Act of 1973. Threatened species are defined as those not in danger of extinction now but likely to become so, and endangered species are those in danger of extinction throughout all or a significant portion of their range. A list of threatened and endangered species in the Chesapeake Bay region is presented in Table 4-1. Of the animals listed on the table none are found in the project area.

The state of Maryland has promulgated a list of endangered species of wildlife which have been threatened with statewide extinction. This list is presented in Table 4-2.

No endangered or threatened species occur in the proposed site.

AIR QUALITY

The Federal and Maryland State governments have set forth standards for acceptable levels of certain air pollutants. The standards as presented in Table 4-3 are divided into primary and secondary standards. Primary standards indicate the levels of air quality judged to allow an adequate margin of safety to protect the public health. Secondary standards are those levels judged to protect the public welfare from adverse affects associated with the presence of air pollution in ambient air. The State of Maryland maintains a system of monitoring stations throughout the State which measure various

TABLE 4-2

MARYLAND ENDANGERED SPECIES LIST

Delmarva Peninsula Fox Squirrel
Coyote
Bobcat
Porcupine
Least Weasel
Mountain Lion
Black Bear
Hellbender
Jefferson Salamander
Eastern Tiger Salamander
Green Salamander
Eastern Narrow-Mouthed Toad
Coal Skink
Rainbow Snake
Mountain Earth Snake
Bog Turtle
Atlantic Green Turtle
Atlantic Hawksbill Turtle
Atlantic Loggerhead Turtle
Atlantic Ridley Turtle
Atlantic Leatherback Turtle

Source: WSSC, 1976

air quality parameters of public health interest.

The contaminants generally associated with ambient air pollution are sulfur oxides, suspended particulates carbon monoxide, nitrogen oxides, hydrocarbons and photochemical oxidants. These six pollutants are regulated by national ambient air quality standards promulgated under the Clean Air Act and are often referred to as "criteria" pollutants. They are ubiquitous in the United States and arise from a number of sources. Except for photochemical oxidants, the above-mentioned pollutants are classified as primary emissions because they are released directly from identifiable sources. Secondary emissions, such as photochemical oxidants, are formed through atmospheric transformations of primary pollutants.

Suspended particulates consist of finely divided particles that remain in the air for extended periods. Because of the small size of suspended particles, they can be inhaled into the lungs and may affect health. They generally arise from fuel combustion, industrial processes, mechanical activities, and wind erosion. Sulfur oxides are gases resulting mainly from burning of coal and oil. Nitrogen oxides are gases resulting from the operation of internal combustion engines and other sources. They are important as air pollutants primarily because of their role in smog formation. Hydrocarbons are gases released by internal combustion engines, evaporation of fuels, industrial process and natural sources. Many are toxic and some are known carcinogens. Some hydrocarbons also have a role in smog formation. Carbon monoxide is a gas resulting from the incomplete combustion of fossil fuels. The principal sources are motor vehicles. It is an asphyxiant in high concentrations. Photochemical oxidants are produced by the reaction of nitrogen oxides and reactive organic compounds in the presence of sunlight. Photochemical oxidants produced in this manner have been linked with respiratory irritation in humans, plant damage and the deterioration of materials. Ozone represents a major portion of the total oxidants.

Values for certain air quality indicators measured in the vicinity of the proposed project site are given in Table 4-4. These data obtained from the State's Cockeysville and Towson monitoring stations, are for the years 1976, 1977 and 1978. Most parameter values measured fall below the current standard values. However, hydrocarbon and photochemical

oxidant maximum values are shown to have exceeded the standards during all three monitoring years at the Towson site. The number of times the standard was exceeded was not determined for the hydrocarbon emissions, but were found to be only 6, 255 and 42 hours out of the respective years, 1976, 1977 and 1978 for photochemical oxidants. Since hydrocarbon emissions and the production of photochemical oxidants are linked, it is likely that hydrocarbon emissions, however high on occasion, most often fall below the standard value.

It should be further considered that while general Cockeysville air quality, and correspondingly that for the existing site of the proposed project, is likely somewhat better than that at Towson, the close proximity of these areas to major traffic corridors, i.e., Rt. 695 and Interstate 83, suggests that the differences are minimal.

NOISE

Noise is an important element of any environmental assessment because noise levels impact upon the peace and quiet of the surrounding area. High noise levels can have an adverse effect upon the health and emotional well-being of persons who live and work in the affected area. It is known that common urban noise levels can produce irritation and fatigue.

Noise is a type of energy which results from vibrations moving through air. As vibrations radiate outward from their source, the waves lose their energy and the intensity of the sound decreases. Noise is measured in units called decibels. Three weighting networks are utilized in measuring sound. The one most frequently used, which most closely represents the range of human hearing, is called the "A" scale. Decibel levels on the "A" scale are indicated by the unit dBA.

Human response to noise is variable and dependent on factors such as individual activities at the time of the noise, and an individual's feeling toward the object or organization that is responsible for the noise. Community noise levels that are normally encountered have not been shown to have measurable physical effects. Noise, however, has been known to stimulate widespread community complaints as well as legal action. Thus, it is extremely difficult to treat noise in the manner of other pollutants in evaluating its impact.

Nutrient Quality

The Loch Raven Reservoir has been reported as having nuisance conditions with regard to algae blooms at various times (State of Maryland, 1970; Jansson and Rudich, 1973). Algae concentrations were classified as moderate by the Environmental Protection Agency Eutrophication Survey of 1975. To prevent algae growth, it is necessary to determine which nutrient is limiting the growth of algal cells. The two nutrients which are normally important are phosphorus and nitrogen. Studies performed on the Loch Raven Reservoir indicate that phosphorus is the limiting nutrient. Therefore, algae growth and the degree of nuisance conditions can be controlled by limiting phosphorus, and nitrogen limitations will have little or no beneficial effect.

A review of the most recent environmental surveys on the Loch Raven Reservoir as performed in 1970 (State of Maryland); (Jannson and Rudich); 1975 (U.S. EPA) and 1978 (Baltimore County Regional Planning Council), all indicate that the major phosphorus load is occurring from non-point sources. The Environmental Protection Agency 1975 study on Loch Raven Reservoir, Baltimore County, Maryland (working paper #358) indicates that over 70 percent of the phosphorus loading to the reservoir is coming from a non-point source. Although 30 percent of the phosphorus is coming from point sources such as municipal and industrial discharges, there is no doubt that an appreciable impact on the reservoir is occurring from runoff waters.

Runoff water normally does not carry heavy phosphorus loads unless there is excessive soil erosion. Phosphorus does not move through the soil readily since it is found complexed with ions in the soil. Another major source of phosphorus in surface waters is from direct sewage discharge and septic tank drain fields. There are some point wastewater discharge sources located in the Loch Raven Reservoir drainage basin as delineated in the June, 1979, U.S. Environmental Protection Agency Survey. These include the treatment facilities listed in Table 4-5. Another important source of phosphorus is from residential developments utilizing septic tank drainfields. Failing septic tank systems have been noted to contribute major waste contributions to receiving waters and these are frequently difficult to find, since pollutant movement is often below the surface outcropping in stream beds. Table 4-6 provides the average concentration of nutrients found in streams discharging to Loch Raven

found in both the northeastern and northwestern corners of the site.

Baltimore silt loam, 3-8 percent slopes, moderately eroded (BmB2)

Baltimore series soils are deep, well-drained, and nearly level soils found in valleys of the Piedmont Plateau. They have moderate permeability and a high available moisture capacity. The BmB2 soil is one of the most extensive of all soils in Baltimore County that have been influenced by the lime content of the underlying material. The hazard of further erosion is moderate, and the soil is well-suited to many types of cultivation. This soil type covers nearly all of the proposed site, with the exception of the northern, southwestern, and stream valley areas.

Baltimore silt loam, 8-15 percent slopes, moderately eroded (BmB2

The surface layer of this soil is thinner than that of BmB2, and the soil is usually less deep over bedrock. Rainfall runs quickly off this soil, and the hazard of further erosion is severe. Intensive good management is required. This soil is found in the southwestern corner of the site near the Western Run valley.

Captina silt loam, 0-3 percent slopes, moderately eroded (CaA)

Captina soils are moderately well drained, deep, nearly level or gently sloping acid silt loams. They have a fragipan at a depth of 20 to 30 inches. They are often saturated at the surface and at the same time are almost dry in the fragipan and below it. Captina soils have moderate to severe limitations for many non-farm uses. The CaA soil is limited due to seasonal wetness and impeded internal drainage. Artificial drainage is sometimes needed for crops. Erosion is not a serious hazard, but frost-heaving can be. This soil is found in the Y-shaped valley area which bisects the site.

TABLE 4-1

THREATENED AND ENDANGERED SPECIES OF THE CHESAPEAKE BAY REGION

BIRDS

Southern Bald Eagle
Red-Cockaded Woodpecker
Eskimo Curlew
Arctic Peregrine Falcon
Ipswich Sparrow*
Bachman's Warbler
Brown Pelican

MAMMALS

Delmarva Peninsula Fox Squirrel
Eastern Cougar
Virginia Big-eared Bat*
Indiana Bat*

REPTILES

Bog Turtle*
Atlantic Green Turtle*
Atlantic Hawksbill Turtle
Atlantic Pidley
Atlantic Leatherback
Rainbow Snake*
Coal Skink*

FISH

Shortnose Sturgeon
Maryland Darter

*Not listed by U.S. Fish & Wildlife Service as "endangered." Source: WSSC, 1976.

TABLE 4-3

AMBIENT AIR QUALITY STANDARDS

	PRIMARY	SECONDARY
Sulfur Oxides		
Annual Arithmetic Mean, $\mu g/m^3$	80	
24-hour Maximum[a], $\mu g/m^3$	365	
3-hour Maximum[a], $\mu g/m^3$		1,300
Suspended Particulate Matter		
Annual Geometric Mean, $\mu g/m^3$	75	60[b]
24-hour Maximum[a], $\mu g/m^3$	260	150
Lead		
Three month average, $\mu g/m^3$	1.5	
Carbon Monoxide		
8-hour Maximum[a], mg/m^3	10	
1-hour Maximum[a], mg/m^3	40	
Hydrocarbons		
3-hour (6-9 AM) Maximum[a], $\mu g/m^3$	160[b]	
Nitrogen Dioxide		
Annual Arithmetic Mean, $\mu g/m^3$	100	
Photochemical Oxidants		
1-hour Maximum[c], $\mu g/m^3$	235[d]	

a - not to be exceeded more than once per year.
b - guideline
c - not to be exceeded on more than one day per year (averaged over 3 years).
d - the standard is now expressed in terms of ozone and has been changed from 160 $\mu g/m^3$ to 235 $\mu g/m^3$.

Source: State of Maryland, Yearly Air Quality Data Report, 1978.

TABLE 4-4

AMBIENT AIR QUALITY FOR STATE OF MARYLAND MONITORING NETWORK
AREA III - COCKEYSVILLE POLICE #10

PARAMETER	YEAR AND PARAMETER VALUE									
	1976			1977			1978			
	Mean	Max.	Time Exceeding Standard	Mean	Max.	Time Exceeding Standard	Mean	Max.	Time Exceeding Standard	
Total suspended particulate $\mu g/m^3$	44	126	0	56	151	0	45	121	0	
Sulfur dioxide $\mu g/m^3$	38	192 - 3hr 99 - 24hr	-- 0	25	314 - 3hr 143 - 24hr	0 0	27*	375 - 3hr* 220 - 24hr*	0* 0*	
Nitrogen dioxide $\mu g/m^3$	38	--	--	42	--	--	41	--	--	
Carbon monoxide mg/m^3	0*	13 - 1hr*	0*	0*	9 - 1hr*	0*	0*	6 - 1hr* 3 - 8hr*	0* 0*	
Photochemical oxidants $\mu g/m^3$	--	215 - 1hr*	6 hr*	--	392 - 1hr*	255hr*	--	294 - 1hr*	42hr*	
Total hydrocarbons $\mu g/m^3$	--	4010 6-9 a.m.*	--	--	10292 6-9 a.m.*	--	--	2506 6-9 a.m.*	--	
Lead $\mu g/m^3$	.371	.497	0	.541	1.176	0	.581*	--	0*	

*Data from Towson trailor site - no data taken at Cockeysville.

Source: State of Maryland, Department of Health and Mental Hygiene, Yearly Air Quality Data Reports for 1976, 1977 and 1978.

The site is a sparsely populated rural area of Baltimore County, but within a general area of industrial park development. The site of the proposed residential community is a former nursery with open and wooded areas. At present, noise is occurring from construction of residential areas. Residential noise is also occurring from the existing communities. However, since the site itself presently contains no activity, no noise is associated with it. Highway noise is currently present along Paper Mill Road (2,600 feet of frontage), York Road and Phoenix Rd. In conclusion, there are no important point sources of noise near the site. The biggest source of noise in the vicinity is highway traffic, which ranges from light to moderate. Excessive noise is not presently a serious environmental problem.

WATER QUALITY

Throughout history, man has chosen to settle in areas blessed with abundant surface waters. Today the supply of high quality surface water is in many cases non-existent or close to being exceeded by the demand. We are faced with the protection of good quality surface waters. The effects of any project on surface waters must be evaluated in terms of the drainage basin and its modifications as a result of the proposed action. Manmade structures frequently affect the amount and quality of runoff water. Streams are influenced by land uses, land management programs and the nature of the drainage basin. For the proposed residential community, particular emphasis is given to the watershed of Western Branch and Loch Raven Reservoir. The proposed residential development lies in the Western Run drainage basin which is a tributary to the Loch Raven Reservoir.

Drainage Basins

Run-off water collected on site drains into Western Run which eventually flows into the Loch Raven Reservoir. Western Run provides drainage for a 59.8 square mile area. Development of the proposed 176 acre site represents less than 0.46 percent of the total drainage basin of Western Run. The headwaters of Loch Raven Reservoir are located approximately 1.2 miles from the location of the proposed development. Due to the critical use of the Loch Raven Reservoir, which is the largest of three reservoirs serving the Baltimore metropolitan area, any potential effects on water quality to Loch Raven must be thoroughly examined.

TABLE 4-5

WASTEWATER TREATMENT PLANTS IN THE LOCH RAVEN RESERVOIR DRAINAGE BASIN

MUNICIPAL

Name	Population Served	Treatment	Mean Flow ($m^3/d \times 10^3$)	Receiving Water
Hampstead	3,000	Activated Sludge	0.757	Piney Run, Western Run
Manchester	1,000	Activated Sludge	0.271	Georges Run, Prettyboy Reservoir, Gunpowder Falls

INDUSTRIAL

Name	Population Served	Treatment	Mean Flow ($m^3/d \times 10^3$)	Receiving Water
Dutterer's (Manchester)	Meat Packing	Activated Sludge	0.114	Georges Run Prettyboy Reservoir, Gunpowder Falls

SOURCE: U.S. Environmental Protection Agency, National Eutrophication Survey, Report on Loch Raven Reservoir, Baltimore County, Maryland. Working Paper No. 358, June, 1975.

TABLE 4-6

AVERAGE CONCENTRATION OF NUTRIENTS IN STREAMS AS MEASURED FROM MAY 1973 - MAY 1974

TRIBUTARY	TOTAL PHOSPHORUS P mg/l	TOTAL NITROGEN NO_2 & NO_3 N - mg/l
Pulaney Valley Branch	0.092	2.44
Beaverdam	0.016	1.68
Western Run	0.04	1.91

SOURCE: U.S. Environmental Protection Agency, National Eutrophication Survey Report on Loch Raven Reservoir, Baltimore County, Maryland. Paper No. 358, June, 1975.

TABLE 4-7

WATER QUALITY DATA FROM "208" REPORT

	BEV0018 (Upstream of Industrial Park)	BEV0006 (Downstream of Industrial Park)
Dry Weather Sampling[a]		
Flow (cfs)		
Mean	12.7	12.2
Range	2.6 - 40.0	1.7 - 23.9
Total N (mg/l)		
Mean	1.27	1.78
Range	1.02 - 1.79	1.43 - 2.79
Total P (mg/l)		
Mean	0.05	0.06
Range	0.03 - 0.09	0.03 - 0.20
Storm Event (Sampling[b])		
$NO_2 + NO_3$ - flow weighted mean (mg/l)	1.10	1.11
Total P - flow weighted mean (mg/l)	0.06	0.07

[a]From Appendix Table 3-C-8 (page D-39)

[b]From Appendix Table 3-C-9b, page D-43 and personal communication with Samual Martin, Technical Director, Regional Planning Council, November 7, 1979.

Reservoir as measured from May, 1973, through May, 1974. Additional data related to water quality is provided in the water quality management plan "208" Report. Table 4-7 presents two points on Beaver Dam Run which illustrate water quality within the general commercial corridor of the proposed residential development. The mean phosphorus concentrations are in a range of 0.05 to 0.07 mg/l. Dry weather concentrations are comparable to those obtained during a storm event indicating no significant concentration changes as a result of stormwater runoff. Nitrogen loadings have a mean range of 1.10 to 1.78 mg/l, with nitrogen concentrations during storm events being slightly less than those during dry weather flows.

The conclusion of the Environmental Protection Agency report supports the finding that agricultural activities are the major source of non-point pollution in the Loch Raven watershed with regard to nutrients. These particular findings are very explicitly stated in the 1970 report on the Loch Raven Reservoir watershed sanitary survey conducted by the Baltimore County Department of Health and the State of Maryland Department of Health and Mental Hygiene. The following statements are quoted from that report.

> "Agricultural pollution was the most prevalent. Sources of agricultural pollution consisted of overgrazing, lack of soil conservation, barnyard drainage and little, if any, animal waste removal procedures."
>
> "Little, if any, animal waste treatment procedures were another problem which added to the pollution from agriculture. The practice of stocking animal waste in mounds along stream banks adds to fecal contamination, BOD loading and nutrient enrichment of streams."

The second major pollution source which the 1970 study noted is a result of direct industrial point-source discharges. The following quote is taken from the 1970 evaluation:

> "Industrial pollutants, resulting from liquid discharges and construction practices, are the second major pollution sources noted in the study."

The 1970 County and State Health Department report also noted that failing septic tanks were resulting in gross pollution to tributaries of Loch Raven Reservoir. Thus, additional residential development with septic tanks should be avoided when a higher housing density makes a sewerage system economical.

Bacteriological Pollution

Although not important with regard to eutrophication, bacteriological quality of the reservoir water is vitally important for supplying a good quality water source for public utilization. The 1970 study conducted by the State and County Health Departments did evaluate the problem related to bacteriological pollution of the Loch Raven Reservoir. This study finds that the pattern of bacteriological pollution is very similar to that of nutrient pollution. That pattern is that the major and most predominant source of pollution is from agricultural activities. The following statement is quoted from that study:

> "The limited sampling results conducted on the Loch Raven Reservoir Sanitary Survey indicate that there is a bacteriological pollution load entering the streams as a result of domestic animal grazing."

This study reported from field analyses that the fecal coliform counts are over 16 times greater in tributaries receiving drainage from grazing land than those which did not have grazing activities. In particular, the study referenced Dulaney Valley Branch where fecal coliform values of 23 per 100 ml were found upstream of the grazing area versus 93,000 fecal coliforms per 100 ml downstream from the grazing farm. It should be noted that Dulaney Valley tributary was found to be the highest nutrient loading basin per unit area of any in the Loch Raven Reservoir. In brief, these studies illustrate that not only are agricultural activities the major problem with regard to nutrient addition to the Loch Raven Reservoir, they are also the major pollution source with regard to bacterial loads. A second obvious situation with regard to pollution from cattle farms was also noted in the study on Piney Run. Fecal coliform counts revealed significant increases as a result of run-off water from barnyard drainage areas on the Piney Run tributary (1970, State and County Health Department Report).

These findings on pollution loading sources to the Loch Raven Reservoir are typical of those found in the studies throughout the United States. Bacterial loads from cattle pasture lands and homes on failing septic tanks are known to be quite high. In contrast to these activities are the loadings from residential communities. Nonpoint source studies on water quality by Wanielista (1977) found that residential areas had the lowest total coliform loadings of the land uses studied. Industrial and commercial areas were slightly higher.

The studies of Bradford (1977) indicated that both residential development as well as commercial developments will reduce the bacteriological loadings to water basins. Total coliform counts were significantly below average in heavily industrialized and heavily trafficed areas, and in areas covered by hard surfaces. Counts were also below average in grass covered areas, but significantly higher in tree covered areas, perhaps because of animals inhabiting such areas.

Sediment

In addition to high nutrient loadings, the Loch Raven Reservoir has experienced significant sediment loads. The EPA 208 program has identified sediment as the number one pollutant by volume within the region.

Erosion and sediment transport to receiving waters have been a recognized problem for many decades. It has been only in the last 10 years that rigorous control programs have been developed to prevent erosion during construction activities. As a part of the 208 program for Baltimore County, the U.S. Soil Conservation Service undertook a special survey of the Baltimore Region. The results of this survey are reported in the Water Quality Management Plan for Baltimore Metropolitan Region (1979). This study reviewed land use activities and determined soil loss, sediment delivery rate and sediment yield within the Baltimore Region. Erosion data was analyzed for the following land uses: cultivated, pasture, woodland, completed urbanized property, and property under construction (urbanizing); and is reported in Table 4-8.

The land use relationship with loading as found by the U.S. Soil Conservation Service Survey in Baltimore County is typical of other areas in the United States (Table 4-8). There are some differences in actual numbers; those for Baltimore County are higher than that reported by other studies. The land use activity having the greatest overall impact on the receiving waters is cultivated land. Cultivated land uses account for 48.9 percent of all sediment loadings being received by reservoirs in the Baltimore Region. On the other hand, completely urbanized developments are only contributing 10 percent of the total sediment load, and urbanizing construction activities are contributing 11.1 percent. It is also interesting to note that the sediment yield on an acre per year basis for an urbanized area is almost half of that for cultivated land activities. Although construction activities are contributing significantly more sediment on a unit area basis, the overall impact on sediment loading to stream and reservoirs in the Baltimore Region

is significantly less than that of agriculture.

Oxygen Demand

Oxidizable compounds, measured as BOD (biochemical oxygen demand) and TOC (total organic carbon), are utilized as nutrient sources by bacteria. This process consumes oxygen, and high levels of BOD and TOC in water bodies are one important cause of depleted oxygen levels. BOD includes oxygen demand due to both carbonaceous materials and nitrogenous materials. Oxidizable compounds can enter a water body from runoff or from wastewater treatment plant outfalls. The oxidation of this material by bacteria utilizes dissolved oxygen. Dissolved oxygen is necessary for plant and animal life. It also prevents the chemical reduction and subsequent leaching of iron and manganese, which adversely affect drinking water quality.

Conclusion

In conclusion, one finds that the land use practices that are contributing to the major non-point source pollution that have been measured to date are agricultural in nature. The major pollution concern has been phosphorus and bacterial levels. Although there are other pollutants of possible significance within the Loch Raven Reservoir, no information is presently available on their levels or loading rates. Also unavailable at the present time is data on pollutant loadings accompanying rainfall as a result of air pollution. Other studies in various parts of the country have illustrated that significant pollutant loads result from fallout during rain storms and are not related to the land use activities. This is particularly significant in metropolitan areas such as the Baltimore region.

CHAPTER 5

ENVIRONMENTAL CONSEQUENCES

INTRODUCTION

The effects of the proposed development at Towson Nurseries and alternate actions on local and regional environmental parameters are discussed below. This section is organized according to alternates, with effects of each environmental parameter discussed for each alternate, along with measures that can be taken to mitigate any adverse impacts expected. In this manner, comparisons can be drawn between the various alternates on an environmental basis. Two alternates are considered feasible and appropriate for this evaluation. They are the proposed development under the requested zoning change and the development allowed under present zoning.

PROPOSED ACTION

Topography

The development of the proposed community at Towson Nurseries will require some changes in topography, although much of the central portion of the site is gently sloping requiring little modification. Some topographical changes are necessary which are typical of all construction activity to provide for roads, parking and stormwater management facilities. The amount of grading of this site is not excessive and can be controlled to prevent erosion release.

There is no way to mitigate topographic changes which are necessary to carry out the proposed plan. However, the plan has been developed in order to work with the topography and to require as little topographical change as possible. Effects on soils as related to topographical changes are discussed in a later section of this report along with measures to mitigate soil losses during topographic rearrangements.

Geology

The development of the proposed community on the Towson Nurseries site will have little or no effect on the geology of the area. Some excavation will be required, but it will not involve blasting. There are no extensive mineral resources in the site which will be lost through development.

Air Quality

The development of any site has the potential of increasing air pollutant emissions. There will be 968 family units to be heated, cooled and maintained. In addition, there will be increased traffic as a result of residences within the community. It is difficult, if not impossible, to estimate what increase if any in pollution emissions will be due to the residential development. All that can be stated is that the population served by this community will need energy and this has the potential to increase pollutants. This effect, however, is certainly not unique to the proposed development.

In drawing conclusions on air quality effects it is important to recognize that air quality is a regional condition and not impacted upon to any significant degree by individual residential communities. Individual sources only become important when they have significant point sources such as industrial discharges. Air quality of a region is directly related to the energy utilization and industrial activities of that region. Thus, air quality influences by this proposed development would have an insignificant effect upon the regional air quality of Baltimore County. It is unnecessary to explicitly study pollutant discharges from proposed residential communities in a detailed fashion. Whether population centers locate in the proposed development or within ten miles of the proposed development will have no significant difference on the regional air quality as long as the population growth must be housed. It is the social and economic needs of a region that determine the degree of population growth. In conclusion the local on-site air quality would reflect that associated with the regional energy use patterns and not be influenced by the residential development. The proposed development would not be expected to have any significant effect upon air quality standards.

HISTORY AND ARCHEOLOGY

There will be no effect on any historical site by the construction of the proposed residential development since there are no historical structures on site and none within the area of influence.

The Towson Nurseries site is not expected to have any archeological potential. The presence of any artifacts can only be established through an archeological reconnaissance prior to construction. However, based upon dating activities within this general area it is not expected that such a reconnaissance program is necessary.

is to determine how intrusive the noise generated will be on a background sound level. On-site noise can be divided into two categories, that which affects site personnel and that which affects adjacent neighborhoods. Site personnel are subject to the highest noise levels during construction and fall under regulations of OSHA. To prevent any health hazards from on-site construction activities, acceptable noise levels have been established for construction equipment.

The types of equipment utilized during construction will consist of bulldozers, front-end loaders, trenchers, the movement of trucks and pumps. Noise from these equipment units varies with the model as well as the operation involved. However, typical noise ranges for such equipment are provided in Table 5-1. In evaluating industrial noise activities of this nature, it is important to understand the number of units in operation and the average time that they operate. The total sound energy released by a machine is more important than the highest sound level created. For example, although pile drivers and rock drills produce the highest sound levels when they are operating, it is normally dump trucks and air compressors, due to their greater prevalance and longer operating time, that produce the most sound energy.

The typical approach for evaluating construction site noise is the normalized day-night sound level, Ldn, as endorsed by the Environmental Protection Agency. This particular sound level represents a greater annoyance component for sound intrusion at night. The procedure uses a weighting factor to emphasize sound levels occurring during the night-time before these are combined with the equivalent day-time sound level. For this site, the Ldn evaluation is inappropriate since night-time activities will not occur. For this reason, the normally accepted EPA methods have not been utilized and the evaluations are based upon the daytime equivalent sound level, Leq. The equivalent sound level is the level of a steady sound which in a given period of time, would contain the same noise energy as the time-varying sound level one is describing.

Based upon existing sound measurements at public work activities which involve excavation and trenching, the equivalent sound level has been estimated at a range of 70 to 75 dB(A). The background level for the site is estimated at a level of 60dB(A). This level is a result of the nearby traffic flows.

During construction, the noise level increase over background will be noticable, but it should not stimulate

complaints. It is suggested that equipment be obtained with adequate silencers and mufflers and maintained in proper condition to minimize noise levels. The sparse density of residetial units and the fact that these noise levels will revert to background levels during night-time periods should minimize community impacts.

In conclusion, construction noise is produced by earth-moving and other activities during the building of a project. This type of noise is short-term, and there are no particularly noise-sensitive areas in the vicinity of the site which require special low-noise construction techniques. This type of noise is expected to have no impact in this particular project.

Residential noise is generated by the day-to-day activities of the persons living in an area. There will be nothing remarkable about this noise at the proposed community, as it occurs wherever people are living. Some measures are taken to protect the privacy of residents, such as adequate soundproofing between dwelling units in multi-family buildings, but there are no special problems related to this type of noise in this development.

Highway noise levels will be increased due to traffic generated by the development. Projections on traffic levels generated by the project versus that expected from other growth over the next 10 years, can be evaluated. However, inadequate information is available to make a good projection at this time. The maximum increase based on past sites of similar developments would give an expected increase of less than 5dB(A). It is usually found that sound increases of less than 5 dB(A) are not apparent to individuals.

In conclusion, the development of the proposed action for a residential community on this site will not produce noise levels of concern and the increase resulting will not be apparent to individuals.

WATER QUALITY

The proposed community will utilize public sewerage systems and not have any direct wastewater discharge to ground or surfaces waters. Thus, the only manner in which surface or groundwaters can be affected by the proposed development is from changes in the quantity and quality of storm runoff water.

To evaluate the non-point pollution loads, calculations are based upon data collected by the Metropolitan

TABLE 4-8

SEDIMENT LOADINGS ACCORDING TO LAND USES[a]

LAND USE	ACRES	SEDIMENT YIELD (tons/yr)	SEDIMENT YIELD ACRE (tons/acre/yr)	TOTAL SEDIMENT YIELD (% of total)
Cultivated	531430	485065	0.91	48.9
Pasture	54992	13420	0.24	1.3
Woodland	390524	71980	0.18	7.2
Urbanized	198010	100715	0.51	10.1
Urbanizing	9672	110706	11.45	11.1
Mine Spoil	3306	120864	36.56	12.1
*Roadbank	3358	2070	0.62	.2
*Streambank	6670	90641	13.59	9.1
Non-Sediment Contributing	11723			

**RPCA Annual Rates

6538513 Tons Total Erosion (3488 Tons/Sq. Mi./Yr.)

996370 Tons Sediment Yield (532 Tons/Sq. Mi./Yr.)
(Delivery Ratio is 15 percent)

250749 Tons Trapped in reservoirs

* Roadbank Units (In Acres Column) are Bank Miles

* Streambank Units (In Acres Column) are Bank Miles

** Regional Planning Council Area (Less Baltimore City)

(a) Taken from "Water Quality Management Plan for the Baltimore Metropolitan Region (1979).

Soil

The most significant effects of the proposed community on soils will be the displacement of soils by grading and the hazard of erosion. Both of these are short-term, construction related effects; however, they can be quite severe if not properly controlled. The soil which covers most of the site does not present a serious erosion hazard. Several of the on-site soils present characteristics which may limit their use because of slope or lack of drainage. However, these areas have been left as an open space.

Erosion hazards during construction stages can be controlled. There are a number of sound, accepted techniques for reducing the amount of water flowing down an exposed slope, for properly containing that water which must flow down-slope, and for extracting sediment and nutrients from the storm water before it reaches surface streams. Methods for each of these practices are shown in Appendix A. These are not the only methods which can be used to achieve these results, however.

After construction, it is vital that exposed areas be stabilized with vegetative cover as soon as possible. There are also accepted techniques for this practice, for both short-and long-term stabilization. Examples of these practices are also included in Appendix A.

Plans for sediment control and grading must be submitted to the Soil Conservation District for approval before construction begins. Although these plans are not finalized as yet, it can safely be assumed that they will incorporate the techniques described above, or similar techniques with similar results. The proposed erosion controls, and controls for removing pollutants are presented in the section on Water Quality.

Although topsoil is likely to be removed from some areas, initial surveys indicate that there is very little topsoil on this site.

It can be seen that potential impacts of the project on the soils can be mitigated by the use of accepted construction techniques and erosion-contol practices. These practices will be used at the Towson Nurseries site and result in a projected decrease in sediment loads to the receiving stream compared to present conditions. Documentation on sediment loads are provided in the Water Quality section of this chapter.

BIOLOGICAL COMMUNITIES

There will be some disruption of the biological communities present on the Towson Nurseries site during and after site development. Although there will be essentially 50 acres undisturbed out of 176 total acres, there will be displacement of small mammals and birds. This is an unavoidable effect and one which will not have significant impact on the wildlife population since the wildlife present can easily relocate in the surrounding area.

Mitigating measures will be taken to protect the significant nursery stock on site. Healthy specimens of trees within the developable area will be marked and preserved. This will not only provide aesthetic appeal to the development, but will also create small islands of species of wildlife such as birds and squirrels which are tolerant of the presence of humans. Methods which can be used to preserve trees are presented in Appendix B.

While animals will undoubtedly leave the site during the noise and confusion generated by construction activities, there will be a large portion of the site which will remain untouched, and which will continue to provide habitat for the various species of animals now residing there. Stream valleys will be left undisturbed, and streams themselves will be protected by sediment control measures during development, and by stormwater control measures after development. Thus, while the population of terrestrial animals on the site will probably drop, the same species will be likely to remain in the more remote areas of the site. Since there are no known rare or endangered species present, it can be assumed that effects on biological communities will not be profound. Protection of streams as planned will preclude harmful effects on the aquatic communities.

Noise

On-site noise will be generated from three activities:

1. Construction noise
2. Residential noise
3. Transportation noise

For evaluating construction noise activities, the objective

TABLE 5-1

RANGES OF NOISE LEVELS FOR
VARIOUS EQUIPMENT

EQUIPMENT	NOISE LEVEL dB (A) at 50 FT.
Bulldozer	76-96
Trenchers	72-93
Pumps	68-72
Trucks	82-94

Source: "Report to the President and Congress on Noise." Senate document 92-63, February, 1962, prepared by U.S. Environmental Protection Agency.

Washington Council of Governments and the Northern Virginia Planning District Commission report dated November 1979.

The water quality can be predicted from these field studies through the developed relationships between land use and runoff water quality. The loading factors for this comparison are taken from "Guidebook For Screening Urban Non-point Pollution Management Strategies" (1979). The loading factors for this evaluation were taken for specific site conditions as listed in Table 5-2.

Utilizing the loading factors as specified in Table 5-2 the projected run-off water discharge in pounds per year for each parameter is provided in Table 5-3. It is important to recognize that this discharge reflects run-off water quality without the implementation of any controls to minimize adverse impact. Also on Table 5-3 is the non-point polluant discharge which could take place under present zoning, this is the alternate action discussed in greater detail below. It is possible to reduce loading for the proposed development below that which would occur under present zoning by various control systems. These mitigating measures consist of storm water management programs, land stabilization, and discharge control systems. Several control procedures have been developed and some are feasible for this particular site and the proposed development. These control procedures are referred to as "Best Management Practices" (BMP).

Best Management Practices are grouped into three control approaches. They are: source control, run-off controls, and treatment control. The controls listed in Table 5-4 have been evaluated for application to the proposed development. Those controls having the most significant impact on pollution reduction are run-off controls which incorporate volume detention that allows removal by sedimentation or infiltration.

Sediment and Erosion Control Program

The Baltimore County erosion and sediment control requirements will be implemented in addition to Best Management Practices discussed below. These controls in conjunction with the Best Management Practices will greatly minimize and in some cases essentially eliminate non-point source pollution loads from the proposed development.

TABLE 5-2

LAND USE LOADING FACTORS
FOR TOWSON NURSERIES SITE

TOWNHOUSES

PARAMETER	LOADING FACTOR lb/acre/year
BOD	43
Total Phosphorus	1.8
Total Nitrogen	13.9
Lead	1.08
Zinc	0.62
Sediment	0.33 tons/acre/year

SINGLE FAMILY UNITS

BOD	30
Total Phosphorus	1.2
Total Nitrogen	9.6
Lead	0.48
Zinc	0.385
Sediment	0.205 tons/acre/year

TABLE 5-4

CONTROLS FOR
BEST MANAGEMENT PRACTICES

SOURCE CONTROLS

- Growth Policies
- Land Use Limitation
- Subdivision Regulation Controls
- Construction Site Controls
- Street Cleaning
- Solid Waste Controls
- Highway De-icing Controls
- Lawn and Garden Care
  - Lawn Establishment
  - Fertilizer Applications
  - Pesticide Applications

RUNOFF CONTROLS

- Rooftop Storage
- Parking Lot Storage
- Subsurface Storage
- Urban Ponds
- Porous and Modular Pavements
- Grassed Surfaces
  - Grass Waterways
  - Grass Filter Strips
  - Grass Seepage Areas
- Infiltration Pits and Trenches

COLLECTION AND TREATMENT CONTROLS

- Sewer System Controls
- Conveyance System Storage
- Conventional Flow Regulations
- Treatment

TABLE 5-5

PROJECTED REMOVALS OF
PROPOSED BEST MANAGEMENT PRACTICES

PARAMETER	PERCENT POLLUTANT REMOVAL DETENTION POND WITH SEDIMENTATION
BOD	50%
Total Phosphorus	50%
Total Nitrogen	38%
Lead	90%
Zinc	54%
Sediment	90%

TABLE 5-3

NON-POINT POLLUTION DISCHARGE
WITHOUT SITE CONTROLS

	ACRES	PROPOSED DEVELOPMENT BOD lb/yr.	TOTAL PHOSPHORUS lb/year	TOTAL NITROGEN lb/year	LEAD lb/yr.	ZINC lb/yr.	SEDIMENT ton/year
Single Family	53.7	1611	64	516	26	21	11.0
Townhouses	70.4	3027	127	979	76	44	23.2
Open Space	43	344	9	129	1	1	2.2
Total	167.1	4982	200	1624	103	66	36.4
		DEVELOPMENT AS ZONED					
Single Family	60.2	1806	72	578	29	23	12.3
Townhouses	36.7	1578	66	510	40	23	12.1
Open Space	70.6	565	14	212	1.5	1.5	3.5
Total	167.5	3949	152	1300	70.5	47.5	27.9

st Management Practices

To minimize erosion and pollutant loadings, a number of site design controls have been implemented in the proposed development. Site design controls are directed at the minimization of erosion by maintaining the natural drainage features of the site. The site has been laid out to respect the natural topography. Site design features include limiting construction so that no sensitive ares such as steep slopes and flood plains would be disturbed. Included as part of the site design are storm water collection ponds. Storm water collection ponds are used to protect against downstream enlargements of the receiving stream channels by controlling peak release rates.

In addition to the storm water ponds, a volume control structure will be implemented as part of the Best Management Practices. Two volume control structures have been reviewed that will significantly reduce pollutant discharge. These control structures consist of infiltration trenches or detention ponds with sedimentation. Which specific control structure should be implemented can not be determined until further site analyses are made with regard to ground water levels and feasibility to the overall site plan and drainage pattern. However, preliminary evaluation indicates that the detention basin with sedimentation as a treatment mode may be the most suitable for this site and development.

The projected pollutant removal for the proposed control structure is provided in Table 5-5. The detention basin with sedimentation is incorporated into the storm water collection pond. A storm water collection pond does not provide a hold back system that will allow a high removal of pollutants. Most storm water ponds allow too rapid a flow for such settling and removal to occur. The detention pond with sedimentation is designed as part of the storm water collection pond. This system serves two purposes. First, it collects the initial storm water flush that contains the highest pollutant load. This water is held for a minimum of 24 hours under plug flow conditions, allowing sedimentation to occur. Second, the upper portion of the pond collect peak flows and control their release as typical of storm water control basins.

The storm water-detention and sedimentation basin includes a release structure that holds back the first 0.21 inches of storm water for a duration of 24 hours or more. This structure is designed so that water is released at a slow rate by a stand pipe with orifices. Removals that

are projected to occur from this control structure have been determined from computer model and field studies. The projected removal for the proposed development is given in Table 5-5 and relates to a projected non-point pollutant discharge as given in Table 5-6. Significant reductions are achieved providing a much lower pollution discharge for the proposed development with Best Management Practices compared to that which is allowable under present zoning. For example, BOD loadings of the proposed development are approximately half of that discharged by the development under present zoning. Phosphorus is 69% less and sediment loads are dramatically reduced. Only 5.6 tons per year would be released by the proposed development versus 27.9 tons for the development under present zoning.

These control measures referred to as Best Management Practices can be implemented for the proposed development and are set forth here as part of the proposed project. These controls become a part of the land development cost and will be reflected in the unit cost of the single family homes and townhouses. Thus, these BMP controls are not always cost effective or practical for developments of lower density. It is clear that the development under present zoning at a lower density would result in a higher pollutant discharge in pounds per year for parameters considered than the proposed development with Best Management Control.

Of the source control techniques, those associated with construction are very significant even though construction is a short term impact. Accelerated erosion from construction sites is one of the first non-point source pollution problems recognized during urban development. To minimize erosion from construction activities the following will be implemented.

1. Steep slopes will be left undisturbed.
2. Natural vegetation will be maintained adjacent to streams.
3. The amount of disturbed area at any one time will be limited to the smallest possible.
4. The length of time that land is exposed before stabilization will be minimized.
5. Temporary vegetation will be provided.
6. Perimeter sediment controls will be employed.

TABLE 5-6

NON-POINT POLLUTION DISCHARGE
FOR PROPOSED DEVELOPMENT
WITH MANAGEMENT CONTROLS

PROPOSED ZONING AND DEVELOPMENT	BOD lb/yr.	TOTAL PHOSPHORUS lb/year	TOTAL NITROGEN lb/year	LEAD	ZINC	SEDIMENT
Single Family	806	32	320	2.6	9.7	1.1
Townhouses	1514	64	607	7.6	20.2	2.3
Open Space	344	9	129	1.0	--.0	2.2
Total	2664	105	1056	11.2	30.9	5.6

STANDARD AND SPECIFICATIONS

FOR

DIVERSION DIKE

Definition

A temporary ridge of compacted soil immediately above cut or fill slopes and constructed with sufficient grade to provide drainage.

Purpose

The purpose of a diversion dike is to intercept storm runoff from small upland areas and divert it from exposed slopes to an acceptable outlet.

Conditions Where Practice Applies

The diversion dike is used for the period of construction at the top of newly constructed slopes to prevent excessive erosion until permanent drainage features are installed and/or slopes are stabilized.

Design Criteria

A design is not required for diversion dikes. The following criteria shall be used.

Drainage area - less than 5 acres (for larger drainage areas see Standard and Specifications for Diversion).

Top width - 2 feet minimum
Height (compacted fill) - 18 inches minimum height measured from the existing ground at the upslope toe to top of the dike.

Side slopes - 2:1 or flatter
Grade - dependent upon topography, but must have positive drainage (sufficient grade to drain) to an adequate outlet.
Stabilization - Where slope of channel (flow area) is:

0%-5% - stabilization may be required by the designer according to the needs of the site.

Over 5% - stabilization shall be required.

Stabilization shall be: (1) in accordance with Standard and Specifications for Diversion; or (2) by lining the flow area with stone that meets MSHA size No. 2 or AASHTO M43 size No. 2 or 24 in a layer at least 3 inches in thickness and pressed into the soil. The lining shall

controls during construction in order to prevent significant erosion. Best Management Practices would not be cost effective for the lower density community and result in the discharge of greater sediment load from the development under a zoning change. Sediment load discharges are projected to be 20 percent greater (27.9 tons a year) under present zoning versus that of the proposed development with a discharge of 5.6 tons per year (Table 5-7).

Air Quality

The use of the Towson Nurseries site for a residential community under present zoning would have no significant air quality effects.

History and Archeology

The Towson Nurseries parcel is not expected to have any archeological potential and the site will not impact upon historical sites.

Biological Communities

Development of this site under present zoning would result in some loss of habitat for woodland creatures. The effect of this impact on biological communities would be no less or no greater than that which would occur under the proposed development and zoning change.

Noise

Present zoning will allow residential development as discussed previously. Such development results in noise generated during construction activities as well as noise related to a residential community. As with the proposed development, no significant noise impacts would occur if the site was developed under present zoning. Since present zoning requires a lower density of development, it would follow that less traffic noise would be associated with the community. However, as projected for the proposed project, this noise generation is less that 5db (A). This change is not noticable by the human ear.

Water Quality

The alternate action, development of a lower density residential community compared to that proposed will result in the discharge of different pollutant loads. The implementation of Best Management Practices which will incorporate a detention pond with sedimentation cannot be provided for the lower density residential community in a cost effective manner. For this reason, pollutional discharges will be greater under present zoning versus that of the proposed development and zoning change. The increase in pollutant discharge under present zoning is tabulated in Table 5-7. Present zoning would result in a yearly discharge of more than 1200 pounds of BOD, 45 pounds of phosphorus, 240 pounds of nitrogen, 55 pounds of lead, 15 pounds of zinc and 20 tons of sediment.

REFERENCES

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(1975) held, " . . . strong evidence of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting reclassification is arbitrary and capricious." In Chapman v Montgomery County Council, supra, the Court recognized, as it had in the past, "that there is a difference to be observed in the treatment of reclassification from one residential sub-category to another, . . . " and in Hyson v Montgomery County, 242 Md. 55 (1966), Missouri Realty, Inc. v Kamer, 216 Md. 442 (1958) was quoted, "Thus, the Court seems to adopt a more liberal attitude when reviewing amendments from one use to a similar use."

Nevertheless, this Board considers the evidence presented by the Petitioner to be insufficient to warrant debate. Even applying the liberal standard and considering the burden of proof required of the Petitioner in a less stringent vein, we do not perceive the facts produced sufficient to warrant a determination that the County Council committed error in the 1980 comprehensive zoning process or that a substantial change in the character of the neighborhood has occurred.

Recognizing that the reclassification sought by the Petitioner is but a narrow change from a low density category to a medium density category, we are persuaded that the Petitioner, though its burden is less onerous, has not demonstrated even a scintilla of the evidence necessary to satisfy the provisions of Section 2-58.1(j) of the Baltimore County Code.

Coppolino v County Board of Appeals of Baltimore County, supra, succinctly states the legal standard to be applied:

"The fact that comprehensive rezoning may occur in Baltimore County with greater frequency than has been the case in the past does not alter the fact that it will result from careful study of changes occurring in wide areas and an assessment of future public needs and purposes. Indeed, in our view, the system will enhance the stability and permanence of zoning classifications by assuring that the majority of zoning

8. Appellee further states that in the event that the Court finds that the Board of Appeals was wrong to dismiss the petition at the conclusion of Petitioner's case, the remedy would not be to direct the Board to find that "the first test of the existence of change or mistake has been met." (Petition Paragraph III: 3 (ii) Rather, the matter would have to be remanded to provide Appellees with an opportunity to present evidence pertinent to the question of change or mistake.

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

I HEREBY CERTIFY that on this 26th day of May, 1983, a copy of the foregoing Answer to Petition for Appeal was mailed to Mark Pollak, Esquire, and Joel J. Feinberg, Esquire, 36 South Charles Street, 1100 Charles Center South, Baltimore, Maryland 21201; and Jeffrey B. Hazard, Esquire, 13919 Green Branch Drive, Phoenix, Maryland 21131.

Peter Max Zimmerman

classifications are determined in accordance with a carefully considered integrated plan of development, based upon a full understanding of the present and future needs of a broad area, rather than upon a piecemeal review of limited scope. In any event, arbitrary and capricious action by the Council is prevented and stability and permanence assured by the requirement that a comprehensive rezoning, in order to be valid, must bear a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare."

This Board is persuaded, on the record before us, that the County Council, with respect to the subject property, carefully studied the changes occurring in Baltimore County and considered the public's needs and purposes. We believe, from all the evidence, that the County Council intended, in 1980, to enhance stability and permanence by assuring an integrated plan of development for the present and the future throughout this County. We believe, therefore, that the zoning of the subject site was appropriate, not occasioned by mistake, and in the interest of the health, safety and general welfare of Baltimore County.

To determine error or to find a substantial change in the character of the neighborhood, based on the record before us, would require this Board to ignore the facts produced and thus pervert the integrity of the comprehensive zoning process of Baltimore County.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th District - Parcel 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5	:	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. Docket No. 15 Folio No. 184 File No. 83-M-149
UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER-APPELLANT	:	
Zoning File No. CR-82-187	:	

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, William R. Evans 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. CR-82-187

August 14, 1981	Petition of Universal Housing & Development Company for a zoning reclassification from D.R. 3.5 and D.R. 1 zone to a D.R. 5.5 zone on property located on the east side of Paper Mill Rd. (Ashland Ave) 611.86' from centerline of Ashland Rd., (Parcel 1); on the east side of Paper Mill Rd. (Ashland Ave.) 649.39' west of int. of Paper Mill Rd. and Ashland Rd. (Parcel 2); and on the west side of Paper Mill Rd. (Ashland Ave.) 667.20' west of int. of Paper Mill Rd. and Ashland Rd. (Parcel 3)

ORDER

For the reasons cited in the aforegoing Opinion, it is this 24th day of March, 1983, by the County Board of Appeals, ORDERED that the Motion to Dismiss be and hereby is GRANTED and the Petition for Reclassification be and hereby is DISMISSED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

William R. Evans

Keith S. Franz

		Order of William T. Hackett, Chairman, County Board of Appeals, directing advertisement and posting of property - date of hearing set for April 14, 1982 at 10 a.m.
Oct.	30, 1981	Comments of Baltimore County Zoning Plans Advisory Committee filed
Mar.	25, 1982	Certificate of Publication in newspaper - filed
"	27	Certificate of Posting of property - filed
Feb.	19	Letter to Baltimore County Planning Board from Mark Pollak, Esquire, Counsel for Petitioner
Apr.	14	Hearing before the County Board of Appeals - amended plat filed
"	16	Two (2) amendments filed with the County Board of Appeals by George Williams Stephens and Associates
"	20	Amended material forwarded to Director of the Office of Planning and Zoning by William T. Hackett, Chairman, County Board of Appeals
May	26	Additional comments filed by Maryland Department of Transportation with the Office of Planning and Zoning
June	4	Inter-Office correspondence to William T. Hackett from Norman E. Gerber, Secretary, Baltimore County Planning Board, regarding amended documentation of petition, with attachments
"	10	Letter from William T. Hackett to Mark Pollak, Esquire, regarding amended material
"	18	Letter to William T. Hackett from Mark Pollak, Esquire, replying to the letter of June 10th
Sept.	20	Copy of letter of September 16, 1982, to Charles E. Fick from Norman E. Gerber, Director, Office of Planning and Zoning filed with the County Board of Appeals
"	22	Continued hearing before the County Board of Appeals
"	23	" " " " " " " "
Oct.	29	Letter from Deputy People's Counsel to William T. Hackett enclosing copy of Agreement, dated June 16, 1982, between the State Highway Administration, Baltimore County and Baltimore City
Dec.	3	Inter-Office correspondence to William T. Hackett from Norman E. Gerber regarding additional documents filed by the Petitioner with the County Board of Appeals on September 23, 1982, with written comments attached
"	7	Continued hearing before the County Board of Appeals
"	8	" " " " " " " "
Feb.	22, 1983	Addendum comments filed by the Baltimore County Zoning Plans Advisory Committee

Feb.	23, 1983	Continued hearing before the County Board of Appeals - Petitioner's case concluded. Thereafter, People's Counsel and Counsel for Protestants moved for a dismissal and the Motion to Dismiss was granted by the Board.
Mar.	24	County Board of Appeals ORDERED "that the Motion to Dismiss be and hereby is GRANTED and the Petition for Reclassification be and hereby is DISMISSED."
Apr.	22	Order for Appeal filed in the Circuit Court for Baltimore County by Mark Pollak, Esquire, on behalf of the Petitioner
"	22	Certificate of Notice sent to all interested parties
May	2	Petition to Accompany Order for Appeal filed in the Circuit Court
"	10	Transcript of testimony filed - 6 volumes
		Petitioner's Exhibit No. 1 - Site plan - Duplicate on display board in Bd. closet
		" " " 2 - Location Map - " " "
		" " " 3 - Site Utilities - " " "
		" " " 4 - Layout plan, vegetation - " " "
		" " " 5 - Layout plan, townhouses - " " "
		" " " 6 - Layout plan, detached houses - " " "
		" " " 7 - Potential Water Quality Alternatives - " " "
		" " " 8 - Layout of existing conditions and improvements - " " "
		" " " 9 - Report of John Guckert, 4/14/82 - " " "
		" " " 10 - Amendment No. 1 - " " "
		" " " 11 - Amendment No. 2 - " " "
		" " " 12 - Revised Storm Water Management Study - Duplicate on display board in Bd. office
		" " " 13 - Stormwater treatment efficiency calculations and rationale - " " "
		" " " 14 - Aerial photo of site - In Board's closet
		" " " 15 - Aerial photo 4/3/82 - " " "

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th District - Parcel 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5 : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. Docket No. 15 Folio No. 184 File No. 83-M-149

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER-APPELLANT :

Zoning File No. CR-82-187 :

ANSWER TO PETITION FOR APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellee herein, answers the Petition for Appeal heretofore filed by the Appellant, viz:

1. Appellee admits Paragraph I: 1-2, 4-5.

2. As to Paragraph I: 3, Appellee admits that the Board of Appeals granted the Motion for Dismissal, but further states that Appellant was provided an opportunity for oral argument and had earlier submitted a memorandum accompanying its petition.

3. Appellee admits Paragraph II: 1.

4. Appellee denies Paragraph II: 2-4.

5. Appellee admits Paragraph III: 1.

6. Appellee denies Paragraph III: 2-3.

7. Appellee states affirmatively 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.

Rec'd 5-26-83 1 PM

7. A plan will be formulated and frequent collection to dispose of waste materials on the construction site will be provided.

8. Isolated contained areas will be provided for storage of construction materials, such as chemicals, cements, solvents, paints,and other potential pollutant.

By providing the source controls listed above, and volume controls for storm water storage, pollutional impact can be minimized to a point that other run-off controls are considered unnecessary for the proposed action. Based upon the mentioned source control and storm water collection pond, the projected run-off loading for the proposed action is provided in Table 5-6.

DEVELOPMENT PERMITTED UNDER THE PRESENT ZONING

Topography

The topography at the Towson Nurseries site would not be altered in any manner that would be significantly different from that set forth under the porposed development. As the site plans submitted by William F. Kerwin, Inc. and G.W. Stevens,Jr. and Assoc., Inc. illustrate there is no significant difference in the effect of one plan versus the other on topography.

Geology

As with topography, there will be no adverse impact on geology at the Towson Nurseries site if developed under present zoning versus that of the proposed development and zoning change.

Soils

Development under the present zoning would have no greater impact or no lesser impact than that previously discussed and set forth under the proposed development.

Development under the present zoning for a lower density residential community would have the same potential for erosion-related soil impacts as that of the proposed development. Each plan would require the same types of

TABLE 5-7

NON-POINT POLLUTION DISCHARGE-
PRESENT ZONING VS. PROPOSED

PARAMETER	DISCHARGED UNDER DEVELOPMENT ACCORDING TO		NET DIFFERENCE
	PRESENT	PROPOSED	
BOD lb/year	3949	2664	1285
Total Phosphorus lb/year	152	105	47
Total Nitrogen lb/year	1300	1056	244
Lead lb/year	70.5	11.2	59.3
Zinc lb/year	47.5	30.9	16.6
Sediment ton/year	27.9	5.6	22.3

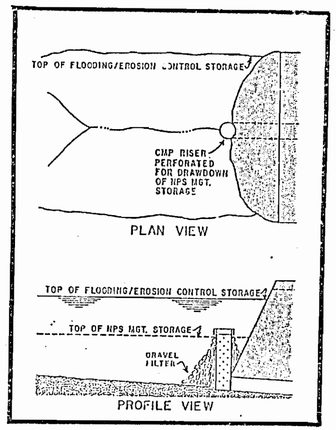

FIGURE 5-1 - DETENTION BASIN

SOURCE: NORTHERN VIRGINIA PLANNING DISTRICT COMMISSION, 1979

REFERENCES (CONT'D).

Maryland Department of Health, "Loch Raven Reservoir Watershed Sanitary Survey," 1970.

Maryland Department of State Planning, "Geology, Aquifers, and Minerals Technical Report," 1973.

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Northern Virginia Planning District Commission, 1979. Guidebook for Screening Urban Non-Point Pollution Management Strategies.

Occupational Safety and Health Administration, General Industry Standards, 29 CFR 1910, 1976.

"Report to the President and Congress on Noise" Senate Document 92-63, February, 1962.

U.S. Department of Agriculture, 1975. Standards and Specifications for Soil Erosion and Sediment Control in Developing Areas.

U.S. Department of Agriculture, Soil Conservation Service, Soil Survey - Baltimore County, Maryland.1976.

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Walker, Patrick N., 1971. Flow Characteristics of Maryland Streams. Report of Investigations No. 16, Maryland Geological Survey.

Wanielista, M.P., Yousef, Y.A., McLellon, W.M., "Nonpoint Source Effects on Water Quality", Jour. Water Pollution Control Federation, Vol. 49, p. 441, 1977.

Washington Suburban Sanitary Commission, 1976, Environmental Assessment of the Phase II expansion of the Western Branch Wastewater Treatment Plant, Prince George's County, Maryland.

extend up the upslope side of the dike a height of at least 8 inches measured vertically from the upslope toe and shall extend at least 7 feet upslope from the upslope toe. (6,9)

See Standard Drawing DD-1 for details.

Outlet

A. Diverted runoff from a protected or stabilized area shall outlet directly to an undisturbed stabilized area or into a level spreader or grade stabilization structure.

B. Diverted runoff from a disturbed or exposed upland area shall be conveyed to a sediment trapping device such as a sediment trap or a sediment basin or to an area protected by any of these practices.

Construction Specifications.

1. All dikes shall be machine compacted.

2. All diversion dikes shall have positive drainage to an outlet.

3. A. Diverted runoff from a protected or stabilized area shall outlet directly to an undisturbed stabilized area or into a level spreader or grade stabilization structure.

   B. Diverted runoff from a disturbed or exposed upland area shall be conveyed to a sediment trapping device such as a sediment trap or a sediment basin or to an area protected by any of these practices.

4. Stabilization, as specified by the plans, shall be: (1) in accordance with Standard and Specifications for Diversion, and the area to be stabilized shall be the channel (flow area); or (2) the flow area shall be lined with stone that meets MSHA size No. 2 or AASHTO M43 size No. 2 or 24 which is placed in a 3 inch thick layer and pressed into the soil. The area covered by the stone shall be as shown on Standard Drawing DD-1.

5. Periodic inspection and required maintenance shall be provided.

STANDARD AND SPECIFICATIONS

FOR

GRADE STABILIZATION STRUCTURE

(PIPE SLOPE DRAIN)

Definition

A flexible tubing and/or rigid pipe with prefabricated entrance section temporarily placed to extend from the top of a slope to the bottom of a slope.

Purpose

The purpose of the pipe slope drain is to convey surface runoff safely down slopes without causing erosion.

Conditions Where Practice Applies

Pipe slope drains are to be used where concentrated flow of surface runoff must be conveyed down a slope in order to prevent erosion. The maximum allowable drainage area shall be 5 acres.

Design Criteria

Pipe slope drains are to be sized as follows:

Size	Pipe/tubing Diameter, D, (in.)	Maximum Drainage Area (acres)
PSD-12	12	.5
PSD-18	18	1.5
PSD-21	21	2.5
PSD-24	24	3.5
PSD-30	30	5.0

Inlet

The height of the earth dike at the entrance to the pipe slope drain shall be equal to or greater than the diameter of the pipe, D, + 12". See Standard Drawings, GSS-2 and GSS-3 for details.

Outlet

The pipe slope drain shall outlet onto a riprap apron and then into a stabilized area or stable watercourse. A sediment trapping device shall be used to trap sediment from any sediment laden water conveyed by the pipe slope drain.

STANDARD AND SPECIFICATIONS

FOR

SEDIMENT BASIN

Definition

A temporary barrier or dam constructed across a waterway or at other suitable locations to intercept sediment-laden runoff and to trap and retain the sediment.

Scope

This standard applies to the installation of temporary sediment basins on sites where: (1) failure of the structure would not result in loss of life, damage to homes or buildings, or interruption of use or service of public roads or utilities; (2) the drainage area does not exceed 100 acres, and (3) the basin is to be removed within 36 months after the beginning of construction of the basin.

Permanent (to function more than 36 months) sediment basins, or temporary basins exceeding the classification requirements for Size 1 & 2, or structures that function as a sediment basin and later revert to a permanent pond shall be classified as permanent structures and shall conform to criteria appropriate for permanent structures. These structures shall be designed and constructed to conform to the Water Resources Law of Maryland, Title 8, Subtitle 8, (formerly Article 5A, Section 12), or SCS Engineering Memorandum MD-2 and MD SCS Standard and Specification No. 378. The total volume of permanent sediment basins shall equal or exceed the capacity requirements for temporary basins contained herein. (10,11)

For the purpose of this standard, sediment basins are classified as follows:

Classification of Temporary Sediment Basins

Size	Max. Drainage Area, acres	Max. Height 1/ of Dam, ft.	Min. Embankment Top Width, ft.	Embankment Side Slopes	Anti-Seep Collar Req'd
1	100	10	8	2:1 or flatter	See p.19.04
2	100	15	10	2-1/2:1 or flatter	Yes

1/ Height is measured from the low point of original ground along the centerline of dam to the top of the dam.

Shape of the Basin

The basin configuration shall be such that the effective flow length is equal to at least two times the effective flow width. (i.e., The length to width ratio shall equal 2.0 or greater.) This basin shape may be attained by selecting the basin site, by excavating the basin to the required shape or by the installation of one or more baffles. See the Appendix for the detailed procedures.

Spillway Design

Runoff shall be computed by the method outlined in Chapter 2, Estimating Runoff, "Engineering Field Manual for Conservation Practices" available in the Soil Conservation Service offices, or by other methods acceptable to the local jurisdiction. Runoff computations shall be based upon the soil-cover conditions expected to prevail in the contributing drainage area during the anticipated effective life of the structure. The combined capacities of the principal and emergency spillway shall be sufficient to pass the peak rate of runoff from a ten year frequency storm. (14)

1. Principal spillway - A spillway consisting of a vertical pipe or box type riser joined (watertight connection) to a pipe (barrel) which shall extend through the embankment and outlet beyond the downstream toe of the fill. The minimum capacity of the principal spillway shall be 0.2 cfs per acre of drainage area when the water surface is at the emergency spillway crest elevation. For those basins with no emergency spillway, the principal spillway shall have the capacity to handle the peak flow from a ten year frequency rainfall event. The minimum size of the barrel shall be 8 inches in diameter. See the Appendix for principal spillway sizes and capacities.

   a. Crest elevation - When used in combination with emergency spillways, the crest elevation of the riser shall be one foot below the elevation of the control section of the emergency spillway.

   b. Watertight riser - The riser shall be completely watertight except for the inlet opening at the top or a dewatering opening and shall not have any other holes, leaks, rips or perforations in it.

   c. Dewatering the basin - There are two stages of dewatering the basin: (1) the detention pool which is below the crest of the riser and above the surface of the trapped sediment, and (2) the sediment itself which will have a high water content to the point of being "soupy".

      (1) Means for dewatering the detention pool shall be provided in all basins except those basins used with surface mining, flyash or other special operations. Means for dewatering the pool shall be included in the sediment basin plans submitted for approval and shall be installed during construction of the basin.

Construction Specifications

1. The entrance section and the pipe inlet shall have a slope of 3% or steeper.

2. The top of the earth dike over the inlet pipe and those dikes carrying water to the pipe shall be at least 1 foot higher at all points than the top of the inlet pipe.

3. The inlet pipes shall be corrugated metal pipe with watertight connecting bands.

4. The flexible tubing shall be the same diameter as the inlet pipe and shall be constructed of a durable material with hold-down grommets spaced 10' on centers.

5. The flexible tubing shall be securely fastened to the corrugated metal pipe with metal strapping or watertight connecting collars.

6. The flexiole tubing shall be securely anchored to the slope by staking at the grommets provided.

7. A riprap apron shall be provided at the outlet. This shall consist of 6" diameter stone placed as shown on Standard Drawings GSS-2 and GSS-3.

8. The soil around and under the inlet pipe and entrance section shall be hand tamped in 4" lifts to the top of the earth dike.

9. Follow-up inspection and any needed maintenance shall be performed after each storm.

Purpose

The purpose of a Sediment Basin is to intercept sediment-laden runoff and reduce the amount of sediment leaving the disturbed area in order to protect drainage ways, properties, and rights-of-way below the sediment basin from sedimentation.

Conditions Where Practice Applies

A sediment basin applies where physical site conditions or land ownership restrictions preclude the installation of erosion control measures to adequately control runoff, erosion, and sedimentation. It may be used below construction operations which expose critical areas to soil erosion. It remains in effect until the disturbed area is protected against erosion by permanent stabilization.

Design Criteria For Temporary Sediment Basins

Compliance with Laws and Regulations

Design and construction shall comply with state and local laws, ordinances, rules and regulations.

Location

The sediment basin should be located to obtain the maximum storage benefit from the terrain and for ease of cleanout of the trapped sediment. It should be located to minimize interference with construction activities and construction of utilities.

Size of the Basin

The volume of the sediment basin, as measured from the bottom of the basin to the elevation of the crest of the principal spillway shall be at least 67 cubic yards per acre of total drainage area (0.5 watershed inches). (12,13)

Sediment basins shall be cleaned out when the volume as described above is reduced by sedimentation to 27 cubic yards per acre of drainage area (0.2 watershed inches), except in no case shall the sediment level be permitted to build up higher than one foot below the principal spillway crest. This cleanout shall restore the original design volume to the sediment basin. The elevation corresponding to the maximum allowable sediment level shall be determined and shall be stated in the design data as a distance below the top of riser and shall be clearly marked on the riser.

The basin dimensions necessary to obtain the required basin volume as stated above shall be clearly shown on the plans to facilitate plan review, construction and inspection.

Dewatering shall be done in such a manner as to remove the relatively clean water without removing any of the sediment that has settled out and without removing any appreciable quantities of floating debris. Usually the detention pool may be dewatered by making a hole in the riser unless otherwise required by the approving agency. This hole shall not be larger than four inches in diameter and the lower edge of the hole shall not be lower than the required sediment cleanout elevation. For other methods of automatically dewatering the detention pool, see the Appendix.

(2) Dewatering the sediment is not required but does facilitate cleanout of the basin. The only practical means of doing this is by the use of an underdrain. Details of an acceptable underdrain system is given in the Appendix.

d. Anti-vortex device and trash rack - An anti-vortex device and trash rack shall be securely installed on top of the riser and shall be the concentric type as shown in the Appendix.

e. Base - The riser shall have a base attached with a watertight connection and shall have sufficient weight to prevent flotation of the riser. Two approved bases for risers ten feet or less in height are: (1) A concrete base 18" thick with the riser imbedded 6" in the base. (2) A 1/4" minimum thickness steel plate attached to the riser by a continuous weld around the circumference of the riser to form a watertight connection. The plate shall have 2.5 feet of stone, gravel, or tamped earth placed on it to prevent flotation. In either case, each side of the square base shall be twice the riser diameter. For risers greater than ten feet high computations shall be made to check flotation. The minimum factor of safety shall be 1.25 (Downward forces = 1.25 x upward forces).

f. Anti-seep collars - Anti-seep collars shall be installed around the pipe conduit within the normal saturation zone to increase the seepage length at least 10% when any of the following conditions exist:

(1) The settled height of dam exceeds 10 ft., or

(2) The embankment material has a low silt-clay content (Unified Soil Class. SM or GM) and the pipe diameter is 10 inches or greater.

The phreatic line may be approximated with a line drawn downward on a 4:1 slope from the intersection of the normal pool (corresponding to the top of the riser and the upstream face of the embankment.) The seepage length is the length of the flow path of a particle of water along the conduit from the riser to the point of intersection between the approximate phreatic line and

the invert of the pipe conduit. When anti-seep collars are used, the equation for revised seepage length becomes:

$L_s + 2nV \geq 1.1\ L_s$ or $n \geq \frac{.05L_s}{V}$

Where: L_s = Saturated length is length, in feet, of pipe between riser and intersection of phreatic line and pipe invert.

n = number of anti-seep collars.

V = vertical projection of collar from pipe, in feet.

See the Appendix for anti-seep collar design.

The anti-seep collar and its connection to the pipe shall be watertight. The maximum spacing, in feet, between collars shall be 14 times the minimum projection of the collar measured perpendicular to the pipe. The anti-seep collar(s) shall be located below the phreatic line in the embankment and should be equally spaced. They shall not be located closer than two feet to a pipe joint. There shall be sufficient distance between collars to allow space for the hauling and compacting equipment.

g. Outlet - An outlet shall be provided including a means of conveying the discharge in an erosion-free manner to an existing stable stream. Drainage easements shall be obtained if this discharge crosses the property line before reaching the stream. These easements shall be in writing, shall be referenced on the sediment basin plan and shall be submitted for review along with the sediment basin plan. Protection against scour at the discharge end of the pipe spillway shall be provided. Measures may include impact basin, riprap, revetment, excavated plunge pools, or other approved methods. See the Standard and Specifications for Storm Drain Outlet Protection.

2. Emergency spillways - Emergency spillways shall not be constructed on fill. The emergency spillway cross-section shall be trapezoidal with a minimum bottom width of eight feet.

a. Capacity - The minimum capacity of the emergency spillway shall be that required to pass the peak rate of runoff from the 10-year frequency storm, less any reduction due to flow in the pipe spillway. Emergency spillway dimensions may be determined by using the method in the Appendix.

b. Velocities - The velocity of flow in the exit channel shall not exceed 6 ft. per second for vegetated channels. For channels with erosion protection other than vegetation, velocities shall be within the non-erosive range for the type of protection used.

STANDARD AND SPECIFICATIONS

FOR

CRITICAL AREA STABILIZATION
(With Temporary Seeding)

Definition

Planting short-term vegetation on critical areas.

Purpose

To stabilize the soil; to reduce damages from sediment and runoff to downstream areas; improve wildlife habitat; enhance natural beauty.

Conditions Where Practice Applies

On graded or cleared areas which are subject to erosion for a year or less; permanent structures are to be installed or extensive grading of the area will be done prior to establishment of permanent vegetation.

SPECIFICATIONS

I. Site Preparation

A. Prior to seeding, install needed erosion control practices such as diversions, grade stabilization structures, berms, dikes, level spreaders, grassed waterways, and sediment basins.

B. Final grading and shaping has usually not been completed for temporary seedings.

II. Soil Amendments

For temporary seedings, fertilizer shall be applied at the rate of 600 lbs/ac. or 15 lbs/1000 sq. ft., using 10-20-10 or equivalent. Soils which are known to be highly acid should be limed.

III. Seedbed Preparation

When the area to be seeded has been recently loosened to the extent that an adequate seedbed exists, no additional treatment is required.

However, when the area to be seeded is packed, crusted, and hard, the top layer of soil shall be loosened by discing, raking or other acceptable means before seeding.

1. Peg and Twine - Drive 8 to 10-inch wooden pegs to within 2 to 3 inches of the soil surface every 4 feet in all directions. Stakes may be driven before or after applying mulch. Secure mulch to soil surface by stretching twine between pegs in a criss-cross within a square pattern. Secure twine around each peg with two or more round turns.

2. Mulch Nettings - Staple lightweight biodegradable paper, plastic or cotton nettings over the mulch according to manufacturer's recommendations. Netting is usually available in rolls 4 feet wide and up to 300 feet long.

3. Mulch Anchoring Tool (not a disc) - A tractor drawn implement designed to punch and anchor mulch into the surface 2 inches of soil. This practice affords maximum erosion control but is limited to flatter slopes where equipment can operate safely. Tracking - primarily used on steeper than 3:1 cut and fill slopes to cut the mulch into the soil with cleated bulldozer tracks.

4. Liquid Mulch Binders
Applications of liquid binders should be heavier at edges where wind catches mulch, in valleys, and at crests of banks. Remainder of area should be uniform in appearance. Caution should be used with asphalt in residential and similar areas.

a. Cutback asphalt - Rapid curing (RC-70, RC-250, and RC-800) or medium curing (MC-250 or MC-800). Apply 5 gallons per 1,000 sq. ft. or 218 gallons per acre on flat areas, and on slopes less than 8 feet high. On slopes 8 feet or more high, use 8 gallons per 1,000 sq. ft. or 348 gallons per acre.

b. Emulsified asphalt - (SS-1, CSS-1, CMS-2, MS-2, RS-1, HS-2, CRS-1, and CRS-2). Apply 5 gallons per 1,000 sq. ft. or 218 gallons per acre on flat areas and on slopes less than 8 feet high. On slopes 8 ft. or more high, use 8 gallons per 1,000 sq. ft. or 348 gallons per acre.

All asphalt designations are from the Asphalt Institute Specifications.

c. Synthetic binders - Synthetic binders such as Curasol, DCA-70, Petroset and Terra Tack may be used at rates recommended by the manufacturer to anchor mulch material.

Note: All names given above are registered trade names. This does not constitute a recommendation of these products to the exclusion of other products.

References

1. USDA, Soil Conservation Service Field Office Technical Guides.

2. Maryland State Highway Administration Specifications.

Note: Maryland Water Resources Administration has developed an Audiovisual Training Program, "Temporary Soil Stabilization", which relates to this subject.

2. Asphalt emulsion or cutback asphalt at 600 to 1,200 gallons per acre. This is suitable for a limited period of time where travel by people, animals or machines is not a problem.

3. Synthetic soil stabilizers may be used according to manufacturers recommendations--under suitable conditions.

4. Mulch nettings such as jute or excelsior blanket may be used. Staple to surface in waterways and on steep slopes. Lighter materials of paper, plastic and cotton mulch nettings may be used where erosion hazard is not severe. If area is to be mowed, do not use metal staples.

5. Wood chips at the rate of approximately 6 tons per acre or 275 lbs. per 1,000 sq. ft. may be used when available and when feasible to use.

6. Crushed rock, stones, gravel or shale blankets. Apply at rate of 20 to 100 tons per acre or 900 to 4,500 lbs. per 1,000 sq. ft. with coarsest material applied at the highest rate.

B. Mulch anchoring shall be accomplished immediately after mulch placement to minimize loss by wind or water. This may be done by one of the following methods, depending upon size of area, erosion hazard, and cost. On sloping land, practice No. 3 below, should be done on the contour wherever possible. Applies to straw and to wood chips on more critical sites, except "tracking" should be done up and down the slope with 1-1/2" cleats making grooves across the slope.

1. Peg and Twine - Drive 8 to 10-inch wooden pegs to within 2 to 3 inches of the soil surface every 4 feet in all directions. Stakes may be driven before or after applying mulch. Secure mulch to soil surface by stretching twine between pegs in a criss-cross within a square pattern. Secure twine around each peg with two or more round turns.

2. Mulch Nettings - Staple lightweight biodegradable paper, plastic or cotton netting over the mulch according to manufacturer's recommendations. Netting is usually available in rolls 4 feet wide and up to 300 feet long.

3. Mulch Anchoring Tool - (not a disc) - A tractor drawn implement designed to punch and anchor mulch into the surface 2 inches of soil. This practice affords maximum erosion control but is limited to flatter slopes where equipment can operate safely, primarily used on steeper than 3:1 cut and fill slopes to cut the mulch into the soil with bulldozer cleats.

c. Erosion protection - Erosion protection shall be provided for by vegetation as prescribed in this publication or by other suitable means such as riprap, asphalt or concrete.

d. Freeboard - Freeboard is the difference between the design high water elevation in the emergency spillway and the top of the settled embankment. If there is no emergency spillway it is the difference between the water surface elevation required to pass the design flow through the pipe and the top of the settled embankment. The freeboard shall be at least one foot.

Embankment Cross-Section

Size 1 Basins - The minimum top width shall be eight feet. The side slopes shall not be steeper than 2:1.

Size 2 Basins - The minimum top width shall be ten feet. The side slopes shall not be steeper than 2-1/2:1.

Entrance of Runoff Into Basin

Points of entrance of surface runoff into excavated sediment basins shall be protected to prevent erosion. Diversions, grade stabilization structures or other water control devices shall be installed as necessary to insure direction of runoff and protect points of entry into the basin. Points of entry should be located so as to insure maximum travel distance of entering runoff to point of exit (the riser) from the basin.

Disposal

The sediment basin plans shall indicate the method(s) of disposing of the sediment removed from the basin. The sediment shall be placed in such a manner that it will not erode from the site. The sediment shall not be deposited downstream from the basin or in or adjacent to a stream or floodplain.

The sediment basin plans shall also show the method of disposing of the sediment basin after the drainage area is stabilized, and shall include the stabilizing of the sediment basin site. Water lying over the trapped sediment shall be removed from the basin by pumping, cutting the top of the riser or other appropriate method prior to removing or breaching the embankment. Sediment shall not be allowed to flush into the stream or drainageway.

Safety

Sediment basins are attractive to children and can be very dangerous. Therefore, they shall be fenced or otherwise made inaccessible to persons or animals unless this is deemed unnecessary due to the remoteness of the site or other circumstances. In any case, local ordinances and regulations regarding health and safety must be adhered to.

IV. Seeding

A. Select a mixture from Table 50-1.

B. Apply seed uniformly with a cyclone seeder, drill, cultipacker seeder or hydroseeder (slurry includes seed and fertilizer).

V. Mulching

When seedings are made on critical sites or adverse soil conditions, other than optimum seeding dates, mulch material will be applied immediately after seeding. Seedings made during optimum seeding dates and with favorable soils and site conditions will not need to be mulched.

A. Materials and Amounts

1. Straw - Material shall be unrotted small grain straw applied at the rate of 1-1/2 to 2 tons per acre, or 70 to 90 pounds per 1,000 sq. ft. Mulch materials shall be relatively free of all kinds of weeds and shall be free of prohibited noxious weeds which are: Canada thistle, Johnsongrass and quackgrass.

   Spread uniformly by hand or mechanically. For uniform distribution of hand spread mulch, divide area into approximately 1,000 sq. ft. section and place 70-90 lbs. of mulch in each section..

2. Wood-fiber or paper-fiber mulch at the rate of 1,500 pounds per acre or 35 pounds per 1,000 sq. ft. may be applied by hydroseeding. Use is limited to <3% and <150' length of slope and during optimum seeding periods in spring and fall.

3. Mulch nettings such as jute or excelsior blanket may be used. Staple to surface in waterways and on steep slopes. Lighter materials of paper, plastic and cotton mulch nettings may be used where erosion hazard is not severe. If area is to be mowed, do not use metal staples.

4. Wood chips at the rate of approximately 6 tons per acre or 275 lbs. per 1,000 sq. ft. may be used when available and when feasible to use.

B. Mulch anchoring shall be accomplished immediately after mulch placement to minimize loss by wind or water. This may be done by one of the following methods, depending upon size of area, erosion hazard, and cost. On sloping land, practice No. 3 below, should be done on the contour wherever possible, except "tracking" should be done up and down the slope with 1-1/2 inch cleat marks running across the slope.

TABLE 50-1

Temporary Seedings by Rates, Depths and Dates

Species 1/	Seeding Rate Per Acre	Seeding Rate Lbs/1000 sq. ft.	Planting Depth 2/ (Inches)	Seeding Dates 3/ COASTAL PLAIN 2/1-4/30	COASTAL PLAIN 5/1-8/14	COASTAL PLAIN 8/15-11/30	PIEDMONT 3/1-4/30	PIEDMONT 5/1-8/14	PIEDMONT 8/15-11/15	MOUNTAINS 3/15-5/31	MOUNTAINS 6/1-7/31	MOUNTAINS 8/1-10/31
Choose one: Barley	2-1/2 bu.	2.8	1-2	x	-	By 10/15	x	-	By 10/15	x	-	By 10/1
Oats	3 bu.	2.2	1-2	x	-	-	x	-	-	x	-	-
Rye	2-1/2 bu.	3.2	1-2	x	-	x	x	-	-	x	-	x
Italian or perennial ryegrass 1/	40 lbs.	.92	1/4-1/2	x	-	By 11/1	x	-	By 11/1	x	-	By 8/15
Millet	40 lbs.	.92	1-2	-	x	-	-	x	-	-	x	-
Weeping Bor. or Lehmann's lovegrass	3 lbs.	.07	1/4-1/2	-	x	-	-	x	-	-	x	-
Sudangrass 4/	40 lbs.	.92	1-2	-	x	-	-	x	-	-	x	-

1/ Use only on areas where seed stalks and volunteer growth are acceptable.
2/ Applicable on slopes 3:1 or less.
3/ Use varieties currently recommended for Maryland. Use certified seed when available.
4/ Use common sudangrass varieties only. Do not use hybrids.
5/ Twenty pounds per acre of annual lespedeza may be added to 1/2 the seeding rate of any species used for spring seedings.
6/ Between fall and spring seeding dates, use mulching only or sodding practices.
x - Applicable during entire period.
- Not applicable in period.

STANDARD AND SPECIFICATIONS

FOR

CRITICAL AREA STABILIZATION
(With Mulching Only)

Definition

Applying plant residues or other suitable materials not produced on the site to the soil surface.

Purpose

To conserve moisture; prevent surface compaction or crusting; reduce runoff and erosion; control weeds; and help establish plant cover.

Conditions Where Practice Applies

On graded or cleared areas (not to finished condition) which are subject to erosion for 6 months or less; where seedings may not have a suitable growing season to produce an erosion retardant cover, but which can be stabilized with a mulch cover.

SPECIFICATIONS

I. Site Preparation

A. Prior to mulching, install needed erosion control practices such as diversions, grade stabilization structures, berms, dikes, level spreaders, grassed waterways and sediment basins.

B. Final grading is not required prior to mulching. However, mulching may be applied after final grade is reached.

II. Mulching

A. Materials and Amounts

1. Straw - Straw shall be unrotted small grain straw applied at the rate of 1-1/2 to 2 tons per acre, or 70 to 90 pounds per 1,000 sq. ft. Mulch materials shall be relatively free of all kinds of weeds and shall be free of prohibited noxious weeds which are: Canada thistle, Johnsongrass and quackgrass.

   Spread uniformly by hand or mechanically. For uniform distribution of hand spread mulch, divide area into approximately 1,000 sq. ft. section and place 70-90 lbs. of mulch in each section.

4. Liquid Mulch Binders

Applications of liquid binders should be heavier at edges where wind catches mulch, in valleys, and at crests of banks. Remainder of area should be uniform in appearance. Caution should be used with asphalt in residential and similar areas.

a. Cutback asphalt - rapid curing (RC-70, RC-250 and RC-800) or medium curing (MC-250 or MC-800). Apply 5 gallons per 1,000 sq. ft. or 200 gallons per acre on flat areas and on slopes less than 8 feet high. On slopes 8 feet or more high, use 8 gallons per 1,000 sq. ft. or 348 gallons per acre.

b. Emulsified asphalt - (SS-1, CSS-1, CMS-2, MS-2, RS-1, RS-2, CRS-1, and CRS-2). Apply 5 gallons per 1,000 sq. ft. or 200 gallons per acre on flat areas and on slopes less than 8 feet high. On slopes 8 ft. or more high, use 8 gallons per 1,000 square feet or 348 gallons per acre.

   All asphalt designations are from the Asphalt Institute Specifications.

c. Synthetic binders - Synthetic binders such as Curasol, DCA-70, Petroset and Terra Tack may be used at rates recommended by the manufacturer to anchor mulch material.

   Note: All names given above are registered trade names. This does not constitute a recommendation of these products to the exclusion of other products.

References

1. USDA - Soil Conservation Service Field Office Technical Guides.

2. Mulches for Wind and Water Erosion Control, USDA, ARS 41-84, July 1963.

3. Applied Mulches and Mulching, USDA, ARS Special Report, ARS 22-71, August 1961.

Note: Maryland Water Resources Administration has developed an audiovisual program, "Temporary Soil Stabilization", which relates to this subject.

STANDARD AND SPECIFICATIONS

FOR

CRITICAL AREA STABILIZATION
(With Permanent Seedings)

Definition

Planting vegetation such as grasses and legumes on critical areas.

Purpose

To stabilize the soil; to reduce damages from sediment and runoff to downstream areas; improve wildlife habitat; enhance natural beauty.

Conditions Where Practices Apply

Graded or cleared areas subject to erosion and where a permanent, long-lived vegetative cover is needed.

SPECIFICATIONS

Vegetation cannot be expected to provide an erosion control cover and prevent soil slippage on a soil that is not stable due to its texture, structure, water movement or excessive slope.

Minimum soil conditions needed for the establishment and maintenance of a long-lived vegetative cover:

A. Enough fine-grained materials (over 30 percent silt plus clay) to provide the capacity to hold at least a moderate amount of available moisture. Noticeable exception would be planting lovegrass and sericea lespedeza which can be planted on a sandier soil.

B. Sufficient pore space to permit adequate root penetration.

C. The soil shall be free from any material harmful to plant growth.

D. If these minimum conditions cannot be met, see specification, Topsoiling (57.01).

V. Mulching

A. Materials and Amounts

1. Straw - Straw shall be unrotted small grain straw applied at the rate of 1-1/2 to 2 tons per acre, or 70 to 90 pounds per 1,000 sq. ft. Mulch materials shall be relatively free of all kinds of weeds and shall be free of prohibited noxious weeds which are: Canada thistle, Johnsongrass and quackgrass.

   Spread uniformly by hand or mechanically. For uniform distribution of hand spread mulch, divide area into approximately 1,000 sq. ft. section and place 70-90 lbs. of mulch in each section.

2. Wood-fiber or paper-fiber mulch at the rate of 1,500 pounds per acre or 35 pounds per 1,000 sq. ft. may be applied by hydroseeding. Use is limited to < 3% and < 150' length of slope and during optimum seeding periods in spring and fall.

3. Mulch nettings such as jute or excelsior blanket may be used. Staple to surface in waterways and on steep slopes. Lighter materials of paper, plastic and cotton mulch nettings may be used where erosion hazard is not severe. If area is to be mowed, do not use metal staples.

4. Wood chips at the rate of approximately 6 tons per acre or 275 lbs. per 1,000 sq. ft. may be used when available and when feasible to use. Particularly well-suited for utility and road rights-of-way.

B. Mulch anchoring shall be accomplished immediately after mulch placement to minimize loss by wind or water. This may be done by one of the following methods, depending upon size of area, erosion hazard, and cost. On sloping land, practice No. 3 below, should be done on the contour wherever possible. Applies to all straw and to wood chips or more critical sites, except "tracking" should be done up and down the slope with 1-1/2 inch cleat marks running across the slope.

1. Peg and Twine - Drive 8 to 10-inch wooden pegs to within 2 to 3 inches of the soil surface every 4 feet in all directions. Stakes may be driven before or after applying mulch. Secure mulch to soil surface by stretching twine between pegs in a criss-cross within a square pattern. Secure twine around each peg with two or more round turns.

2. Mulch Nettings - Staple lightweight biodegradable paper, plastic or cotton nettings over the mulch according to manufacturer's recommendations. Netting is usually available in rolls 4 feet wide and up to 300 feet long.

VII. Maintenance

Maintenance is a vital factor in maintaining an adequate vegetative erosion control cover. See Table 51-2.

A. Irrigation - If soil moisture becomes deficient, irrigate to prevent loss of stand of protective vegetation, if feasible.

B. Repairs - Inspect all seed areas for failures and make necessary repairs, replacements, and reseedings within the planting season, if possible.

1. If stand is inadequate for erosion control, overseed and fertilize using half of the rates originally applied.

2. If stand is over 60% damaged, reestablish following original lime, fertilizer, seedbed preparation and seeding recommendations.

References

1. Lawn Care in Maryland, Bulletin 171; Cooperative Extension Service, University of Maryland, College Park, Maryland.

2. Maryland State Highway Administration Specifications for Materials.

3. USDA - Soil Conservation Service Field Office Technical Guides.

Note: Maryland Department of Water Resources has developed an audiovisual training program, "Plant Materials and Vegetative Soil Stabilization", which relates to this practice.

I. Site Preparation

A. Install needed erosion control practices such as interceptor dikes, berms and spreaders, contour ripping, erosion stops, channel liners and sediment basins.

B. Grade as needed and feasible to permit the use of conventional equipment for seedbed preparation, seeding, mulch application, anchoring and maintenance.

II. Seedbed Preparation

Flat areas and slopes up to 3 to 1 grade shall be loose and friable to a depth of at least 3 inches. The top layer of soil shall be loosened by raking, discing or other acceptable means before seeding.

Slopes steeper than 3 to 1 shall have the top 1-3 inches of soil loose and friable before seeding.

III. Soil Amendments

Lime and fertilize according to soil tests. Lime and fertilizer needs can be determined by a soil testing laboratory, such as the University of Maryland's Soil Testing Laboratory.

In lieu of soil test results, apply 2 tons dolomitic limestone and 600 pounds 0-20-20, or equivalent per acre before seeding. Harrow or disc lime and 0-20-20, or equivalent fertilizer uniformly into the soil to minimum depth of 3 inches on slopes flatter than 3 to 1. On slopes of greater than 3 to 1 grade, the lime and fertilizer shall be worked in as directed by the contracting officer. On sloping land, the final harrowing or discing operation should be on the contour wherever feasible. No attempt should be made to drag any disced area to make the soil surface very smooth after discing. At time of seeding, apply 400 pounds 38-0-0 ureaform fertilizer and 500 pounds 10-20-20, or equivalent fertilizer per acre. For mixtures containing perennial legumes, the 500 pounds of 10-20-20 may be omitted.

IV. Seeding

A. Select a mixture from table 51-1.

B. Apply seed uniformly with a cyclone seeder, drill, cultipacker seeder or hydroseeder (slurry includes seed and fertilizer) on a firm, moist seedbed. Maximum seeding depth should be 1/4 inch on clayey soils and 1/2 inch on sandy soils, when using other than hydroseeder method of application.

3. Mulch Anchoring Tool - A tractor drawn implement designed to punch and anchor mulch into the surface 2 inches of soil. This practice affords maximum erosion control but is limited to flatter slopes where equipment can operate safely. Tracking - primarily used on > 3:1 cut and fill slopes to cut the mulch into the soil with bulldozer cleats.

4. Liquid Mulch Binders

Applications of liquid binders should be heavier at edges where wind catches mulch, in valleys, and at crests of banks. Remainder of area should be uniform in appearance. Caution should be used with asphalt in residential and similar areas.

a. Cutback asphalt - rapid curing (RC-70, RC-250, and RC-800) or medium curing (MC-250 or MC-800). Apply 5 gallons per 1,000 sq. ft. or 200 gallons per acre on flat areas, and on slope less than 8 feet high. On slopes 8 feet or more high, use 8 gallons per 1,000 sq. ft. or 348 gallons per acre.

b. Emulsified asphalt - (SS-1, CSS-1, CMS-2, MS-2, RS-1, RS-2, CRS-1, and CRS-2). Apply 5 gallons per 1,000 sq. ft. or 200 gallons per acre on flat areas and on slopes less than 8 feet high. On slopes 8 feet or more high, use 8 gallons per 1,000 sq. ft. or 348 gallons per acre.

All asphalt designations are from the Asphalt Institute Specifications.

c. Synthetic binders - Synthetic binders such as Curasol, DCA-70, Petroset and Terra Tack may be used at rates recommended by the manufacturer to anchor mulch material.

Note: All names given above are registered trade names. This does not constitute a recommendation of these products to the exclusion of other products.

VI. Irrigation

If soil moisture is deficient, supply new seedings with adequate water for plant growth until they are firmly established, if feasible. This is especially true when seedings are made late in the planting season, in abnormally dry or hot seasons, or on adverse sites.

TABLE 51-1
Permanent Seedings and Seeding Dates,

Mix. No.	SEEDING MIXTURES (Use Certified Seed If Available)	SEEDING RATE Lbs/1,000 sq. ft.	Lbs/Acre	COASTAL PLAIN 2/1-4/30	8/15-9/30	PIEDMONT 2/1-4/30	8/15-9/30	MOUNTAINS 2/1-4/30	8/15-9/30
1.	'Kentucky 31' Tall Fescue *	60	1.38	x	x	x	x	x	x
2.	'Kentucky 31' Tall Fescue * Weeping Lovegrass (a)	60 2	1.38 .05	- x	-	- x	-	- x	-
3.	'Kentucky 31' Tall Fescue * 'Lorain' Birdsfoot Trefoil (b) Inoculated	50 15	1.15 .34	x	-	x	-	-	-
4.	'Kentucky 31' Tall Fescue * Serica Lespedeza (b) Inoculated	40 20	.92 .46	x	-	x	-	x	-
5.	'Kentucky 31' Tall Fescue Birdsfoot Trefoil, Inoculat.	40 10	.92 .23	-	-	-	-	- 2500' elev. & above	-
6.	Crownvetch, Inoculated	15	.34	x	-	x	-	x	-
7.	Crownvetch, Inoculated 'Kentucky 31' Tall Fescue *	15 40	.46 .92	x	-	x	-	x	-
8.	Drainage Areas 'Kentucky 31' Tall Fescue * Redtop	30 5	.69 .11	- x	-	- x	-	- x	-
9.	Weeping lovegrass Serica Lespedeza (b) Inoculated	2 20	.05 .46	x	-	x	-	x	-
10.	Poorly Drained Areas Kentucky 31 Tall Fescue *	30	.69	x	-	x	-	x	-
11.	Reed canarygrass	10	.23	x	-	x	-	x	-
12.	Shaded Areas 'Pennlawn' Tall Fescue *	60	1.38	- x	-	- x	-	- x	-
13.	Red Fescue 'Jamestown' or 'Pennlawn'	40	.92	x	x	x	x	x	x
14.	Lawn & High Maintenance Areas 'Fylking' Kentucky Bluegrass, 'Park' Kentucky Bluegrass (d) Red Fescue 'Pennlawn' or 'Jamestown'	40 20 30	.92 .46 .69	x	-	x	-	x	-
15.	'Kentucky 31' Tall Fescue (g)	220-260	5-6	x	x (f)	x	x (f)	x	x (f)

* Use certified seed only

Footnotes - Table 51-1

Permanent Seedings and Seeding Dates (continued)

(a) Use Weeping lovegrass to provide a stand of grass for erosion control during summer.

(b) Use hulless seed.

(c) Preferable to seed in fall with seed from current year's crop.

(d) 'South Dakota' certified or 'Kenblue' Kentucky bluegrass are the only acceptable varieties for use in these areas.

(e) Mixtures 1,3,4,5,6,7,8,10,11,12,13 and 14 may be seeded during winter months in an emergency if 2 tons per acre of a well-anchored mulch is used.

(f) Can be seeded during this period if irrigation water is used. Use 2 tons per acre of mulch.

(g) Can use 10 percent Kentucky bluegrass.

Notes: 1. Scientific names of these plants are in appendix B-1.01 and B-1.02.

2. Approved State Highway Administration Mixtures may be used.

STANDARD AND SPECIFICATIONS

FOR

CRITICAL AREA STABILIZATION
(With Sod)

Definition

Stabilizing silt-producing areas by establishing long-term stands of grass with sod.

Purpose

To stabilize the soil; reduce damage from sediment and runoff to downstream areas; enhance natural beauty.

Conditions Where Practice Applies

On exposed soils that have a potential for causing off-site environmental damage where a quick vegetative cover is desired; on sites which can be maintained with ground equipment. (2:1 or flatter slopes)

SPECIFICATIONS

1. Class of turfgrass sod shall be Maryland or Virginia State Certified, or Maryland or Virginia State approved sod.

2. Sod shall be machine cut at a uniform soil thickness of 3/4 inch, plus or minus 1/4 inch, at the time of cutting. Measurement for thickness shall exclude top growth and thatch.

3. Standard size sections of sod shall be strong enough to support their own weight and retain their size and shape when suspended vertically from a firm grasp on the upper 10% of the section.

4. Individual pieces of sod shall be cut to the suppliers width and length. Maximum allowable deviation from standard widths and lengths shall be 5%. Broken pads and torn or uneven ends will not be acceptable.

5. Sod shall not be harvested or transplanted when moisture content (excessively dry or wet) may adversely affect its survival.

6. Sod shall be harvested, delivered and installed within a period of 36 hours. Sod not transplanted within this period shall be inspected and approved by the contracting officer or his designated representative prior to its installation.

III. Sod Maintenance

A. In the absence of adequate rainfall, watering shall be performed daily or as often as deemed necessary by the inspector during the first week and in sufficient quantities to maintain moist soil to a depth of 4 inches. Watering should be done during the heat of the day to help prevent wilting.

B. After the first week, sod shall be watered as necessary to maintain adequate moisture and insure establishment.

C. First mowing should not be attempted until sod is firmly rooted. No more than 1/3 of the grass leaf shall be removed by the initial cutting or subsequent cuttings. Grass height shall be maintained between 2 and 3 inches unless otherwise specified.

D. Maintenance of established sod should follow specifications outlined in table 54-1.

References

1. Guideline Specifications, Soil Preparation and Sodding. MD-VA. Pub. #1. Cooperative Extension Service, University of Maryland-Virginia Polytechnic Institute. Revised 1973.

2. Guideline Specifications for Sodding. American Sod Producers Association, Inc. New Brunswick, N. J.

3. USDA, Soil Conservation Service Field Office Technical Guides.

Note: Maryland Water Resources Administration has developed an Audiovisual Training Program, "Vegetative Soil Stabilization", which relates to this subject.

Maryland Forest Service
Annapolis, Maryland

STANDARD AND SPECIFICATIONS

FOR

PROTECTION OF TREES IN URBANIZING AREAS

Definition

Protection of desirable trees from mechanical and other injury while the land is being converted from agricultural to urban use.

Purpose

To employ the necessary protective measures to insure the survival of desirable trees for shade, beautification and vegetative cover.

Conditions Where Practice Applies

On areas now occupied by single specimen trees or groups of trees.

A. Criteria for deciding upon the trees to leave:

1. Esthetic values: Consideration should be given to autumn foliage, flowering habits, bark and crown characteristics, and type of fruit.

2. Freedom from disease and rot.

3. Life span of trees: Some are considered short-lived trees.

4. Wind firmness: Virginia pine has a very shallow root system, and trees will blow over easily if they have been growing in a close stand.

5. Wildlife values: Oaks, hickories and dogwoods, etc. have a high food value.

6. Comfort index: Summer temperatures are generally ten degrees cooler under stands of hardwoods than pines or cedars.

7. Sudden exposure: to direct sunlight and ability to withstand radiated heat from proposed building and pavement.

8. Space needed: for future growth and relationship to structures, electric and telephone lines, water and sewer lines and driveways. Mark trees with bright paint or ribbon so there is no doubt as to which trees are to be left and protected from damage during construction.

References

1. Maryland Water Resources Administration Audiovisual Training Program, "Wooded Site Development."

2. Agricultural Information Bulletin 285, "Protecting Trees Against Damage from Construction Work", Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402 - 15¢ a copy.

3. Guidelines for the Control of Erosion and Sediment in Urban Areas of the Northeast, USDA, Soil Conservation Service, Upper Darby, Pa., 1970.

TABLE 51-2
Maintenance Fertilization for Permanent Seedings
Use Soil Test Recommendations or Rates Shown Below

Mixture No.	Seeding Mixtures	Formulation 10-10-10 or 38-0-0+ 0-20-20	Lbs. Per 1000 Sq. Ft. Time	Mowing
		Lbs. Per Acre	11.5	
1,2,3,7,8, 10,11	Tall fescue makes up 70% or more of cover.	500 400 250	Fall Yearly, or as needed 9.2 Yearly, or as needed 5.8	Mowing not closer than 3" if occasional mowing is desired.
4,5,6,7,9,	Crownvetch Sericea lespedeza Birdsfoot trefoil	0-20-20	400 9.2 Spring. Year following establishment and every 4-5 yrs. thereafter	Do not mow crownvetch.
4,5	Fairly uniform stand of tall fescue and sericea lespedeza, or birdsfoot trefoil.	5-10-10	500 11.5 Fall. Year following establishment and every 4-5 yrs. thereafter	Not required. Not closer than 4" if occasional mowing is desired, & then in fall after sericea seed has matured.
9	Weeping lovegrass & sericea lespedeza Fairly uniform plant distribution	5-10-10	500 11.5 Spring. Year following establishment and every 3-4 yrs. thereafter	Not required. Not closer than 4" if occasional mowing is desired, & then in fall after sericea seed has matured.
12,13,14	Red fescue; Kentucky bluegrass-red fescue mixture; Ky-31 tall fescue	20-10-10 250 5.8 20-10-10 250 5.8 20-10-10 250 2.3 20-10-10 100 needed	September 30 days later. Dec. 20-June 30, if	Mow no closer than 2" for red fescue & Ky. bluegrass; & no closer than 3" for tall fescue

Note: Fertilization schedule applies alike to mixtures 12, 13 and 14.

B. Criteria for protecting remaining trees:

1. Where existing ground levels are raised, drainage tiles will be placed at the old soil level and open into a well built around the base of the tree. This well can be left open or can be filled with coarse stones or gravel. Tiles may be installed in a radiating pattern or laid in parallel lines. The size of the well should be in proportion to diameter of tree and diameter of the radiating tiles. (Fig. 1)

2. Trees within 25 feet of a building site shall be boxed in to prevent mechanical injury. (Fig. 2)

3. Boards will not be nailed to trees during building operations. (Fig. 2)

4. Heavy equipment operators will be cautioned to avoid damage to existing tree trunks and roots during land leveling operations. Tunnel under root system when installing utility lines, if possible.

5. Tree trunks and exposed roots and limbs damaged during equipment operations, will be cared for as prescribed by a forester or licensed tree expert. (Fig. 1 & 2)

6. Wood chips when spread to a 6 inch depth can be used in wooded sites to help prevent soil compaction and damage to trees.

7. The use of heavy equipment on root systems of desirable trees should be avoided as much as possible to minimize soil compaction. All construction should be kept out of the drip line of protected trees.

8. Broad leaf trees should receive a heavy application of complete fertilizer to aid their recovery from possible damage caused by construction operations. Fertilization should be done during winter and/or early spring following completion of construction. It should be applied at the following rate: 2 to 4 lbs. of 10-6-4 for each diameter inch of trunk measured at 4-1/2 feet above ground line. Fertilizer should be applied in holes 1" in diameter 18" deep. Spaced about 2' apart at the drip line of the tree.

9. During the first two summers following construction, it is desirable that the trees receive adequate amounts of water. Do not overwater.

TABLE 54-1

Maintenance Fertilization for Permanent Sod
Use Soil Test Recommendations or Rates Shown Below

Seeding Mixtures	Formulation*	Lbs/Acre	Lbs/1000 sq.ft.	Time	Mowing
'Ky-31' tall fescue and) Kentucky bluegrass-) Red fescue mixture	20-10-10	250	6.75	Sept. 1 - Oct. 1 30 days later.	Mow no closer than 2 inches for bluegrass and 3 inches for fescues.
	20-10-10	250	6.75	December.	
	20-10-10	250	6.75	May 20 - June 30,	
	29-10-10	85	2.25	as needed.	
Bermudagrass, 'Tufcote'	20-10-10	200	5.00	May 1, July 1	1-2"
	0-10-10	200	5.00	August 15	

*Equivalent amounts of plant food may be applied with other formulations.

I. Site Preparation

Fertilizer and lime application rates shall be determined by soil tests. Under unusual circumstances where there is insufficient time for a complete soil test and the contracting officer agrees, fertilizer and lime materials may be applied in amounts shown under B. and C., below.

A. Prior to sodding, the surface shall be cleared of all trash, debris, and of all roots, brush, wire, grade stakes and other objects that would interfere with planting, fertilizing or maintenance operations.

B. Where the soil is acid or composed of heavy clays, ground limestone shall be spread at the rate of 100 pounds per 1,000 square feet. In all soils 30 pounds of 5-10-5, or equivalent, per 1,000 square feet shall be uniformly applied and mixed into the top 3 inches of soil with the required lime.

C. Slow release nitrogen at the rate of 3.5 lbs. N/1000 square feet shall be applied to the prepared soil just prior to sod installation. This material shall be approximately 1/3 immediately available and 2/3 water insoluble nitrogen. Urea formaldehyde (UF) and isobutylidene urea (IBDU) meet these standards.

II. Sod Installation

A. During periods of excessively high temperature the soil shall be lightly irrigated immediately prior to laying the sod.

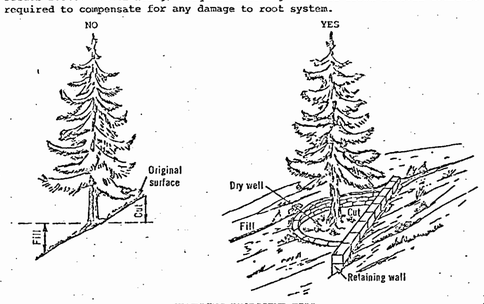
B. The first row of sod shall be laid in a straight line with subsequent rows placed parallel to and tightly wedged against each other. Lateral joints shall be staggered to promote more uniform growth and strength. Insure that sod is not stretched or overlapped and that all joints are butted tight in order to prevent voids which would cause air drying of the roots.

C. On sloping areas where erosion may be a problem, sod shall be laid with the long edges parallel to the contour and with staggered joints. Secure the sod by tamping and pegging or other approved methods.

D. As sodding is completed in any one section, the entire area shall be rolled or tamped to insure solid contact of roots with the soil surface. Sod shall be watered immediately after rolling or tamping until the underside of the new sod pad and soil surface below the sod are thoroughly wet. The operations of laying, tamping and irrigating for any piece of sod shall be completed within eight hours.

CUTS AND FILLS

Excessive cuts or fills can kill a tree in a few weeks by destroying shallow feeder roots. Fertilizing, frequent watering and tree crown removal could be required to compensate for any damage to root system.



HANDLING EXCESSIVE FILL

Minor fills to 6 or 8 inches composed of noncompacted loamy topsoil material high in organic matter usually do not harm trees. Major fills will require drain tile on top of original surface and other treatment.

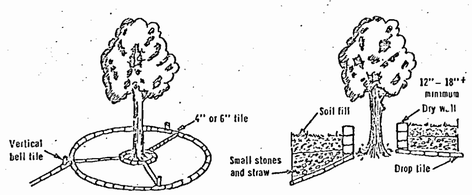
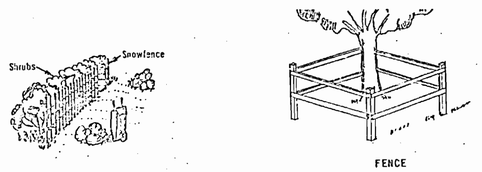
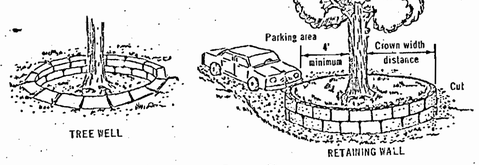


Figure 1

METHODS OF PROTECTION



Temporary

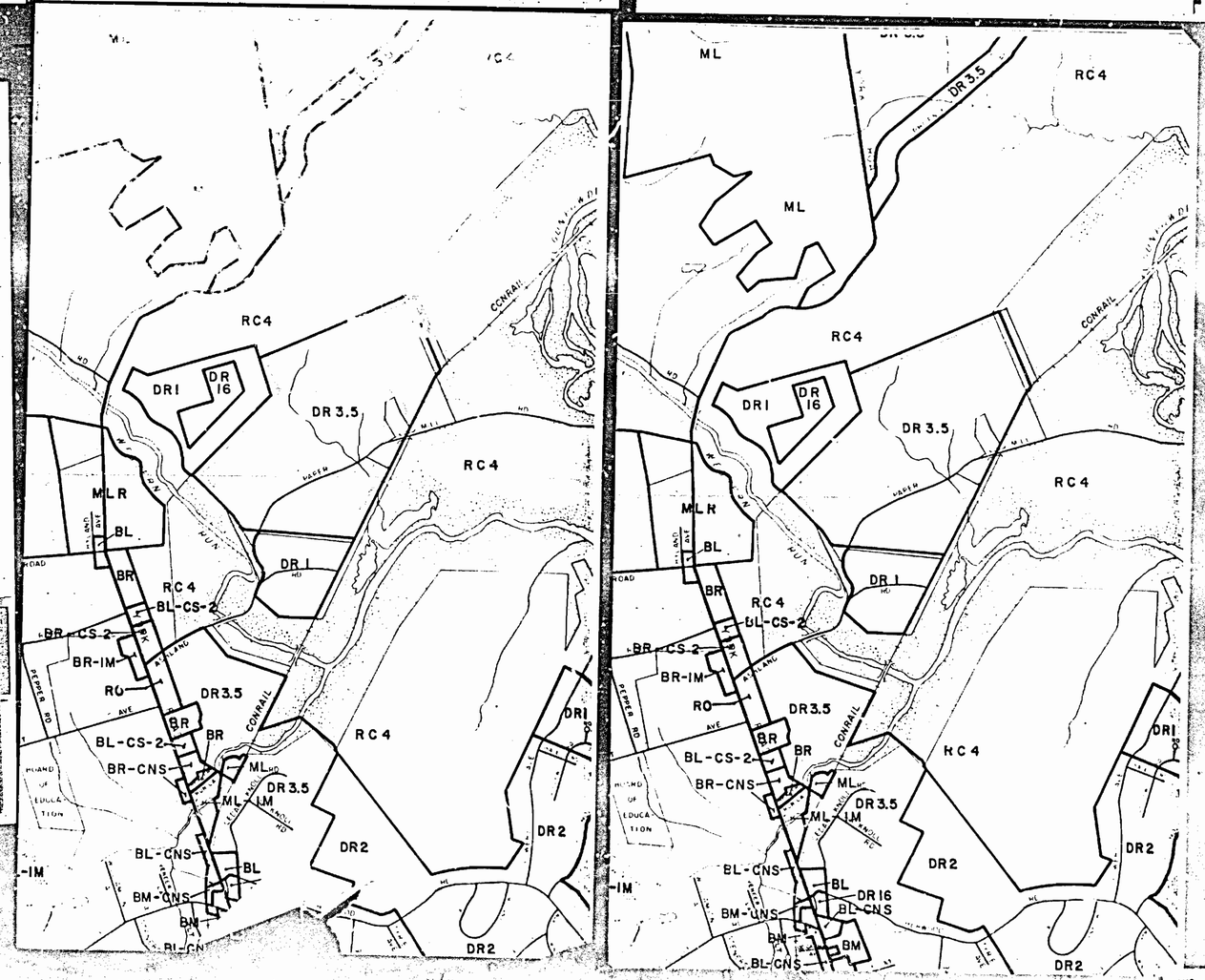


Permanent

WOODED AREAS

In densely wooded areas, tree removal should be done by experienced personnel to avoid damaging trees to be kept.

Figure 2



RECEIVED
AUG 30 1978
DEVELOPERS DESIGN APPROVAL SECTION
BUREAU OF ENGINEERING

August 23, 1978

Universal Housing & Development Company
9901 Langs Road
Baltimore, Maryland 21220

RE: Paper Mill Industrial Park
(formerly Towson Nursery)

Gentlemen:

The preliminary plan for the referenced subdivision has been reviewed and comments are enclosed for your information and guidance as provided by the following agencies:

1. Bureau of Engineering Comments dated August 3, 1978
2. Office of Current Planning & Development Comments dated August 3, 1978
3. Fire Department - Fire Prevention Bureau Comments dated July 20, 1978
4. State Highway Administration Comments dated August 17, 1978
5. Department of Traffic Engineering Comments dated August 1, 1978

These comments are based on such information as shown on the preliminary plan and are subject to change and/or addition with submission of a more complete plan. They shall not be construed to indicate tentative approval, which is obtained only with the signatures of authorized County Officials on the plan itself.

DIVISION OF LAND DEVELOPMENT CONTROL:

Upon compliance with the enclosed comments, the plan may be submitted for tentative approval.

In order to process this project in accordance with current procedure, a fee is being charged for processing. The fee is determined by the number of acres. For processing this plan to tentative approval, the Developer shall submit a certified or cashiers check for $2,026.00 for 175.92 acres, payable to Baltimore County, Maryland. The Developer shall be responsible to pay the fees for subsequent steps to Baltimore County in accordance with procedure as the project is processed.

A Public Works Agreement must be executed by the Owner and Baltimore County for the public improvements prior to the recording of a record plat.

Very truly yours,

(SIGNED) ROBERT A. MORTON

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

RAM:CEB:ccm
Enclosures
CC: G.W. Stephens, Jr. & Associates, Inc., 303 Allegheny Avenue, Towson, Md. 21204
E.A. McDonough; E. Bober; Wm. Greenwalt; R. Patterson; File; - S -

inutes - JSPC Meeting - 2 - September 15, 1977

E: Paper Mill Industrial Park (formerly Towson Nursery)
District 8

oad. Paper Mill Road, at this time, will be improved with a 50-foot curb and utter cross section and it shall be the Developer's full responsibility. All nterior streets shall be improved with a 40-foot curb and gutter cross section on 60-foot rights-of-way.

Storm drain improvements for this subdivision shall be the Developer's ll responsibility.

The Developer will have a 25% cost toward the construction of the bridge r the extension of Shawan Road over Western Run.

Street lights and sidewalks are required within this site.

Public sewer exists and the industrial site will be served by the tension of public sewer.

Public water will have to be extended approximately 1,800-feet to serve is subdivision. Developer's Engineer shall make a study with reference to the ter extension for approval by Baltimore County.

Storm water management and sediment control requirements apply. Storm ter management should be designed based on 100-years storm frequency.

This subdivision must comply with State Regulations for underground ectrical distribution and telephone services. The Gas and Electric Company d the Telephone Company requested that rights-of-way be provided for their cilities prior to recording of the plan.

The Soil Conservationist presented a soils report and sediment control port, a copy of which was given to all representatives present.

Developer was advised that after the plan has been revised in accordance th the suggestions of the committee and the proposed revisions, plan may be submitted to the County for processing.

:cmm
9-77

REVIEWED BY THE BALTIMORE COUNTY JOINT SUBDIVISION PLANNING COMMITTEE
SEPTEMBER 15, 1977

PAPER MILL INDUSTRIAL PARK (formerly Towson Nursery)

Developer - Universal Housing & Development Company, 9901 Langs Road, 21220

Engineer - G.W. Stephens & Associates, Inc., 303 Allegheny Ave., 21204

District - 8

Location - E of York Road & North & South of Paper Mill Road

Lot Type - MLR & RC-4 # of Lots: 52 MLR No. of Acres: MLR - 175.92
Total Acreage: 350.73 acres

Facilities - Available - Public Water & Sewer

Representatives Present:

Representing Developer: Leroy Posner; Charles Fick

Representing Developer's Section: Catherine Warfield; Edward A. McDonough

Developer presented a 200-scale plan of a proposed subdivision located North and South of Paper Mill Road and East of York Road and Ashland Road. The following comments were made:

Developer stated that the MLR land is being proposed for development at this time with 52 lots proposed.

The Office of Planning stated that the proposed Thornton Mill Road shall terminate at the proposed cul-de-sac street. This street name shall be revised. The rail service proposed is subject to the existing rail facilities remaining. Developer shall check with the Penn Central for the future status of the rail service. It was further stated that a landscape plan be provided for this industrial park. The Office of Planning further stated that some revisions in street pattern and revisions in lots may be necessary. Developer's Engineer should contact the Office of Planning with reference to these changes.

The State Highway Administration stated that a proposed Shawan Road extension or Paper Mill Road extension is within the 20-year need study. It is proposed that this road be improved with a 120-foot rights-of-way. It was further stated by the State that Ashland Road intersection with York Road provides very poor site distance and does not appear adequate to handle this type of projected traffic.

The Traffic Engineers stated that Ashland Road bridge has a maximum load limit of 12-tons.

The Office of Zoning stated that a 100-foot buffer strip must be shown along all residential zoning.

Bureau of Engineering stated that a line and grade plan for Shawan or Paper Mill Roads was done a few years ago and has some engineering value in the planning of Shawan Road extension within this subdivision. It is requested that the Developer's Engineer show the ultimate rights-of-way for Paper Mill

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

NORMAN E. GERBER
DIRECTOR

October 29, 1981

Mr. William Hackett - Chairman
Board of Appeals
Room 219 - Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #10, Zoning Cycle II, - 1981, are as follows:

Property Owner: Universal Housing and Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Tally-Ho Road
Acres: 172.808
District: 8th

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

Any subdivision of the property will require compliance with Title 22 of the Baltimore County Code.

Very truly yours,

John L. Wimbley

John L. Wimbley
Planner III
Current Planning and Development

JLW:rh

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

STEPHEN E. COLLINS
DIRECTOR

October 8, 1981

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle II - Meeting of September 14, 1981
Item No. 10
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 -28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.808
District: 8th

Dear Mr. Hackett:

The existing D.R. 1 and D.R. 3.5 zoning for this site can be expected to generate approximately 7490 trips per day and the proposed D.R. 5.5 zoning can be expected to generate approximately 9500 trips per day.

Shawan Road should be extended to Paper Mill Road prior to development of this site.

Michael S. Flanigan
Traffic Engineering Associate II

MSF/rlj

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

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

October 6, 1981

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

Dear Mr. Reiter:

Comments on Item #10, Zoning Advisory Committee Meeting for Cycle II, are as follows:

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5-28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.808
District: 8th

The proposed development of this site is not inconsistent with the Baltimore County Master Water and Sewer Plan.

Environmental Impact and Water Quality Issues must be resolved prior to approval of tentative subdivision plans for the site.

Any existing wells or sewage disposal systems must be properly abandoned and backfilled prior to approval of grading plans for the site.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/fth

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
Chief

October 9, 1981

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

cc: William Hackett
Chairman of Board of Appeals

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Universal Housing and Development Company

Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road

Item No.: 10 Zoning Agenda: Meeting of September 14, 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.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 500 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

(X) 3. The vehicle dead end condition shown at dead end streets exceeding 300' in length shall have an approved cul-de-sac or hammer head turn-around. 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] 10/13/81
Planning Group
Special Inspection Division

Noted and Approved: George M. Hoegmaster
Fire Prevention Bureau

JK/rmcm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett-Chairman
Board of Appeals
CC: Nick Commodari
Charles H. Burnham
FROM: [illegible]
SUBJECT: Item #10 Zoning Advisory Committee Meeting 9-14-81

Date: September 23, 1981

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 - 28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705

Acres: 172.808
District: 8th

All buildings, structures and other improvements shall comply with the Baltimore County Building Code and other applicable rules and regulations inforced at the time the permits are applied for.

The structures listed as Home Owners Association shall be separated by fire walls in compliance with Section 909.1.2 of the Building Code as amended or as may be applicable at time of permit application. All ponds shall be fenced in compliance with the code or as amended in Bill 199-79.
Razing permits shall be required for any removal of on site structures.
It appears all construction has been kept clear of the 100 year flood plain.

Charles H. Burnham
Plans Review Chief

CEB:rrj

PARCEL III
142.705 Ac±

PARCEL II
28.405 Ac±

PARCEL I 1.698 Ac±

PAPER MILL ROAD

ASHLAND ROAD

YORK ROAD

BALTIMORE CITY

BALTIMORE COUNTY

PLAT TO ACCOMPANY ZONING PETITION
FOR
RECLASSIFICATION
FROM EXISTING

D.R. 1 ZONE TO D.R. 5.5 ZONE - PARCEL I 1.698 Ac.±
D.R. 3.5 ZONE TO D.R. 5.5 ZONE - PARCEL II 28.405 Ac.±
D.R. 3.5 ZONE TO D.R. 5.5 ZONE - PARCEL III 142.705 Ac.±

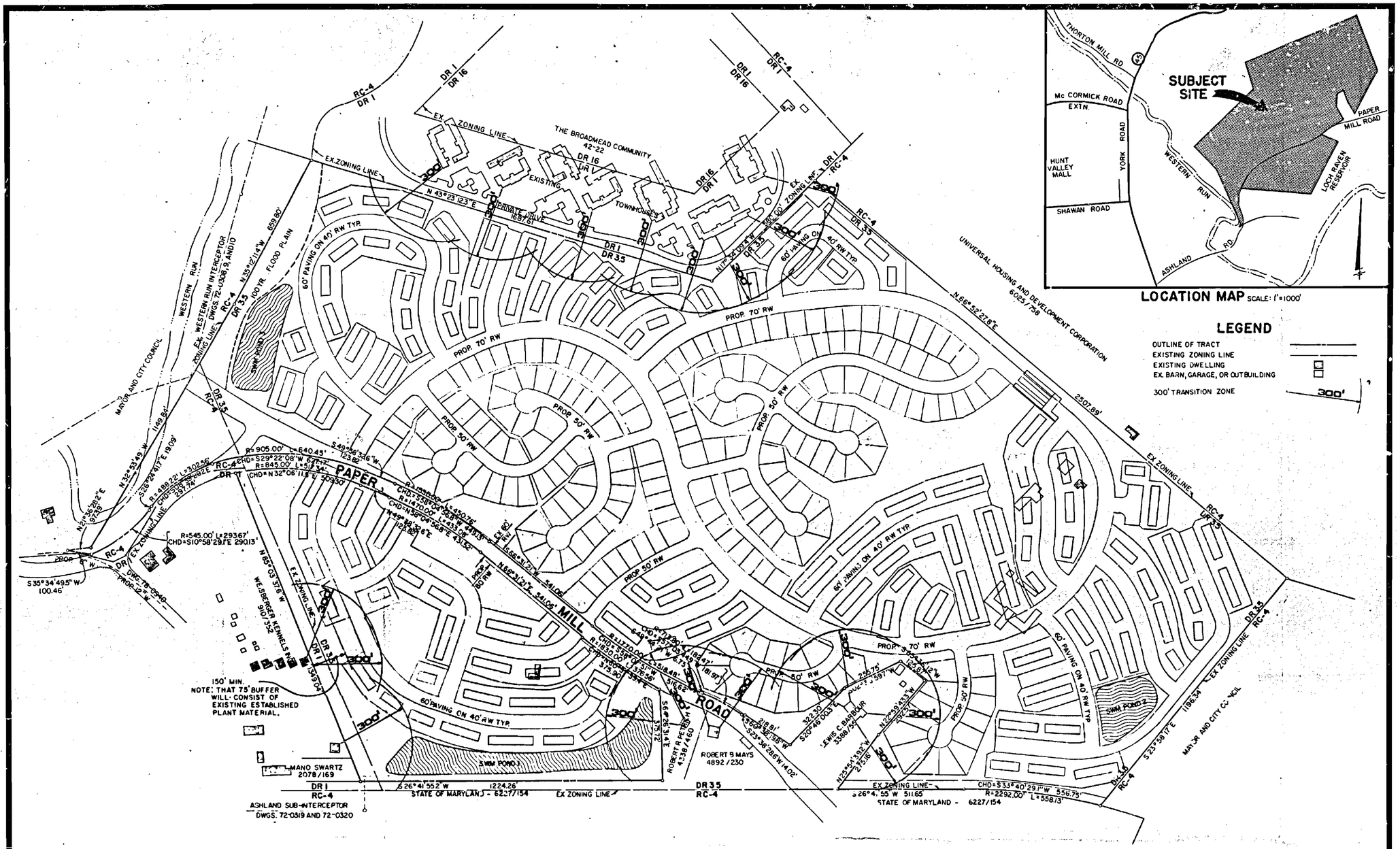
PAPER MILL ROAD, NORTH OF ASHLAND ROAD

BALTO CO., MD.
SCALE: 1"=200'

ELECTION DIST. Nº 8
JULY 10, 1981

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS & LAND SURVEYORS
803 ALLEGHENY AVE.
TOWSON, MARYLAND 21204

P.N. 2694



0 100 200 400 600
1" = 200'

ELECTION DISTRICT No. 8
COUNCILMANIC DISTRICT No. 3

BASE SITE PLAN

NOTES

GROSS AREA	178.5 Ac. ±
AREA OF RC-4 LAND	2.5 Ac. ±
GROSS AREA OF DR 5.5 LAND	176.0 Ac. ±
NET AREA DR 5.5 LAND	172.8 Ac. ±

UNITS PERMITED:
176 x 5.5 = 968

UNITS SHOWN:
202 IND. + 766 TOWNHOUSES = 968

OPEN SPACE REQUIRED:
176 x 6% = 10.6 Ac. ±

OPEN SPACE SHOWN: **43.0** Ac. ±

NOTE: ALL EXISTING STRUCTURES ONSITE TO BE REMOVED.

The plan shown herein sets forth general locations for the two types of units to be developed on the property in accordance with all applicable requirements of planning, zoning and subdivision controls. Consistent with Section 2-58.1 (1) of the Baltimore County Code (1978 edition, as amended),

(a) Precise building envelopes are shown for the two building types proposed -- single family homeowner detached ("Detached Homes") and single-family homeowner attached ("Townhomes") -- on a typical development lot; each particular lot shall meet the typical, (or greater) minima criteria described in the rezoning application site plans.
(b) Detached Home building envelopes will meet all setback requirements -- rear, front and, where applicable, side.
(c) Townhome building envelopes meet all setback requirements -- rear, front and, where applicable, side.
(d) Detached homes will be developed within the standards as shown on Site Plan No. 6.
(e) Townhomes will be developed within the standards as shown on Site Plan No. 5.
(f) The number of Townhomes and Detached Homes shall fall within the following standards:

Detached Homes
Maximum 275 Minimum 125

Townhomes
Maximum 843 Minimum 693

Total Maximum: 968 Dwelling Units

(g) To the extent of any change in the mix of unit types, the configuration of lots shown may be varied, however
1. all building envelopes will fall within the criteria described above.
2. any road, utility and service patterns will be substantially in accordance with that shown
3. all parking requirements will be met
4. open space will not be less than 15% of the total site, or 26.4 acres.
5. no structure will be closer than 35 feet to a tract boundary line.

NOTE:

Proposed utilities, roads, storm water management ponds, etc. shown hereon are schematic only; however, the final layout shall be substantially in conformance with this plan. The final housing mix and appropriate design standards in effect at the time of development approval shall require this plan to be modified accordingly.

OFFICE COPY
REVISED PLANS
NOV 30 REC'D
Item #10
Cycle II

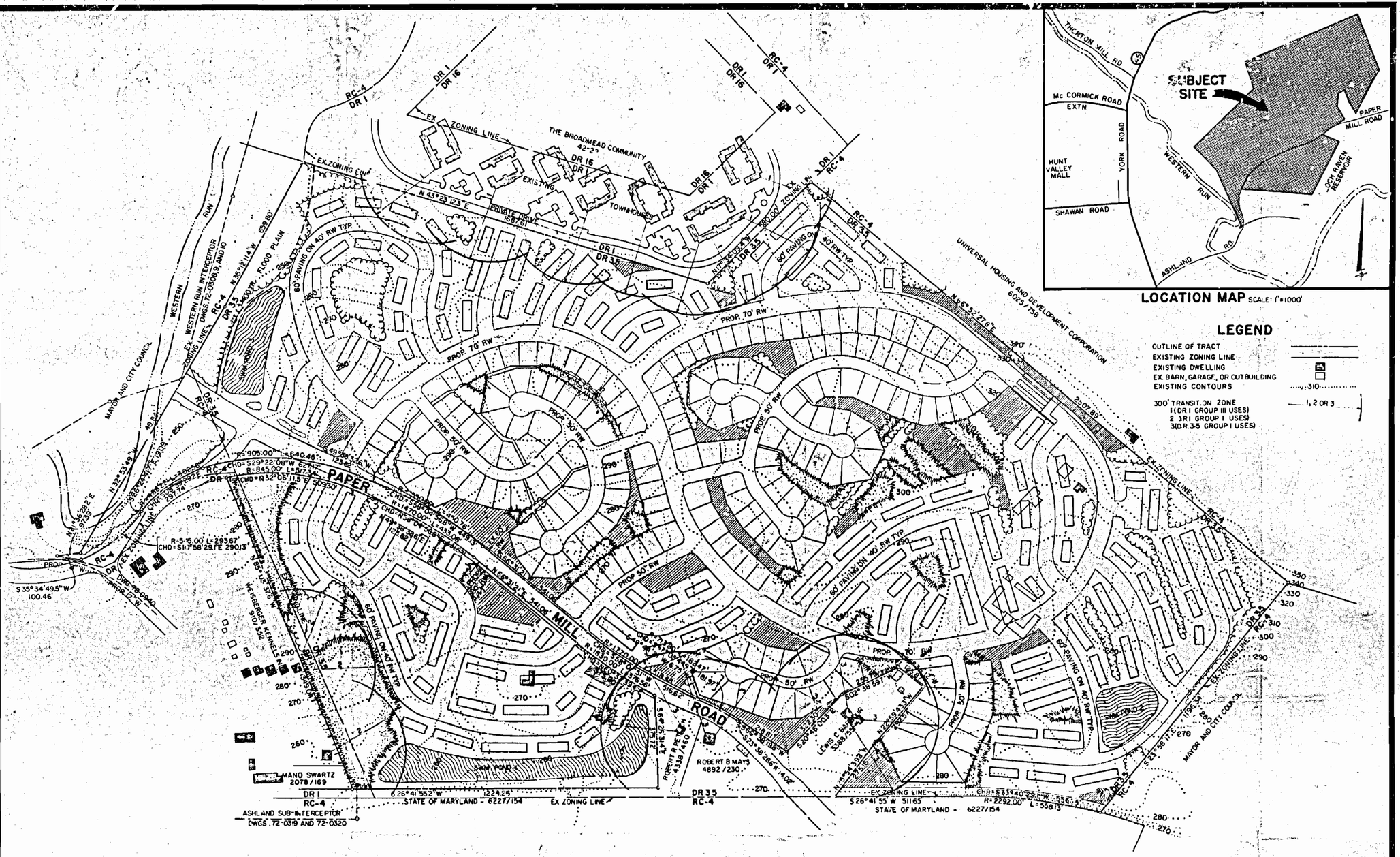
Date	Revisions
11/24/81	Revised transition are symbol[1] Added note[5]
	Revised TM Layout SE Quadrant

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

1 OF 6

15 August '81



LOCATION MAP SCALE: 1"=1000'

LEGEND

- OUTLINE OF TRACT
- EXISTING ZONING LINE
- EXISTING DWELLING
- EX. BARN, GARAGE, OR OUTBUILDING
- EXISTING CONTOURS 310
- 300' TRANSITION ZONE — 1, 2 OR 3
  1 (DR 1 GROUP III USES)
  2 (DR 1 GROUP I USES)
  3 (DR 3.5 GROUP I USES)

NOTES

GROSS AREA	178.5 Ac. ±
AREA OF RC-4 LAND	2.5 Ac. ±
GROSS AREA OF DR 5.5 LAND	176.0 Ac. ±
NET AREA DR 5.5 LAND	172.8 Ac. ±

UNITS PERMITED:
176 x 5.5 = 968

UNITS SHOWN:
202 IND. + 766 TOWNHOUSES = 968

OPEN SPACE REQUIRED:
176 x 6% = 10.6 Ac. ±

OPEN SPACE SHOWN: **43.0** Ac. ±

NOTE: ALL EXISTING STRUCTURES ONSITE TO BE REMOVED

EXISTING VEGETATION TO REMAIN SHOWN THUS:

- MATURE DECIDUOUS TREES
- MATURE EVERGREEN TREES
- MIXED GROWTH
  GRASSES
  DECIDUOUS & EVERGREEN SHRUBS
  SMALL TREES

0 100 200 400 600
1" = 200'

ELECTION DISTRICT No. 8
COUNCILMANIC DISTRICT No. 3

STATE OF MARYLAND — CHARLES E. PETERS — PROFESSIONAL ENGINEER

Charles E. Peters

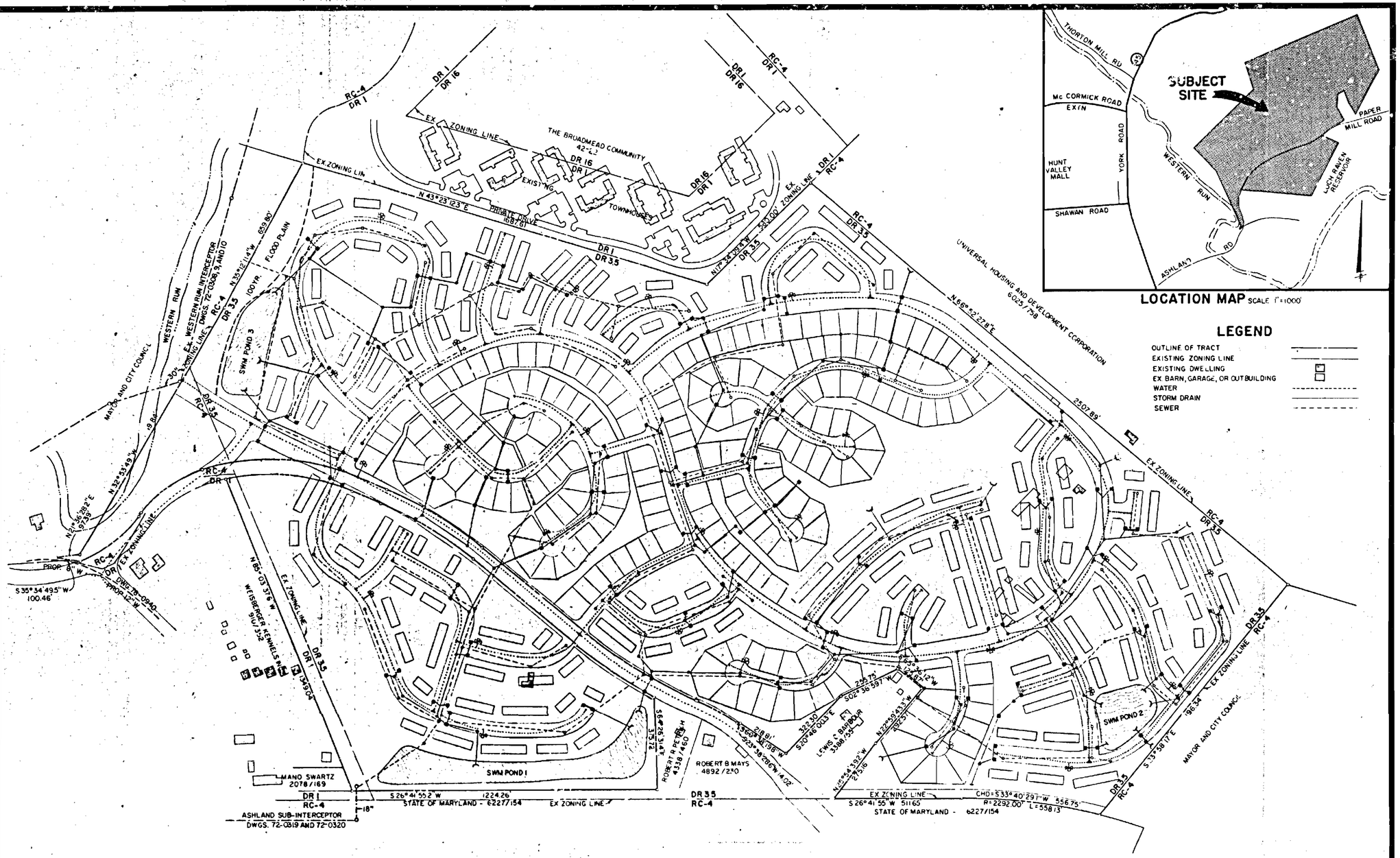
BASE SITE PLAN WITH EX. TOPOGRAPHY

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

2 OF 6

15 August '81



LOCATION MAP SCALE 1"=1000'

LEGEND

- OUTLINE OF TRACT
- EXISTING ZONING LINE
- EXISTING DWELLING
- EX BARN, GARAGE, OR OUTBUILDING
- WATER
- STORM DRAIN
- SEWER

0 100 200 400 600
1"= 200'

ELECTION DISTRICT No. 8
COUNCILMANIC DISTRICT No. 3

NOTES

GROSS AREA	178.5 Ac. ±
AREA OF RC-4 LAND	2.5 Ac. ±
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NOTE ALL EXISTING STRUCTURES ONSITE TO BE REMOVED

SITE UTILITIES

Waverly E. Fisk

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

3 OF 6

15 August '81

Petitioner's Exhibit No. 16 - Ex. conditions - In Board's closet and site analysis, Kirwin

" " " 17 - Circulation P - " " Development

" " " 18 - Site Plan - " "

" " " 19 - Maps

" " " 20 - Photogrammetric Map of Baltimore County - 4/53

" " " 21 - Report by John Guckert - Traffic Impact

" " " 22 - Resume' of Mr. Frizzel

" " " 23 - Letter of Dr. Cookson of 8/7/81 - (missing after 12/8/82 hearing)

" " " 24 - A - O -- Packet from Planning Board and letters attached thereto

" " " 25 - Response to Review of Baltimore City Office of Planning and Zoning

" " " 26 - Inter-Office correspondence from Paul J. Solomon to John D. Seyffert dated 1/31/80

" " " 27 - Hydrological and Environmental Impact of the proposed Commercial-Industrial Development on ..e Loch Raven Reservoir

" " " 28 - Material Constituting the Plan Submitted as Part of Petition for Rezoning (3 pcges)

May 11, 1983 Record of proceedings filed in the Circuit Court 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 proceedings, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted

Edith T. Eisenhart

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

cc: John Martin Jones, Jr., Esq.
Joel J. Feinberg, Esq.
Mark Pollak, Esq.
John W. Hessian, III, Esq.
Jeffrey B. Hazard, Esq.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL ROAD (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND ROAD, 8th District - Parcel 1; EAST SIDE OF PAPER MILL ROAD AND ASHLAND ROAD, 8th District - Parcel 2; WEST SIDE OF PAPER MILL ROAD (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL ROAD AND ASHLAND ROAD, 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER - APPELLANT

Zoning File No. CR-82-187

: IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

: AT LAW

: Misc. Doc. No. 15
: Folio No. 184

: File No. 83-M-149

MOTION FOR EXTENSION OF TIME TO ANSWER

Now comes Margaret Resnick, a Protestant above and Appellee herein, by her Attorney Jeffrey B. Hazard and MOVES that the Court grant her an additional thirty (30) days in which to answer the Petitioner's Appeal, in that she did not receive a copy of the Petition in sufficient time to file a proper answer.

Jeffrey B. Hazard

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 1983 a copy of the above Motion for Extension of Time to Answer was mailed postage prepaid to the County Board of Appeals of Baltimore County at the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204; to Mr. Peter Max Zimmerman, Deputy Peoples Counsel, 400 Washington Avenue, Towson, Maryland 21204; and to Mr. Joel J. Feinberg, Esq., 36 South Charles Street, 1100 Charles Center South, Baltimore, Maryland 21201

Jeffrey B. Hazard

Rec'd 6.10.83 9:45 am

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL ROAD (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND ROAD, 8th District - Parcel 1; EAST SIDE OF PAPER MILL ROAD AND ASHLAND ROAD, 8th District - Parcel 2; WEST SIDE OF PAPER MILL ROAD (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL ROAD AND ASHLAND ROAD, 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER - APPELLANT

Zoning File No. CR-82-187

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

AT LAW

Misc. Doc. No. 15
Folio No. 184

File No. 83-M-149

ANSWER TO PETITION FOR APPEAL

Now comes Margaret Resnick, by her Attorney Jeffrey B. Hazard, Protestant above and Appellee herein, and answers the Petition for Appeal heretofore filed by the Appellant:

1. Appellee admits Paragraph I: 1-2, 4-5.
2. As to Paragraph 1: 3, Appellee admits that the Board of Appeals granted the Motion for Dismissal, but further state that the Board of Appeals was within its authority in denying submission of memoranda as its knowledge of the legal standards required was sufficient to reach an informed decision.
3. Appellee admits Paragraph II: 1.
4. Appellee denies Paragraph II: 2-4.
5. Appellee denies Paragraph II: 3 and further states that even if all evidence presented is viewed in the light most favorable to Universal, that the decision of the Board was proper.
6. Appellee denies Paragraph II: 4.
7. Appellee admits Paragraph III: 1.
8. Appellee denies Paragraph III: 2-3.
9. If the Court finds that the Board committed error the matter should be remanded to allow the Appellees to present additional evidence as the Court sees fit.

Respectfully submitted,

Jeffrey B. Hazard

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of June, 1983 a copy of the above Answer to Petition for Appeal was mailed postage prepaid to the County Board of Appeals of Baltimore County at the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204; to Mr. Peter Max Zimmerman, Deputy Peoples Counsel, 400 Washington Avenue, Towson, Maryland 21204; and to Mr. Joel J. Feinberg, Esq., 36 South Charles Street, 1100 Charles Center South, Baltimore, Maryland 21201

Jeffrey B. Hazard

Rec'd 6/14/83 10:45 a.m.

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th District - Parcel 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER-APPELLANT

Zoning File No. CR-82-187

: IN THE CIRCUIT COURT

: FOR

: BALTIMORE COUNTY

: AT LAW

: Misc. Doc. No. 15
: Folio No. 184
: File No. 83-M-149

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, William R. Evans, and Keith S. Franz, 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, Universal Housing and Development Co., Melvin R. Colvin, Pres., 9901 Langs Rd., Baltimore, Md. 21220, Petitioner; John M. Jones, Jr., Esq., Piper and Marbury, 1100 Charles Center South, 36 S. Charles , Baltimore, Md. 21201, Counsel for Petitioner; Joel J. Feinberg, Esq. and Mark Pollak, Esq., 1100 Charles Center South, 36 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioner; John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County; Catherine Motz, 13801 York Rd., Cockeysville, Md. 21030; Linda Tavin, 1240 Paper Mill Rd., Cockeysville, Md. 21030; Dr. and Mrs. Edward Hopkins, 1320 Paper Mill Rd., Cockeysville, Md. 21030; Margaret Resnick, 13912 Green Branch Dr., Phoenix, Md. 21131; and Jeffrey Hazard, 13919 Green Branch Drive, Phoenix, Md. 21131, a copy of which Notice is attached hereto and prayed that

it may be made a part thereof.

June Holmes
June Holmes
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Universal Housing and Development Co., Melvin R. Colvin, Pres., 9901 Langs Rd., Baltimore, Md. 21220, Petitioner; John M. Jones, Jr., Esq., Piper and Marbury, 1100 Charles Center South, 36 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioner; Joel J. Feinberg, Esq. and Mark Pollak, Esq., 1100 Charles Center South, 36 S. Charles St., Baltimore, Md. 21201, Counsel for Petitioner; John W. Hessian, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County; Catherine Motz, 13801 York Road, Cockeysville, Md. 21030; Linda Tavin, 1240 Paper Mill Rd., Cockeysville, Md. 21030; Dr. and Mrs. Edward Hopkins, 1320 Paper Mill Rd., Cockeysville, Md. 21030; Margaret Resnick, 13912 Green Branch Dr., Phoenix, Md. 21131; and Jeffrey Hazard, 13919 Green Branch Dr., Phoenix, Md. 21131, on this 22nd day of April, 1983.

June Holmes
June Holmes
County Board of Appeals of Baltimore County

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th District - Parcel 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th District - Parcel 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5

UNIVERSAL HOUSING & DEVELOPMENT CO., - PETITIONER - APPELLANT

: IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

: AT LAW

: Misc. Doc. No. 15
: Folio No. 184
: File No. 83-M-149

NOTICE OF DISMISSAL

To the Clerk:

Plaintiff, Universal Housing and Development Company, by its attorneys, Mark Pollak, Esq. and Joel J. Feinberg, Esq., does hereby give notice of the dismissal of the above-captioned law suit pursuant to Maryland Rule 541(a)(1).

Mark Pollak

Joel J. Feinberg
1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 529-2530

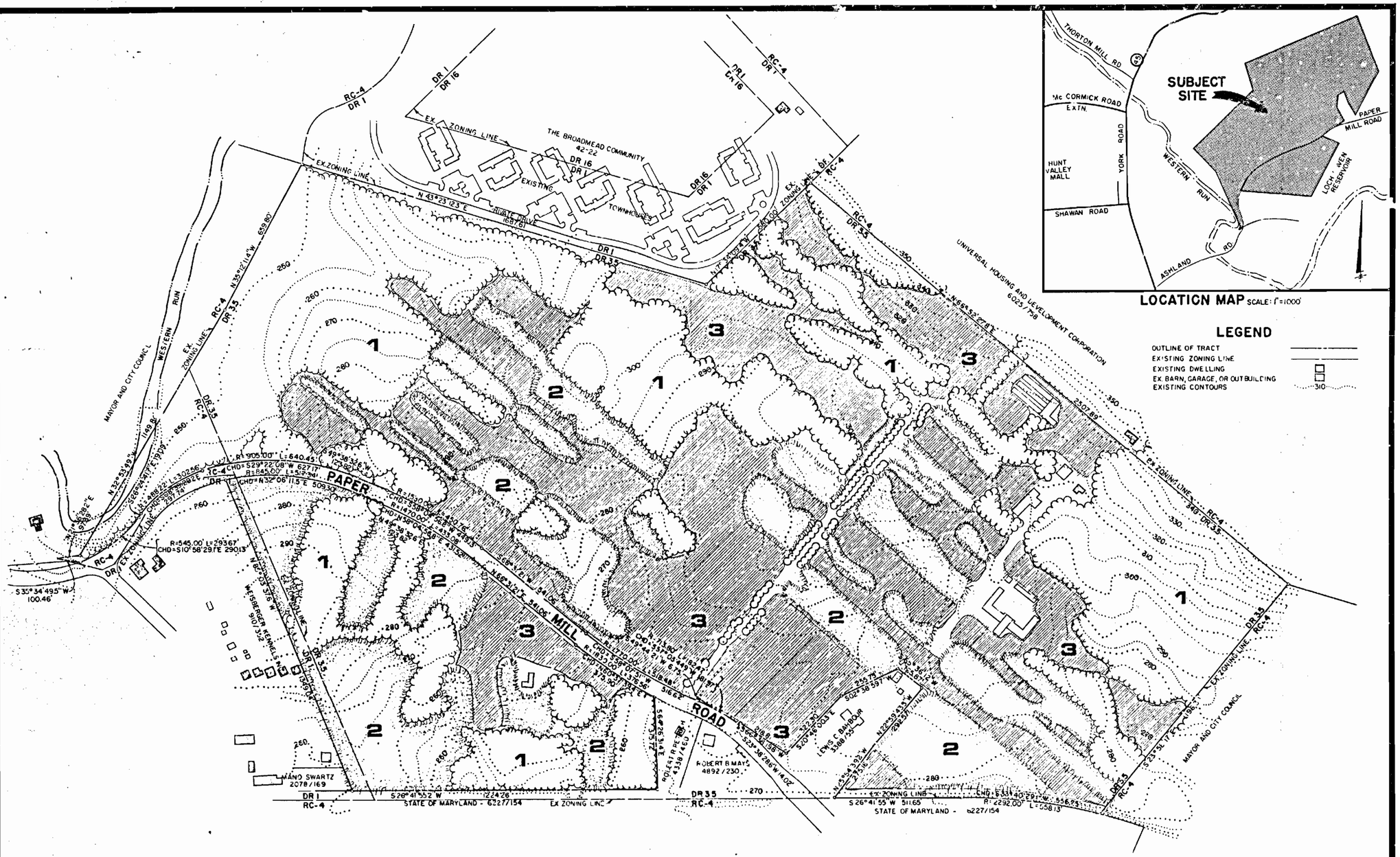
FILED JUL 29 1983

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of July, 1983, I have caused to be served by personal service this day on the County Board of Appeals of Baltimore County a copy of the within Notice of Dismissal to the Board's offices at the Baltimore County Court House, 2nd Floor, 400 Washington Avenue, Towson, Maryland 21204 with an additional copy to Peter Max Zimmerman, Deputy People's Counsel, at his office at Baltimore County People's Counsel, 400 Washington Avenue, Towson, Maryland 21204, and by mailing a copy, postage prepaid to Jeffrey B. Hazard, Esquire, 13919 Green Branch Drive, Phoenix, Maryland 21131.

Joel J. Feinberg

AUG 1 1983



KEY

1 — Mature Deciduous Trees

2 — Mature Evergreen Trees

3 — Mixed Growth
Grasses
Deciduous & Evergreen Shrubs
Small Trees

VEGETATION

NOTES

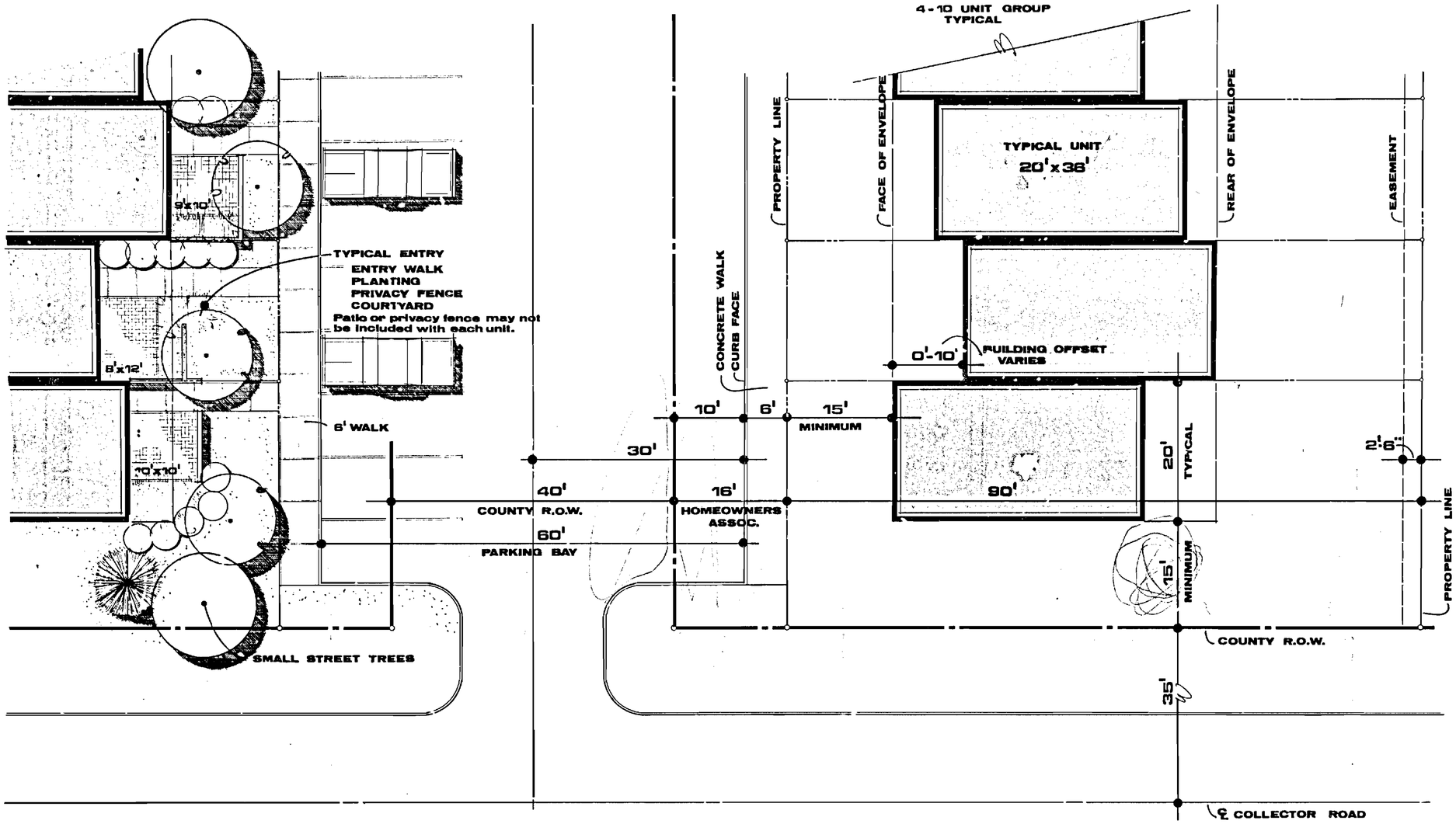
Date	Revisions
11/24/81	

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

4 OF 6

15 August '81



LAYOUT PLAN

SCALE: 1/8"=1'-0"

Typical Two-Story Townhouse

ELEVATION

SCALE: 1/8"=1'-0"

STATE OF MARYLAND WILLIAM F. KIRWIN JR. REGISTERED LANDSCAPE ARCHITECT NO. 0

TOWNHOUSES

NOTES

Typical Unit		20'x36'
Typical Lot		
Width		20'
Depth	typ.	100'
	min.	90'
		*99'
Front Setback		
°Typical		25'
Minimum		15'
Side Yard - Corner Lot		
°Typical		25'
Minimum		15'
Building Setback		0'-10'
Varies		
County Right-of-Way		
Collector Road		70'
Parking Bay		40'
Parking		
Stalls/Unit	min.	1.75
Aisle Width		20'
Parking Stalls		9'x20'
Rear Yard		
°Typical		39'+
Minimum		15'
		*30'

°Actual Dimension May Be Greater
*In DR1 Transition Zone

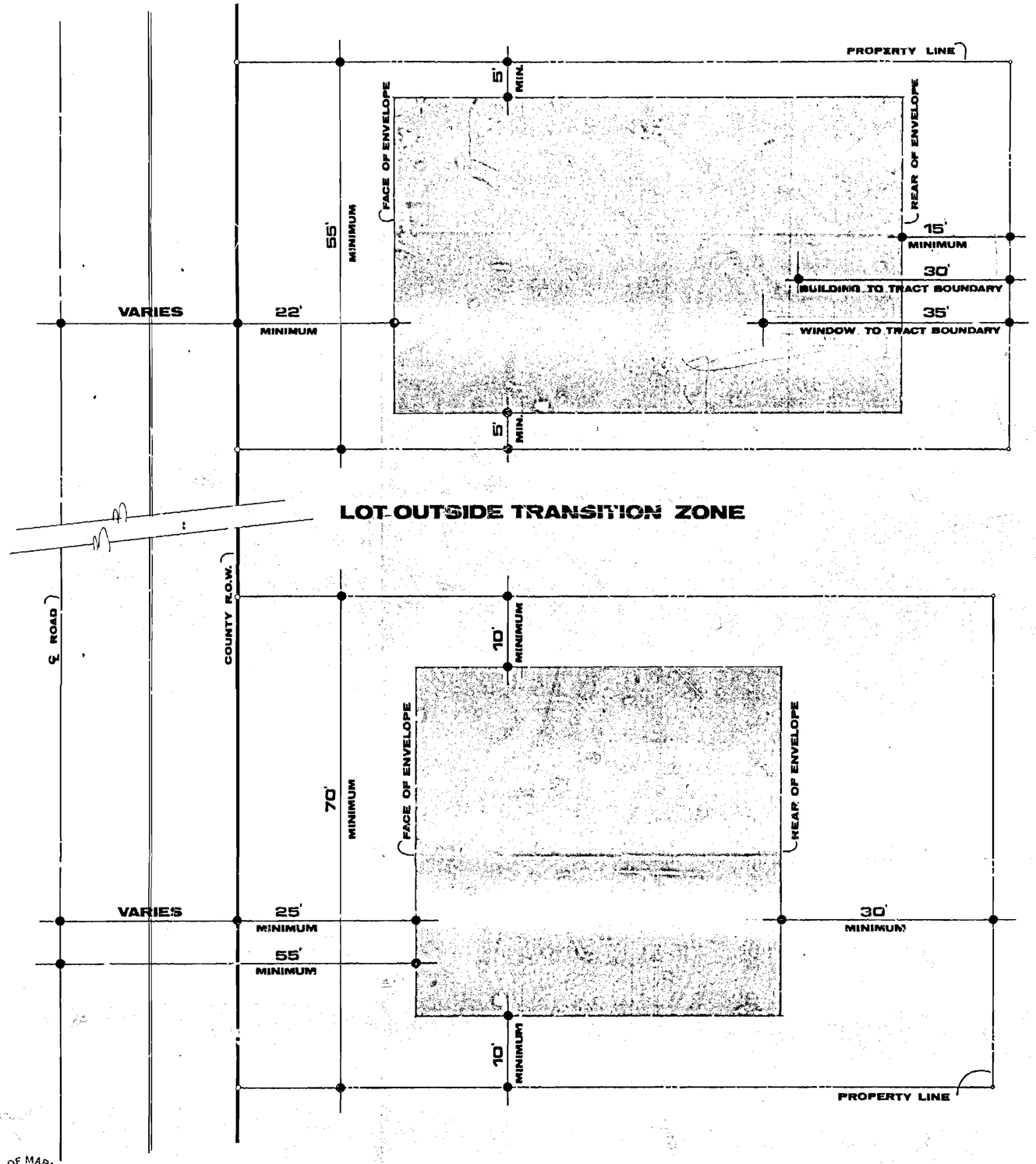
Typical housing materials will be used.

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

5 OF 6

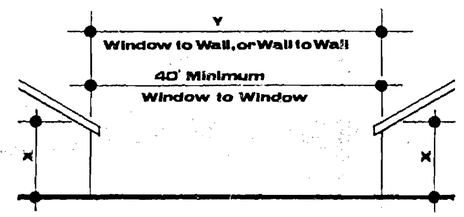
15 August '81



LOT OUTSIDE TRANSITION ZONE

LOT WITHIN TRANSITION ZONE

use height to height for all lots
w to w



If X is greater than 20', but less than 25', Y = 25' Minimum
If X is less than 20', Y = 18' Minimum

LAYOUT PLAN

SCALE: 1/8"=1'-0"

DETACHED HOUSES

NOTES

Typical House
1120-1720 sq.ft.

LOT OUTSIDE TRANSITION ZONE

Minimum Lot Area	6,000 sq.ft.
Typical Lot Area	7,500 sq.ft.
Minimum Lot Width	55'
Front Setback	
Minimum to Street Right-of-Way	22'
Side Yard	
Minimum	5'
Window to lot line and/or height to height shall govern total side yard setback. See illustration	
Rear Yard	
Minimum	15'
Building to Tract Boundary	30'
Window to Tract Boundary	35'

LOT WITHIN TRANSITION ZONE

Minimum Lot Area	7,500 sq.ft.
Minimum Lot Width	70'
Front Setback	
Minimum to Street ℄	55'
Side Yard	
Minimum	10'
Minimum Sum of Widths of Side Yards	25'
Rear Yard	
Minimum	30'
Parking	
Stalls/House off-street	2
Parking Stalls	9'x18'

The building envelopes shown on these plans are for the principle buildings only.

Accessory structures, fences, and projections into yards may be constructed outside the envelope but must comply with Section 400 & 301 of the Balto. Co. Zoning Regulations. (Subject to covenants and applicable building perm.'s)

All lots not within transition areas shall have a 500 sq. ft. contiguous private space area with a minimum depth of 15'.

Typical housing materials will be used.

STATE OF MARYLAND
WILLIAM F. KIRWIN JR.
NO. 8
REGISTERED LANDSCAPE ARCHITECT
William F. Kirwin

TOWSON NURSERIES
BALTIMORE COUNTY, MARYLAND

UNIVERSAL HOUSING
WILLIAM F. KIRWIN INC.
G.W. STEPHENS JR. & ASSOC. INC.

6 OF 6

15 August '81

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland – 21204

Date: 9/22/81

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

Zoning Cycle #11 - 1981
Meeting of 9/14/81

RE: Item No: 10
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Rd. 611.86' from centerline of Ashland Rd.
Present Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac. D.R. 3.5 to D.R. 5.5 - 142.705 Acreage:(172.808)D.R. 3.5 to D.R 5.5 - 28.405 Ac.

School Situation

School	Enrollment	Capacity	Over/Under
Pot Spring El.	516	581	-65
Cockeysville Jr.	761	1284	-523
Dulaney Sr.	1643	1645	-2

Student Yield With:	Existing Zoning	And	Proposed Zoning
Elementary	116		125
Junior High	83		68
Senior High	107		83

Very truly yours,
Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

OP 858

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

William S. Wolinski
Water Quality Coordinator
Bureau of Water and Waste Water
Department of Public Works
500 Municipal Building
Baltimore, Maryland 21212.

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Board of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

John H. Gease
District Manager
Baltimore County Soil Conservation District
9811 Van Buren Lane
Cockeysville, Maryland 21030.

COST $ 5.00
SUMMONED 9/17 1982
NON EST 19
NON SUNT 19
COPY LEFT 19
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Bd. of Appeals

These are not in our system — Board of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

James A. Markle, P.E., Chief
Storm Drain Design and Approval Section
Bureau of Engineering
111 West Chesapeake Avenue
Towson, Maryland 21204.

COST $ 5.00
SUMMONED 9/17 1982
NON EST 19
NON SUNT 19
COPY LEFT 19
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Bd. of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

Ian J. Forrest
Baltimore County Department of Health
New Courts Building
401 Bosley Avenue
Towson, Maryland 21204.

COST $ 5.00
SUMMONED 9-20 1982
NON EST 19
NON SUNT 19
COPY LEFT 19
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Bd. of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

Glenn E. Miller
Baltimore County Department of Health
New Courts Building
401 Bosley Avenue
Towson, Maryland 21204.

COST $ .00
SUMMONED 19
NON EST 19
NON SUNT 19
COPY LEFT 9-20 1982
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Bd. of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

Paul J. Solomon
Baltimore County Office of
Planning and Zoning
Room 406, County Court House
Towson, Maryland 21204.

COST $ .00
SUMMONED 17
NON EST 17
NON SUNT 17
COPY LEFT 9-17 1982
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Board of Appeals

PETITION OF UNIVERSAL HOUSING AND DEVELOPMENT COMPANY, Petitioner * BOARD OF APPEALS FOR BALTIMORE COUNTY * ZONING RECLASSIFICATION PETITION * R-82-187

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

SUBPOENA

To the Honorable Board:

Please prepare, and arrange to have served, a Subpoena for the following person to appear as a witness at a hearing in the above-captioned matter, scheduled before the Board for Wednesday, September 22 and Thursday, September 23, 1982:

Brooks H. Stafford
Baltimore County Department of Health
New Courts Building
401 Bosley Avenue
Towson, Maryland 21204.

COST $ 5.00
SUMMONED 19
NON EST 19
NON SUNT 19
COPY LEFT 19
SHERIFF
CHARLES H. HICKEY, JR.
OF BALTIMORE COUNTY

Respectfully submitted,

Mark Pollak, Esquire

1100 Charles Center South
36 South Charles Street
Baltimore, Maryland 21201
(301) 539-2530

Counsel for Petitioner

Mr. Sheriff:

Please issue the above summons.

June Holmen, Bd. of Appeals

AUG 1 1984

Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 223, COURT HOUSE
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III
People's Counsel
PETER MAX ZIMMERMAN
Deputy People's Counsel

TEL. 494-2188

October 29, 1982

William T. Hackett, Chairman
County Board of Appeals
Room 200, Court House
Towson, Maryland 21204

RE: Universal Housing & Development Co., Petitioner - Case #R-82-187

Dear Mr. Hackett:

Enclosed for inclusion in the file, as agreed, is a copy of the Agreement dated June 16, 1982 between the State Highway Administration, Baltimore County, and Baltimore City.

Very truly yours,

Peter Max Zimmerman
Deputy People's Counsel

Enclosure

cc: Mark Pollak, Esquire

PMZ:sh

RECEIVED
BALTIMORE COUNTY
Oct 29 11 45 AM '82
COUNTY BOARD
OF APPEALS
BY: [illegible]

IT IS FURTHER UNDERSTOOD AND AGREED between the parties hereto that conveyance of the aforegoing sections of State Highway are subject to the following conditions:

1. The effective date of transfer shall be upon completion of the improvements and exceptance for maintenance.

2. The aforegoing mileage will be included in the County inventory as of December 1st of the year following the date as set forth in Item 1 above.

3. The basis for the allocation of funds will include the additional ± 3.06 miles in the allocation to the County beginning July 1st of the year following the date as set forth in Item 2 above.

4. The transfer of said roads is made on an as-is basis which pertains to the existing rights-of-way and including all appurtenances and the proposed improvements.

5. The "County" accepts jurisdiction over and responsibility for the maintenance, repair, construction and reconstruction of said roads as of the effective date of transfer as set forth in Item 1 above.

IT IS FURTHER UNDERSTOOD AND AGREED that the "Highway Administration" will hereafter prepare a deed of conveyance for the above described sections of "State" constructed highways to the "County", subject to the approval of the Board of Public Works of Maryland.

AND BE IT FURTHER AGREED that in consideration of the aforegoing, the "County" does hereby transfer unto the "Highway Administration", and the "Highway Administration" does hereby accept from the "County" jurisdiction over and responsibility for the maintenance of the following described sections of County Highways for maintenance purposes as part of the State Highway System.

THIS AGREEMENT, executed in triplicate, made and entered into this _____ day of JUN 16 1982 19____ by and between the State Highway Administration of the Department of Transportation of Maryland, hereinafter referred to as "Highway Administration", party of the first part, and Baltimore County, Maryland, hereinafter referred to as "County", party of the second part, and the Mayor and City Council of Baltimore, hereinafter referred to as "City", party of the third part.

WHEREAS, under authority contained in Transportation Article - Title 8-304 of the Annotated Code of Maryland, the State Highway Administration of the Department of Transportation of Maryland is empowered to enter into an agreement to transfer jurisdiction over and responsibility for the maintenance of any State Highway, or portion thereof, with the governing bodies of the several political subdivisions of Maryland, for the purpose of reducing the cost of road maintenance, and the governing bodies of the several political subdivisions of Maryland are empowered to enter into an agreement to transfer jurisdiction over and responsibility for the maintenance of any County or Municipal road, or portion thereof, with the State Highway Administration of the Department of Transportation of Maryland, for the purpose of reducing the cost of road maintenance; and,

WHEREAS, the Mayor and City Council of Baltimore is authorized by the Code of the Public Local Laws of Baltimore City (Article IV of the Code of the Public Local Laws of Maryland) Subtitle 25 to convert the entire valley or basin of the Gunpowder River in Baltimore County and its dependencies from the present dam at the lower end of Loch Raven to the upper end of the Village of Phoenix into a reservoir or basin for augmenting and improving the municipal water supply of the City of Baltimore.

RECEIVED
BALTIMORE COUNTY
Oct 29 11 45 AM '82
COUNTY BOARD
OF APPEALS
BY: [illegible]

1. Ashland Road - from Md. 45 (York Road) to the beginning of City maintenance. A total distance of ± 0.18 mile.

2. Ashland Road/Paper Mill Road - from the beginning of County maintenance to the Reservoir. Removal of the existing single lane bridge, its approaches and the replacement roadway over the abandoned Penn Central Railroad by the "County" at their expense in Fiscal Year 1983. A total distance of ± 0.84 mile.

IT IS UNDERSTOOD AND AGREED between the parties hereto that conveyance of the aforegoing sections of County Highways are subject to the following conditions:

1. The effective date of transfer shall be upon completion of the improvements and acceptance for maintenance.

2. The aforegoing mileage will be excluded from the County inventory as of December 1st of the year following the date as set forth in Item 1 above.

3. The basis for the allocation of funds will exclude the ± 1.02 miles in the allocation to the County beginning July 1st of the year following the date as set forth in Item 2 above.

4. The transfer of said roads are made on an as-is basis which pertains to the existing rights-of-way and including all appurtenances and the proposed improvements.

5. The "Highway Administration" accepts jurisdiction over and responsibility for the maintenance, repair, construction and reconstruction of said roads as of the effective date of transfer as set forth in Item 1 above.

AND BE IT FURTHER AGREED that in consideration of the aforegoing, the "City" does hereby transfer to the "Highway Administration", and the "Highway Administration" does hereby accept from the "City" jurisdiction over and responsibility for the maintenance of the following described sections of the City Highways for maintenance purposes as part of the State Highway System.

WHEREAS, in accordance with said authorization and Subtitle 25, Section 9 and 10, the Mayor and City Council of Baltimore are responsible to maintain, in good order and repair, existing public roads for free use of the public.

WHEREAS, the Mayor and City Council of Baltimore desires to be relieved of that responsibility of maintenance and repairs of said public roads by the parties mentioned herein and the conditions hereafter enumerated.

WHEREAS, the parties hereto are desirous of cooperating each with the other, accomplishing the herein proposed projects and desire to enter into an agreement to state more fully the terms and conditions connected therewith.

NOW, THEREFORE, THIS AGREEMENT WITNESSETH, that for and in consideration of the premises, and the sum of $1.00 payable by each party hereto to the other, the receipt whereof is hereby acknowledged, and in further consideration of the mutual covenants and conditions hereinafter set forth to be kept and performed, the parties hereto do hereby agree as follows:

1. That the "Highway Administration" will develop the plans for improvements to said roads and will bear the full cost of plan development and contract advertisement.

2. That the "Highway Administration" will advertise improvement projects to said roads and award the contract subject to the approval and concurrence of the "City" and "County".

3. That the "Highway Administration" will act as the construction inspectors to improvements of said roads.

4. That improvements to said roads will be based on "Highway Administration" 3R standards.

5. That all improvements will be contained within the existing right-of-way of said roads.

1. Ashland Road - from City Maintenance to County Maintenance (this includes minor maintenance and snow removal to the bridge over Western Run). A total distance of ± 0.16 mile.

2. Paper Mill Road - through Loch Raven Reservoir (this includes snow removal to the bridge over Loch Raven Reservoir). A total distance of ± 0.86 mile.

IT IS UNDERSTOOD AND AGREED between the parties hereto that conveyance of the aforegoing sections of City Highways are subject to the following conditions:

1. The effective date of transfer shall be upon completion of the improvements and acceptance for maintenance.

2. The transfer of said roads is made on an as-is basis which pertains to the existing rights-of-way, and including all appurtenances, and the proposed improvements, with the exception of the bridge (#BC 6501) carrying Ashland Road over Western Run and the bridge (#BC 6506) carrying Paper Mill Road over Loch Raven Reservoir.

3. The "City" will perform at its sole expense: (a) all repairs, except minor surface repairs and snow removal on the bridge carrying Ashland Road over Western Run; (b) all repairs, including painting, construction and reconstruction, except snow removal on the bridge carrying Paper Mill Road over Loch Raven Reservoir.

4. The "Highway Administration" will, at its sole expense, remove all snow from the bridges, as set forth in Item 3 above, and perform minor road surface repairs to the roadway of the Ashland Road Bridge. Minor road surface repairs are defined and mutually understood to include sealing surface cracks, patching small concrete cavitations not more than two inches in depth, and patching curb faces and tops. When the floor defects extend through the floor slab; such as, a crack or cavitation or hole, exposing the reinforcing steel, the "Highway Administration" shall promptly advise the "City". The "City" will then make the required structural repairs to the floor slab.

5. That the bridges set forth in Item 3 above will remain under the jurisdiction of the "City".

6. That the construction schedule for improvements to said roads [illegible] Fiscal Year 1983.

7. That the financial share proportions will be one-third to each party, including construction costs, material, construction inspection, administration and overhead ("County", "City", and the "Highway Administration").

8. That the financial share from all three parties must be placed in escrow with the "Highway Administration" prior to the advertisement of any project improvements to said roads.

9. Failure of any of the parties to contribute their financial share, will authorize the State of Maryland to make an appropriate deduction from the proportionate share due from the Highway User's Revenue dedicated to the parties.

10. In the event the estimated cost of improvements exceed $1,500,000.00, approval will be required through a letter of understanding approved by the "County", "City", and "Highway Administration".

11. That the "Highway Administration" is not obligated for the construction of any new roads, now and in the future, on said roads' corridors.

IT IS UNDERSTOOD AND AGREED that in consideration of the aforegoing, the "Highway Administration" does hereby transfer unto the "County", and the "County" does hereby accept from the "Highway Administration" jurisdiction over and responsibility for the maintenance of the following described sections of State Highway for maintenance purposes, as part of the County Highway System.

1. Md. 143 (Warren Road) - from Md. 45 (York Road) to North of Bosley Road. A total distance of ± 1.45 miles.

2. Md. 143 (Merrymans Mill Road) - from the Reservoir to Md. 146. A total distance of ± 1.61 miles.

6. That the "City" must agree to maintain their bridges to the present existing posted load limit (Ashland Road Bridge - 24,000 lbs., and Paper Mill Road Bridge - 24,000 lbs.).

7. The "Highway Administration" accepts jurisdiction over and responsibility for the maintenance, repair, construction and reconstruction of said roads as of the effective date of transfer as set forth in Item 1 above.

AND BE IT FURTHER AGREED that in consideration of the aforegoing, the "City" does hereby transfer unto the "County", and the "County" does hereby accept from the "City" jurisdiction over and responsibility for the maintenance of the following described section of City Highway for maintenance purposes as part of the County Highway System.

Warren Road/Merrymans Mill Road - through Loch Raven Reservoir (this includes snow removal to the bridge over Loch Raven Reservoir). A total distance of ± 1.87 miles.

IT IS FURTHER UNDERSTOOD AND AGREED between the parties hereto that conveyance of the aforegoing section of City Highway is subject to the following conditions:

1. The effective date of transfer shall be upon completion of the improvements and acceptance for maintenance.

2. The aforegoing mileage will be included in the County inventory as of December 1st of the year following the date as set forth in Item 1 above.

3. The basis for the allocation of funds will include the additional ± 1.87 miles in the allocation to the County beginning July 1st of the year following the date as set forth in Item 2 above.

4. The transfer of said road is made on an as-is basis which pertains to the existing rights-of-way, and including all appurtenances and the proposed improvements, with the exception of the bridge (#BC 6510) carrying Warren Road/Merrymans Mill Road over Loch Raven Reservoir.

AUG 1 [illegible]

5. The "City" will perform at its sole expense all repairs, including painting, construction and reconstruction, except snow removal on the bridge carrying Warren Road/Merrymans Mill Road over Loch Raven Reservoir.

6. The "County" will, at its sole expense, removal all snow from the bridge carrying Warren Road/Merrymans Mill Road over Loch Raven Reservoir.

7. That the bridge as set forth in Item 5 above will remain under the jurisdiction of the "City".

8. That the "City" must agree to maintain their bridge to the present existing posted load limit (Warren Road/Merrymans Mill Road Bridge - 36,000 lbs.).

9. The "County" accepts jurisdiction over and responsibility for the maintenance, repair, construction and reconstruction of said road as of the effective date of transfer as set forth in Item 1 above.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in triplicate by their proper officers thereunto duly authorized the day and year first above written.

RECOMMENDED FOR APPROVAL:

Chief, Bureau of Highway Statistics

THE STATE HIGHWAY ADMINISTRATION
OF THE DEPARTMENT OF TRANSPORTATION

WITNESS:

By: Director, Office of Planning and Preliminary Engineering

Approved as to form and legal sufficiency this 1 day of July, 1982.

Assistant Attorney General

RECOMMENDED FOR APPROVAL:

County Engineer

BALTIMORE COUNTY, MARYLAND

WITNESS:

By: County Executive

Approved as to form and legal sufficiency this 16 day of April, 1982.

Asst. County Attorney

ATTEST:

Custodian of The City Seal

MAYOR AND CITY COUNCIL OF BALTIMORE

Mayor

APPROVED:

Director of Public Works

Head, Bureau of Water and Waste Water

Approved as to form and legal sufficiency this 4th day of June, 1982.

Assistant City Solicitor

APPROVED BY THE BOARD OF ESTIMATES
Date JUN 16 1982
Deputy Comptroller & Clerk to the Board

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTERLINE OF ASHLAND RD., 8th DISTRICT - PARCEL 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.99' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT - PARCEL 3 FROM D.R. 3.5 and D.R. 1 to D.R. 5.5

: BEFORE
: COUNTY BOARD OF APPEALS
: OF
: BALTIMORE COUNTY
: No. CR-82-187

OPINION

The above captioned matter came before this Board on a petition for reclassification from D.R. 1 and D.R. 3.5 to D.R. 5.5. The subject property is located on the north and south sides of Paper Mill Rd., 611 feet north of Ashland Rd., in the 8th Election District of Baltimore County.

Following six days of hearings and the introduction of 23 exhibits, the Petitioner concluded its case. Thereafter, People's Counsel and Counsel for Protestants moved for a dismissal. After due consideration, in a light most favorable to the Petitioner, for reasons to be addressed in the balance of this Opinion, the Motion to Dismiss was denied.

Petitioner presented five expert witnesses. Four of those witnesses testified on several different occasions.

George P. Fizzell, an expert in marketing, real estate and real estate appraisals, characterized the area surrounding the subject property as one of growth. Mr. Fizzell indicated that D.R. 5.5 was a reasonable zone for the subject property, that the area needs additional price sensitive housing and, finally, that a reclassification of the subject site to D.R. 5.5 would have no adverse impact on the neighborhood.

that although similar facilities for the treatment of storm water management and water quality protection exist, to his knowledge, no system, in the State of Maryland, is as extensive as the facility proposed by the Petitioner.

Mr. Fick elaborated upon the storm water management requirements of Baltimore County. He stressed the fact that Baltimore County has established no standard by which water quality protection can be addressed. Mr. Fick stated that Petitioner's proposed storm water management and water quality protection facility is superior to those facilities required by Baltimore County.

As previously stated, this Board is duly impressed. We are persuaded that the storm water management and water quality protection facility proposed by the Petitioner is excellent. Such a facility could become the standard or model by which all similar future facilities are planned and constructed. We understand the extensive effort expended to impress this Board with the importance of such a facility.

But storm water management and water quality protection, though important considerations, are not dispositive of the ultimate issue. Although this Board is cognizant of Petitioner's manifestations to the contrary, storm water management and water quality protection and the proposals of the Petitioner relating thereto do not address the threshold question of error and/or change.

The applicable legal standard by which this Board must determine each petition for reclassification is contained in Section 2-58.1(j) of the Baltimore County Code.

> Sec. 2-58.1(j) Before any property is reclassified pursuant to this section, the Board of Appeals must find:
>
> (1) 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 property was established in error; and
>
> (2) That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: Population trends; availability

> and adequacy of present and proposed transportation facilities, water supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the Planning Board or Office of Planning and Zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water supply facilities, and the capital program.

Petitioner attempted to address the issues of change and/or error through the presentation of William F. Kirwin, an expert in landscape architecture, land planning and use. Mr. Kirwin testified as to the substantial commercial and industrial activity in the area, the general goals of zoning and the fact that water quality was a stated goal of the 1980 Master Plan.

Mr. Kirwin contended that physical changes in the area of the subject property have occurred subsequent to the 1980 Comprehensive Zoning Map. Due to the industrial and commercial development in the area, Mr. Kirwin stressed the corresponding lack of development within the residential sector. Further, Mr. Kirwin characterized the existing zoning as consistent with fringe area development. According to Mr. Kirwin, the reclassification of the subject property would not constitute an adverse effect upon the health, education and general welfare of the community.

However, Mr. Kirwin also acknowledged that fringe area development required low density zoning and that the requested reclassification would result in a medium density zone. Further, Mr. Kirwin acknowledged that the physical changes to which he alluded were developments consistent with the zoning created by the County Council in the 1980 Comprehensive Zoning Process.

Thus, this Board is not persuaded that the comments by Mr. Kirwin concerning physical changes in the area constitute a substantial change in the character of the neighborhood as contemplated by Section 2-58.1(j) of the Baltimore County Code.

Mr. Kirwin, in addressing fringe area development, admits that no zone abutting the subject property enjoys a density greater than D.R. 1, thus buttressing, in this Board's opinion, the intention of the legislature to maintain low density zoning.

Further, Mr. Kirwin suggested that in the 1980 rezoning process, the Baltimore County Council considered, when zoning the subject site, its proximity to the Loch Raven Reservoir and water quality. He contended that such zoning constitutes an attempt to protect the watershed. Mr. Kirwin contended that the legislative body's efforts in that vein were misguided. According to Mr. Kirwin, zoning is an ineffective tool when addressing water quality. A better method, suggested Mr. Kirwin, is engineering and design.

However, the Board notes that if engineering and design is a better tool to protect the watershed, it can be logically assumed that it is not the only tool. Zoning remains a tool, if not the best tool. Certainly, the utilization of zoning for purposes of protecting a watershed does not constitute error. This Board is persuaded, therefore, that the County Council did not commit error in 1980 if, in fact, one of their stated goals was to protect the watershed.

The Petitioner asserts, through Mr. Kirwin, that during the 1980 Comprehensive Zoning Process the Baltimore County Council was not privy to various reports, documents and data respecting quantitative analysis and its impact on water quality protection. Consequently, according to the Petitioner, inasmuch as this information is now available, it is apparent that the existing zoning, at the subject site, did not reflect the intent of the legislature in 1980, as such was based upon incorrect, faulty and inaccurate assumptions and that in the County Council's effort to protect the Loch Raven Reservoir, that legislative body committed error by zoning this property based upon obvious misconceptions.

Petitioner cites error by the County Council because critical data was not available to them during the 1980 rezoning process up to and including the date of the enactment of the 1980 Comprehensive Zoning Map.

The Board recognizes that within the surrounding neighborhood, other properties enjoying D.R. 5.5 zoning, have not been fully developed. Consequently, the Board is skeptical as to the suggestion of need for additional housing. More importantly, however, this witness did not address the threshold questions of error and/or change.

John W. Guckert, an expert qualified in the field of Traffic Engineering, testified as to the extensive road improvements contemplated by the Petitioner and that a reclassification of the subject property would not have an adverse impact on the road system. It was established, however, that improvements to the road shall be necessitated whether the subject property is developed consistent with the existing zoning or as proposed in the petition for reclassification.

Again, the issues of error and/or change were not addressed through Mr. Guckert.

As promised, in opening remarks, the underlying theme of the subject petition for reclassification was the advancements made in the field of storm water management and water quality protection. In that vein, Petitioner produced Charles E. Fick, a civil engineer and Dr. John T. Cookson, an expert environmental consultant. Indeed, the Board is constrained to comment that we were extremely impressed by the presentation of both these gentlemen.

Through the testimony of Mr. Fick and Dr. Cookson, the issues of storm water management, water quality protection, sediment ponds, water supply, sewage, solid waste disposal, road improvements and the substantial costs to be incurred by the Petitioner, were addressed.

Dr. Cookson assured the Board that the environmental impact upon the community and surrounding neighborhood, in the event the reclassification is granted, would be minimal. He explained, in detail, the storm water management and water quality protection system the Petitioner intends to utilize. Dr. Cookson stressed the fact

This Board disagrees. The suppositions postulated by Mr. Kirwin are not consistent with reason or the case law of this State. Indeed, this Board finds it implausible to assume the legislative body committed error by not considering information that the Petitioner admits was not available to be considered.

Addressing the threshold question of error and/or change, the Board considers Trainer v Lipchin, 269 Md. 667 (1973); and Coppolino v County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974); both of which quoted from Stratakis v Beauchamp, 268 Md. 643 (1973)

> "While in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced." (emphasis added)

Having established the focal point from which this petition for reclassification must be considered, this Board, once again, states that Petitioner has failed to meet its burden of demonstrating error and/or change.

Earlier we addressed the alleged physical changes cited by the Petitioner. As stated in Clayman v Prince Georges County, 266 Md. 409 (1972) and reaffirmed in Pattey v Board of Commissioners for Worcester County, 271 Md. 352 (1974)

> "What Appellants have failed to recognize is that when we speak of "substantial changes in the character of the neighborhood," we mean "changes must occur of such a nature as to have affected its character."

This Board is not persuaded that the physical changes, including the industrial and commercial development in the area, constitutes such a change as to affect the character of the neighborhood. In fact, those changes, in this Board's opinion, are consistent with the existing zoning.

Addressing, again, Petitioner's assertions that the County Council committed error because their decision was based upon faulty, inaccurate and incorrect assumptions, this Board is persuaded that the County Council utilized the data available to it, at the time, and, in so doing, acted correctly.

Actually, we believe that the Petitioner's assertions are meritorious but misdirected or, perhaps misunderstood. Continuously, throughout its presentation, Petitioner made reference to the Master Plan, the Planning Board and the Department of Planning and Zoning. However, we suggest the Petitioner failed to recognize that these agencies are merely advisory and the Master Plan is merely a guide. As stated 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 rezoning map, nor may it be equated with it in legal significance." Clearly, in Baltimore County, the Master Plan's purpose is to set forth comprehensive objectives, policies and standards to serve as a guide for the development of the County.

Section 523 (a) and (b) of the Baltimore County Code states:

(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)

We are, of course, cognizant of Maryland-National Capital Park and Planning Commission v Washington Business Park Associates, 294 Md. 302 (1982) which addressed Coffey v Md. Nat'l. Cap. P. & P. Comm'n., 293 Md. 24 (1982). However, in our judgment, Coffey is distinguishable inasmuch as Coffey held that the Prince George's

County subdivision regulations require that a subdivision plan comply with a Master Plan as in zoning matters and therefore said Master Plan was not considered a mere guide or set of recommendations. Obviously, the Prince George's County Code, with respect to a Master Plan in zoning matters, is more stringent and conformance with the Master Plan, in Prince George's County, is mandatory. It is not mandatory in Baltimore County, with respect to zoning. Therefore, this Board is persuaded that the intention of the County Council, in 1980, with respect to comprehensive rezoning, was to consider the Master Plan as a guide, and not as a mandate.

Pattey v Board of County Commissioners of Worcester County, supra, held "Thus, the trial judge fell into error by ignoring the basic distinction between a Master Plan, on the one hand, and a zoning map, comprehensive zoning, or zoning classification, on the other."

And, in Coppolino v County Board of Appeals of Baltimore County, supra, the recommendations of a planning body were considered and the Court therein held " . . . that the recommendations of a planning body with respect to a comprehensive rezoning are not binding upon the legislative body." (emphasis added) Further, that same Court stated "Such recommendations, even though emanating from the Planning Staff and the Planning Board, are insufficient to make the issue of mistake or confiscation "fairly debatable"."

Considering those cases, this Board finds nothing in the record to substantiate Petitioner's contentions that the 1980 Comprehensive Zoning Map was enacted based upon faulty assumptions.

Assuming, arguendo, that more accurate data and/or information is now available, upon which a more scientific approach to zoning the subject site is possible, it is nevertheless, apparent that said data and/or information became available subsequent to the enactment of the 1980 Comprehensive Zoning Maps. Consequently, the legislative body cannot be considered to have incorrectly assumed that of which they were, unquestionably, unaware.

People's Counsel for Baltimore County v Williams, 45 Md. App. 617 (1980) addressed that issue. Supportive of Petitioner's contentions, the Court cited Rockwell v Stone, 271 Md. 655 (1974) "On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this is sufficient to authorize rezoning." However, Rockwell v Stone, supra, did not erose the legal standard enunciated in Surkovick v Doub, 258 Md. 263 (1970) "To support a rezoning classification, there must be evidence before the legislative body which establishes that the "mistake" was basic and actual"; and that it was made "at the time" the property was zoned . . . " (emphasis added) and " . . . the mistake "alleged to have occurred must relate to the specific property for which the rezoning is sought, and may not consist of generalities."

Interestingly, Petitioner makes no effort to advance the proposition that the data now available could have been acquired by the County Council prior to comprehensive rezoning in 1980. Therefore, absent extraordinary circumstances, the strong presumption of the validity of the zoning maps shall be upheld.

Clearly, in the case at bar, extraordinary circumstances did not exist. In comparison and distinguishable on the facts is Bonnie View Country Club, Inc. v Louis J. Glass, 242 Md. 46 (1966). In that case the Court held: "Extraordinary situation existing at the time of comprehensive zoning caused by generally unknown mine shafts and surface rock formation in tract coupled with topography making it unusually unfit for single family residential development rendered conclusions that there was error in original zoning of property for residences fairly debatable." In this Board's view, nothing extraordinary exists in the discovery, subsequent to 1980, of scientific and engineering data respecting more sophisticated and, arguably, better storm water management and water quality protection facilities.

Petitioner also contends that although a strong presumption of the validity of original zoning exists, and that strong evidence of error is required, Petitioner's burden, in the case at bar, is less onerous. We agree. Boyce v Sembly, 25 Md. App. 43

(1975) held, " . . . strong evidence of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting reclassification is arbitrary and capricious." In Chapman v Montgomery County Council, supra, the Court recognized, as it had in the past, "that there is a difference to be observed in the treatment of reclassification from one residential sub-category to another, . . . " and in Hyson v Montgomery County, 242 Md. 55 (1966), Missouri Realty, Inc. v Ramer, 216 Md. 442 (1958) was quoted, "Thus, the Court seems to adopt a more liberal attitude when reviewing amendments from one use to a similar use."

Nevertheless, this Board considers the evidence presented by the Petitioner to be insufficient to warrant debate. Even applying the liberal standard and considering the burden of proof required of the Petitioner in a less stringent vein, we do not perceive the facts produced sufficient to warrant a determination that the County Council committed error in the 1980 comprehensive zoning process or that a substantial change in the character of the neighborhood has occurred.

Recognizing that the reclassification sought by the Petitioner is but a narrow change from a low density category to a medium density category, we are persuaded that the Petitioner, though its burden is less onerous, has not demonstrated even a scintilla of the evidence necessary to satisfy the provisions of Section 2-58.1(j) of the Baltimore County Code.

Coppolino v County Board of Appeals of Baltimore County, supra, succinctly states the legal standard to be applied:

"The fact that comprehensive rezoning may occur in Baltimore County with greater frequency than has been the case in the past does not alter the fact that it will result from careful study of changes occurring in wide areas and an assessment of future public needs and purposes. Indeed, in our view, the system will enhance the stability and permanence of zoning classifications by assuring that the majority of zoning

classifications are determined in accordance with a carefully considered integrated plan of development, based upon a full understanding of the present and future needs of a broad area, rather than upon a piecemeal review of limited scope. In any event, arbitrary and capricious action by the Council is prevented and stability and permanence assured by the requirement that a comprehensive rezoning, in order to be valid, must bear a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare."

This Board is persuaded, on the record before us, that the County Council, with respect to the subject property, carefully studied the changes occurring in Baltimore County and considered the public's needs and purposes. We believe, from all the evidence, that the County Council intended, in 1980, to enhance stability and permanence by assuring an integrated plan of development for the present and the future throughout this County. We believe, therefore, that the zoning of the subject site was appropriate, not occasioned by mistake, and in the interest of the health, safety and general welfare of Baltimore County.

To determine error or to find a substantial change in the character of the neighborhood, based on the record before us, would require this Board to ignore the facts produced and thus pervert the integrity of the comprehensive zoning process of Baltimore County.

ORDER

For the reasons cited in the aforegoing Opinion, it is this 24th day of March, 1983, by the County Board of Appeals, ORDERED that the Motion to Dismiss be and hereby is GRANTED and the Petition for Reclassification be and hereby is DISMISSED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William R. Evans
William R. Evans

Keith S. Franz
Keith S. Franz

.494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
July 27, 1982

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. CR-82-187 — UNIVERSAL HOUSING & DEVELOPMENT CO.

For reclassification from D.R. 3.5 and D.R. 1 to D.R. 5.5

E/S Paper Mill Rd. W. of Ashland Rd.

8th District

ASSIGNED FOR: WEDNESDAY, SEPTEMBER 22, 1982 at 10 a.m.
THURSDAY, SEPTEMBER, 23, 1982 at 10 a.m.

cc: John Martin Jones, Jr., Esq.	Counsel for Petitioner
Joel J. Feinberg, Esq.	" " "
Mr. Melvin R. Colvin, President Universal Housing & Dev. Co.	Petitioner
Catherine Matz	Representing Broadmead
Linda Tavin	
Dr. and Mrs. Edward Hopkins	
Margaret Resnick 13912 Greenbrook Drive, Phoenix, Md. 666-9144 318-1101	
John W. Hessian, III, Esq.	People's Counsel
Mr. W. E. Hammond	
Mr. J E. Dyer	
Mr. N. E. Gerber	
Mr. J. G. Haswell	
Board of Education	

Edith T. Eisenhart, Adm. Secretary

.494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
July 27, 1982

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cc: John Martin Jones, Jr., Esq. — Counsel for Petitioner
Joel J. Feinberg, Esq. — " " "
Mr. Melvin R. Colvin, President Universal Housing & Dev. Co. — Petitioner
Catherine Matz — Representing Broadmead
Linda Tavin
Dr. and Mrs. Edward Hopkins
Margaret Resnick
John W. Hessian, III, Esq. — People's Counsel
Mr. W. E. Hammond
Mr. J E. Dyer
Mr. N. E. Gerber
Mr. J. G. Haswell
Board of Education
Mark Pollack, Esq — Petitioner
Jeff Haggard, Esq — Petitioner

Edith T. Eisenhart, Adm. Secretary

AUG 1 '84

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

IN THE MATTER OF THE APPLICATION OF UNIVERSAL HOUSING & DEVELOPMENT CO. FOR REZONING OF PROPERTY LOCATED ON THE EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 611.86' FROM CENTER-LINE OF ASHLAND RD., 8th DISTRICT-PARCEL 1; EAST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 649.39' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT-PARCEL 2; WEST SIDE OF PAPER MILL RD. (ASHLAND AVE.) 667.20' WEST OF INT. OF PAPER MILL RD. AND ASHLAND RD., 8th DISTRICT-PANEL 3 FROM D.R. 3.5 and D.R. 1 TO D.R. 5.5

BOARD OF APPEALS OF BALTIMORE COUNTY

THE PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
Protestant

MARGARET RESNICK

ATTORNEYS

Mark Pollak
Joel J. Feinberg
1100 Charles Cente South
36 S. Charles St. (01)
539-2530

AUG 5 1983
PEOPLE'S COUNSEL

John W. Hessian, III
Peter Max Zimmerman
R. 223, Court House
494-2188 (04)

Jeffrey B. Hazard
13919 Green Branch Dr.
Phoenix, Md. 21131

CENTRAL ASSIGNMENT

	COSTS
(1) April 21, 1983 - Order of Universal Housing & Development for Appeal by the decision of Board of Appeals of Baltimore County fd.	
(2) Apr. 22, 1983 - Certificate of Notice fd.	
(3) May 2, 1983 - Petition of Universal Housing and Development Co. fd.	
(4) May. 11, 1983 - Transcript of Record fd.	
(5) May. 11, 1983 - Notice of Filing of Record fd.	
(6) May 26, 1983 - App. of John W. Hessiam, III & Peter Max Zimmerman as attorneys' for the Protestant & same day Answer to Petition for Appeal fd.	L-CLRK 60.00 B LRRY 5.00
(7) June 13, 1983 App. of Jeffrey B. Hazard for the Protestant (Resnick). Same day Answer to Petition fd.	CHECK TL 65.00 #04055 C001 R01 T14:41 04/21/83
(8) June 13, 1983 - (Protestant's Margaret Resnick) Motion for Extension of time to answer and Order of Court Granting Same fd. (JRH)	MISC # 83149 #
(9) June 13, 1983 - Petitioner's Memorandum in support of Petition of Universal Housing & Development Co. fd.	L-CLRK 5.00
(10) July 1, 1983 - People's Counsel Memorandum and Exhibits fd.	CASH TL 5.00 #11926 C001 R02 T15:01 07/20/83

AUG 4
JUL 3 6 1983
PAID, SETTLED AND DISMISSED. ORDER OF PLAINTIFF'S ATTORNEY FILED.

DOCKET 15 PAGE 184 CASE NO. 83-M-149

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

NORMAN E. GERBER
DIRECTOR

October 29, 1981

Mr. William Hackett Chairman
Board of Appeals
Room 219 — Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #10, Zoning Cycle II, — 1981, are as follows:

Property Owner: Universal Housing and Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Tally-Ho Road
Acres: 172.808
District: 8th

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

Any subdivision of the property will require compliance with Title 22 of the Baltimore County Code.

Very truly yours,

John L. Wimbley
Planner III
Current Planning and Development

JLW:rh

---

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

STEPHEN E. COLLINS
DIRECTOR

October 8, 1981

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle II - Meeting of September 14, 1981
Item No. 10
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 -28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.808
District: 8th

Dear Mr. Hackett:

The existing D.R. 1 and D.R. 3.5 zoning for this site can be expected to generate approximately 7490 trips per day and the proposed D.R. 5.5 zoning can be expected to generate approximately 9500 trips per day.

Shawa. Road should be extended to Paper Mill Road prior to development of this site.

Michael S. Flanigan
Traffic Engineering Associate II

MSF/rlj

October 6, 1981

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

Dear Mr. Reiter:

Comments on Item #10, Zoning Advisory Committee Meeting for Cycle II, are as follows:

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5-28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.808
District: 8th

The proposed development of this site is not inconsistent with the Baltimore County Master Water and Sewer Plan.

Environmental Impact and Water Quality Issues must be resolved prior to approval of tentative subdivision plans for the site.

Any existing wells or sewage disposal systems must be properly abandoned and backfilled prior to approval of grading plans for the site.

Very truly yours,

Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/fth/JRP/mss

BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H REINCKE
CHIEF

October 9, 1981

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

cc: William Hackett
Chairman of Board of Appeals

Attention: Nick Commodari
Zoning Plans Advisory Committee

RE: Property Owner: Universal Housing and Development Company

Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road

Item No.: 10 Zoning Agenda: Meeting of September 14, 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.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals or 500 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

( ) 2. A second means of vehicle access is required for the site.

(X) 3. The vehicle dead end condition shown at dead end streets exceeding 300' in lengh shall have standard cul-de-sac or hammer head turn-around. 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: Noted and Approved: George M. Hellegandt
Planning Group
Special Inspection Division
Fire Prevention Bureau

JK /mhf cm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William Hackett-Chairman
Board of Appeals
Date: September 23, 1981

CC: Nick Commodari

FROM: Charles E. Burnham

SUBJECT: Cycle II - 1981
Item #10 Zoning Advisory Committee Meeting 9-14-81

Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 - 28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705

Acres: 172.808
District: 8th

All buildings, structures and other improvements shall comply with the Baltimore County Building Code and other applicable rules and regulations inforced at the time the permits are applied for.

The structures listed as Home Owners Association shall be separated by 8" masonry fire walls in compliance with Section 909.1.2 of the Building Code as amended or as may be applicable at time of permit application. All ponds shall be fenced in compliance with the code or as amended in Bill 199-79.
Razing permits shall be required for any removal of on site structures.
It appears all construction has been kept clear of the 100 year flood plain.

Charles E. Burnham
Plans Review Chief

CEB:rrj

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland — 21204

Date: 9/22/81

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

Zoning Cycle #11 - 1981
Meeting of 9/14/81

RE: Item No: 10
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Rd. 611.86' from centerline of Ashland Rd.
Present Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac. D.R. 3.5 to D.R. 5.5 - 142.705
Acreage: (172.808) D.R. 3.5 to D.R. 5.5 - 28.405 Ac.

School Situation

School	Enrollment	Capacity	Over/Under
Pot Spring El.	516	581	-65
Cockeysville Jr.	761	1284	-523
Dulaney Sr.	1643	1645	-2

Student Yield With:	Existing Zoning	And	Proposed Zoning
Elementary	116		125
Junior High	83		68
Senior High	107		83

Very truly yours,

Wm. Nick Petrovich, Assistant
Department of Planning

WNP/bp

Maryland Department of Transportation
State Highway Administration

James J. O'Donnell
Secretary
M. S. Caltrider
Administrator

October 28, 1981

Mr. William Hammond
Zoning Commissioner
County Office Bldg.
Towson, Maryland 21204

Attention: Mr. N. Commodari

Re: Z.A.C. Meeting of 9/14/81
ITEM: #10.
Property Owner: Universal Housing & Development Company
Location: E/S Paper Mill Road, Route 145, 611.86' from centerline of Ashland Road
Existing Zoning: D.R. 3.5 & D.R. 1
Proposed Zoning: D.R. 1 to D.R. 5.5 - 1.698 Ac.
D.R. 3.5 to D.R. 5.5 - 28.405 Ac.
D.R. 3.5 to D.R. 5.5 - 142.705
Acres: 172.808
District: 8th

Dear Mr. Hammond:

On review of the site plan and field inspection, the State Highway Administration offers the following comments.

The Shawan Road Extension east of York Road to tie to existing Paper Mill Road, traversing a portion of this site, is in the State Highway Administration Baltimore County 1980 Needs Inventory - State Secondary System.

I am sending a copy of the 1980 State Highway Needs Inventory and a sketch showing the possible connection from Shawan Road at York Road (Route 45) to the existing Paper Mill Road (Route 145).

With the proposed 968 units permitted and the proposed tie to Shawan Road at York Road by way of Paper Mill Road in the State Secondary System, the connection at York Road and Ashland Road will result in a breakdown of the existing intersection.

My telephone number is (301) 659-1350

P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203

Mr. W. Hammond -2- October 28, 1981

The State Highway Administration has no plans or funds available at this time for improvements to this York Road and Ashland Road Intersection.

Very truly yours,

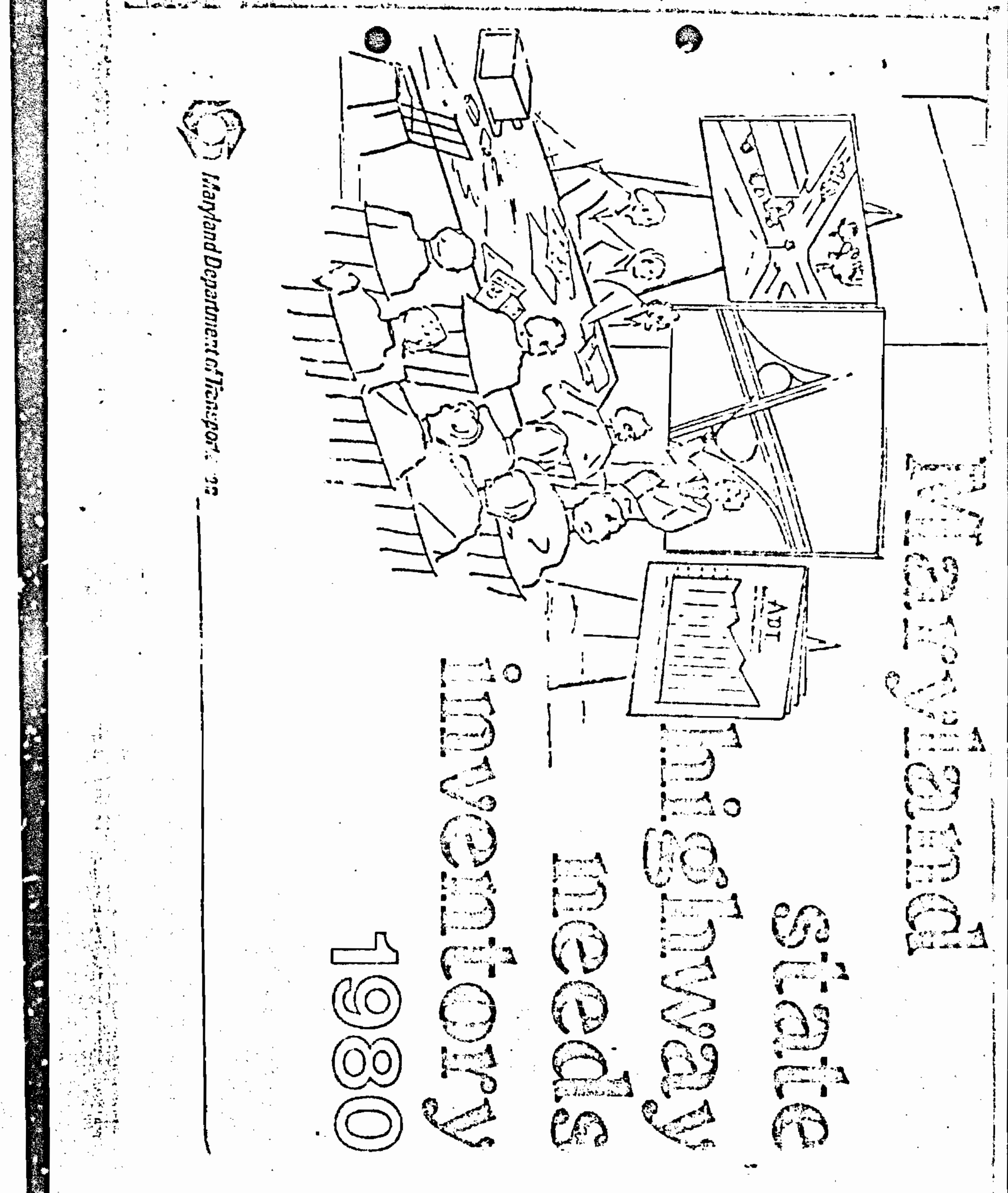
Charles Lee, Chief
Bureau of Engineering
Access Permits

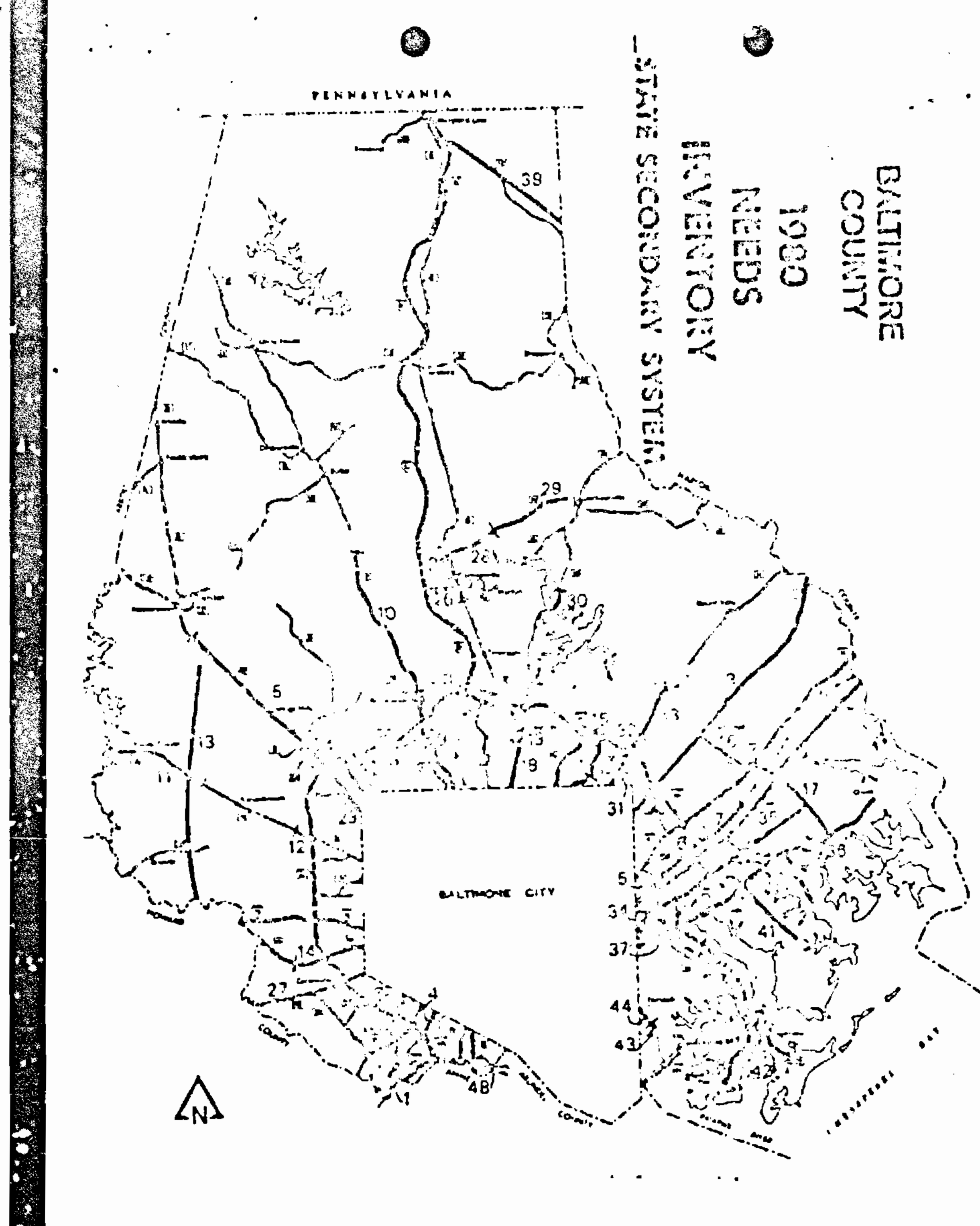
By: George Wittman

CL:GW:maw

Attachment

cc: Mr. J. Wimbley

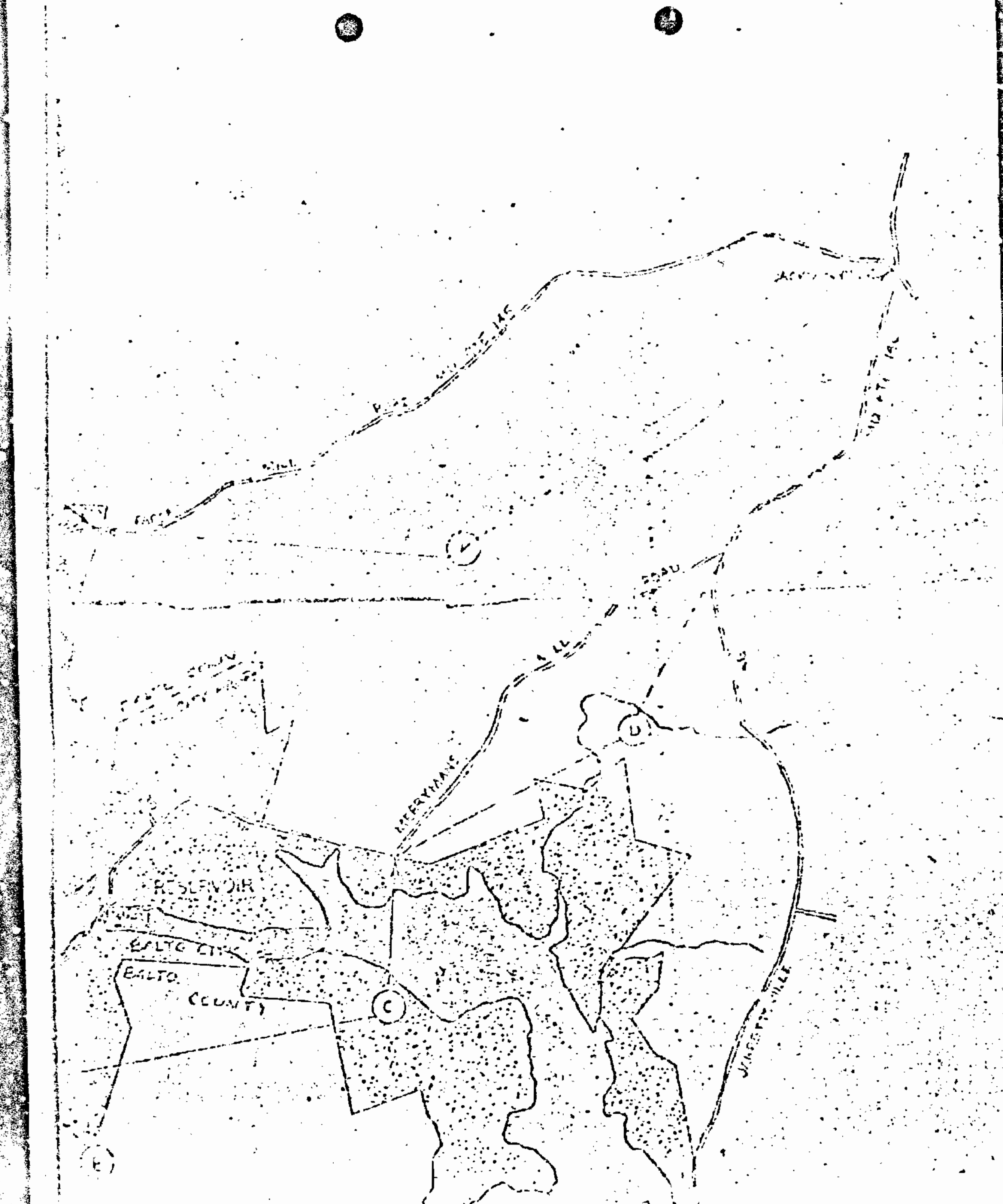




SECONDARY-BALTIMORE 1980 HIGHWAY NEEDS INVENTORY

MAP REF.	ROUTE-ROUTE NAME LIMITS-LENGTH		NEED CATEGORY	IMPROVEMENT TYPE* COST ($000)
[illegible]	Md. 41-Perring Parkway Taylor Avenue to 0.2 mile south of I-695	1.1 mi.	Se	multi-lane reconstruct 500
[illegible]	[illegible] White Marsh Boulevard U.S. 1 to Honeygo Boulevard	[illegible]	Se	multi-lane construct [illegible],600
[illegible]	Md. 43-White Marsh Boulevard U.S. 40 to Md. 150 at Carroll Island Road	[illegible]	Se	multi-lane construct 2,100
[illegible]	[illegible] York Road	[illegible]	Se	multi-lane reconstruct [illegible]
[illegible]	Baltimore City Line to Burke Avenue	1.7 mi.	Se	multi-lane reconstruct [illegible]
[illegible]	York Ave. to Ruxley Avenue	0.9 mi.	Se	multi-lane reconstruct 1,700
[illegible]	0.1 north of Industry Lane to Cockeysville Road	1.0 mi.	Se	multi-lane reconstruct 1,500
[illegible]	Cockeysville Road to Shawan Road	1.1 mi.	Se	multi-lane reconstruct 2,600
[illegible]	Md. 129-Park Heights Avenue Baltimore City Line to 0.1 mile south of I-695	1.3 mi.	Se	multi-lane reconstruct 2,400
[illegible]	Md. 140-Reisterstown Road Baltimore City Line to 0.1 mile south of I-695	1.8 mi.	Se	multi-lane reconstruct 2,800
[illegible]	[illegible]	0.9 mi.	Sa,Se	urban divided reconstruct 3,000
[illegible]	[illegible]	[illegible]	Se	multi-lane reconstruct [illegible],300
[illegible]	[illegible]	6.0 mi.	Se	2 lane construct 2,500
[illegible]	I-83 to Md. 45	1.4 mi.	Se	[illegible]
[illegible]	Md. 144-Frederick Road Howard County Line to Baltimore City Line	4.9 mi.	Se	multi-lane reconstruct 10,900
28	Md. 145 Rel.-Paper Mill Road Md. 45 to Md. 145 0.2 mile west of Phoenix Road	1.6 mi.	Se	2 lane construct 2,500

*No final alignment or improvement type can be recommended until studies are completed indicating the most feasible alternative.



Maryland Department of Transportation
State Highway Administration

Hermann K. Intemann, Secretary
M. S. Caltrider, Administrator

August 17, 1978

Mr. Robert A. Morton, Chief
Bureau of Public Services
County Office Bldg.
Towson, Md. 21204

Re: Paper Mill Industrial Park
Prel. Plans - Project No. 7164
Paper Mill Rd. 2000' East
York Road
Md. 145 Extended

Dear Mr. Morton:

Although the proposed State highway improvement is listed in the Critical Section of the Twenty Year Highway Needs Study, no studies have been made to determine the exact alignment or right of way width. The line on the plan is conjecture and is subject to change. As mentioned at the J.S.P.C. meeting, the intersection of Ashland Road with York Road is substandard and should be improved.

Very truly yours,

Charles Lee, Chief
Bureau of Engineering
Access Permits

By: John E. Meyers

CL:JEM:vrd

cc: Mr. E.A. McDonough
Mr. J.L. Wimbley
Mr. H. Kassoff (w-plan)

RECEIVED
AUG 21 1978
BUREAU OF LAND DEVELOPMENT

My telephone number is (301) 383-4323

P.O. Box 717 / 300 West Preston Street, Baltimore, Maryland 21203

DATE July 2? 1978

SUBDIVISION REVIEW COMMENTS

BALTIMORE COUNTY FIRE DEPARTMENT - FIRE PREVENTION BUREAU

Lt. Thomas Kelly

[illegible]JECT NAME:	Paper Mill Industrial Pk.	PRELIMINARY PLAN	
[illegible]JECT NUMBER:	7164	TENTATIVE PLAN	
[illegible]CATION:		DEVELOPMENT PLAN	
[illegible]STRICT:	8	FINAL PLAT	

The fire hydrant spacing and road layouts are approved as shown. with one exception, Lot #48 shall require on site fire hydrant protection.

BALTIMORE COUNTY, MARYLAND

CT: SUBDIVISION REVIEW COMMENTS DATE: August 3, 1978

: CURRENT PLANNING AND DEVELOPMENT

CT NAME: Paper Mill Industrial Park	PRELIMINARY PLAN XXXXXXXXX
CT NUMBER:	TENTATIVE PLAN
TION	DEVELOPMENT PLAN
NCIL & ELECTION DISTRICT VIII-257 C-3	FINAL PLAT

The Office of Current Planning and Development has reviewed the subject plat of 175.92 acres of which there are 52 lots presently zoned M.L.R. and has the following comments:

This office concurs with the comments of Department of Traffic Engineering.

As previously stated a 100' setback must be maintained along all residential zones and shown on the site plan.

Thornton Mill Road should terminate at Millcircle Road

Landscaping and individual site details should be shown at the time of building permit applications. However, this office request a general landscape plan for the overall industrial park. -

John L. Wimbley
Planner III

RECEIVED
AUG 23 1978
DEVELOPMENT DESIGN ADMINISTRATION
BUREAU OF ENGINEERING

August 23, 1978

Universal Housing & Development Company
9901 Langs Road
Baltimore, Maryland 21220

RE: Paper Mill Industrial Park
(formerly Towson Nursery)

Gentlemen:

The preliminary plan for the referenced subdivision has been reviewed and comments are enclosed for your information and guidance as provided by the following agencies:

1. Bureau of Engineering Comments dated August 3, 1978
2. Office of Current Planning & Development Comments dated August 3, 1978
3. Fire Department - Fire Prevention Bureau Comments dated July 20, 1978
4. State Highway Administration Comments dated August 17, 1978
5. Department of Traffic Engineering Comments dated August 1, 1978

These comments are based on such information as shown on the preliminary plan and are subject to change and/or addition with submission of a more complete plan. They shall not be construed to indicate tentative approval, which is obtained only with the signatures of authorized County Officials on the plan itself.

DIVISION OF LAND DEVELOPMENT COMMENTS:

Upon compliance with the enclosed comments, the plan may be submitted for tentative approval.

In order to process this project in accordance with current procedure, a fee is being charged for processing. The fee is determined by the number of acres. For processing this plan to tentative approval, the Developer shall submit a certified or cashiers check for $2,626.00 for 175.52 acres, payable to Baltimore County, Maryland. The Developer shall be responsible to pay the fees for subsequent steps to Baltimore County in accordance with procedure as the project is processed.

A Public Works Agreement must be executed by the Owner and Baltimore County for the public improvements prior to the recording of a record plat.

Very truly yours,

(SIGNED) ROBERT A. MORTON

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

RAM:GWP:cms
Enclosures
CC: G.W. Stephens, Jr. & Associates, Inc., 303 Allegheny Avenue, Towson, Md. 21204
E.A. McDonough; E. Dober; Wm. Groomalt; R. Patterson; File; - S -

ter - JSPC Meeting - 2 - September 15, 197?

Paper Mill Industrial Park (formerly Towson Nursery)
District 8

Paper Mill Road, at this time will be improved with a 50-foot curb and er cross section and it shall be the Developer's full responsibility. All rior streets shall be improved with a 40-foot curb and gutter cross section on -foot rights-of-way.

Storm drain improvements for this subdivision shall be the Developer's responsibility.

The Developer will have a 25% cost toward the construction of the bridge he extension of Shawan Road over Western Run.

Street lights and sidewalks are required within this site.

Public sewer exists and the industrial site will be served by the sion of public sewer.

Public water will have to be extended approximately 1,800-feet to serve a division. Developer's Engineer shall make a study with reference to the extension for approval by Baltimore County.

Storm water management and sediment control requirements apply. Storm management should be designed based on 100-years storm frequency.

This subdivision must comply with State Regulations for underground rical distribution and telephone services. The Gas and Electric Company he Telephone Company requested that rights-of-way be provided for their ities prior to recording of the plan.

The Soil Conservationist presented a soils report and sediment control t, a copy of which was given to all representatives present.

Developer was advised that after the plan has been revised in accordance the suggestions of the committee and the proposed revisions, plan may be mitted to the County for process .

REVIEWED BY THE BALTIMORE COUNTY JOINT SUBDIVISION PLANNING COMMITTEE
SEPTEMBER 15, 1977

PER MILL INDUSTRIAL PARK (formerly Towson Nursery)

velopers - Universal Housing & Development Company, 9901 Langs Road, 21220
gineer - G.W. Stephens & Associates, Inc., 303 Allegheny Ave., 21204
istrict - 8
ocation - E of York Road & North & South of Paper Mill Road
ot Type - MLR & RO-4 # of Lots: 52 MLR No. of Acres: MLR - 175.92
Total Acreage: 390.73 acres
acilities - Available - Public Water & Sewer
epres tatives Present:

Representing Developer: Leroy Posner; Charles Fick

Representing Developer's Section: Catherine Warfield; Edward A. McDonough

Developer presented a 200-scale plan of a proposed subdivision located rth and South of Paper Mill Road and East of York Road and Ashland Road. he following comments were made:

Developer stated that the MLR land is being proposed for development at his time with 52 lots proposed.

The Office of Planning stated that the proposed Thornton Mill Road shall rminate at the proposed cul-de-sac street. This street name shall be revised. se rail service proposed is subject to the existing rail facilities remaining. eveloper shall check with the Penn Central for the future status of the rail rvice. It was further stated that a landscape plan be provided for this industrial park. The Office of Planning further stated that some revisions in reet pattern and revisions in lots may be necessary. Developer's Engineer hould contact the Office of Planning with reference to these changes.

The State Highway Administration stated that a proposed Shawan Road xtension or Paper Mill Road extension is within the 20-year need study. It s proposed that this road be improved with a 120-foot rights-of-way. It was urther stated by the State that Ashland Road intersection with York Road rovides very poor site distance and does not appear adequate to handle this ype of projected traffic.

The Traffic Engineers stated that Ashland Road bridge has a maximum load limit of 12-tons.

The Office of Zoning stated that a 100-foot buffer strip must be shown llow all residential zoning.

Bureau of Engineering stated that a line and grade plan for Shawan or aper Mill Roads was done a few years ago and has some engineering value in he planning of Shawan Road extension within this subdivision. It is requested hat the Developer's Engineer show the ultimate rights-of-way for Paper Mill

Jack

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 30, 1981

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

c/o

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

John Martin Jones, Jr., Esquire
Piper and Marbury
1100 Charles Center South
36 S. Charles Street
Baltimore, Maryland 21201

RE: Item No. 10 - Cycle No. II
Petitioner - Universal Housing & Dev. Co.
Reclassification Petition

Dear Mr. Jones:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October '81 - April '82 reclassification cycle (Cycle II). It 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 possible 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 the 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 November 30. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

The subject properties, consisting of vacant wooded land formerly used by the Towson Nurseries, are located on both sides of Paper Mill Road northeast of Ashland Road in the 8th Election District. Surrounding properties are improved with individual dwellings and the Loch Raven Reservoir to the south and east, while the Broadmead Community (apartments for the elderly) and additional land owned by your client exist to the north. These properties are part of a larger tract of land, which was the subject of a previous hearing (Case #75-176-R). This reclassification request was from the then existing R-6 and R-40 zones to an M.L.-I.M. zone and was eventually dismissed.

In reviewing the site plans submitted with this petition, it appears that the plans were prepared without consideration of Bill 124-81. This Bill incorporated major revisions to the uses permitted and setback requirements of other principal buildings and dwellings located in a residential transition area. Among other things, it eliminated the table in Section 1B01.2.C.4 of the regulations, which detailed minimum

Item No. 10 - Cycle II
Petitioner - Universal Housing & Dev. Co.
Reclassification Petition

area requirements and setbacks for dwellings in transition areas. It also required that similar type uses would be allowed in a transition area if they had the same or lesser number of dwelling units and party walls as the existing dwelling units. For this reason, the notes and proposed building envelopes, indicating minimum setbacks, etc. in transition on sheet 6 of 6, are not applicable. Also, the proposed townhouses along the west property line must meet the requirements of the aforementioned Bill; i.e., same or lesser number of dwelling units and party walls in the existing dwellings units. Because of changes that must be made to the site plan, I suggest that you and your engineer arrange a meeting with me to discuss this matter.

The environmental impact statement that was required as part of this subdivision was forwarded to Mr. Paul Solomon of the Planning Office on September 22, 1981. As of this writing, I still have not received a response as to the suitability of this report. In addition and by way of this letter, I am forwarding a copy of your proposal to Mr. Al Barry, Chief of Current Planning for Baltimore City in order to receive any comments he may have.

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 March 1 and June 30, 1982, will be forwarded to you in the future.

Very truly yours,

NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: G. W. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Mr. Al Barry, Chief of Current Planning
8th Floor
222 E. Saratoga Street
Baltimore, Maryland 21202

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P.E.
DIRECTOR

Attachment
W-NE Key Sheet
72-76 NW 4-6 Pos. Sheets
NW 18 & 19 NW 19 & 20A
Topo
42 Tax Map

September 28, 1981

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

Re: Item #10 Zoning Cycle II (Oct. 1981-Apr. 1982)
Property Owner: Universal Housing & Development Company
E/S Paper Mill Rd. 611.86' from centerline of Ashland Road
Existing Zoning: DR 3.5 & DR 1
Proposed Zoning: DR 1 to DR 5.5 - 1.698 Acres
DR 3.5 to DR 5.5 - 28.405 Acres
DR 3.5 to DR 5.5 - 142.705 Acres
Acres: 172.808 District: 8th

Dear Mr. Hackett:

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

General:

Comments were supplied for a larger overall property known as Towson Nursery, Inc. (385 acres, more or less), of which this site is a part, in conjunction with the Zoning Advisory Committee review for Item 306 (1969-1970), 71-176R.

Subsequently, comments were supplied for a 391± acre property, of which this site is a part in conjunction with the Baltimore County Joint Subdivision Planning Committee review September 15, 1977 of the proposed "Paper Mill Industrial Park (Formerly Towson Nursery)".

More recently, August 23, 1978, the Baltimore County Bureau of Public Services provided comments for the Preliminary Plan for "Paper Mill Industrial Park (Formerly Towson Nursery)", Project 7164.

These comments were further supplemented September 15, 1978 in regard to public water supply, and October 5, 1978, in regard to proposed right-of-way width for Paper Mill Road.

All of the above Comments are referred to for your consideration. This office has no further comment in regard to the plan submitted for Zoning Advisory Committee review in connection with this Item 10 Zoning Cycle II (October 1981-April 1982).

Very truly yours,

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

RAM:EAM:FWR:ss
cc: Jack Wimbley, C. Warfield

BALTIMORE COUNTY, MARYLAND

TO: Mr. Robert A. Morton
Bureau of Public Services

DATE: August 4, 1978

FROM: C. Richard Moore

SUBJECT: Subdivision Review Comments

PROJECT NAME:	Paper Mill Industrial Park	PRELIMINARY PLAN:	
PROJECT NUMBER:	7164	TENTATIVE PLAN:	
LOCATION:	Paper Mill Road	DEVELOPMENT PLAN:	
DISTRICT:	8C3	FINAL PLAT:	

The intersection of Ashland Road and York Road has limited sight distance and the Ashland Road bridge over the Western Run is narrow and has a weight restriction for vehicles. For these reasons, the improvements to Paper Mill Road and Ashland Road should be made in conjunction with the extension of Shawan Road out to York Road and as this site developes. A 120 foot right-of-way is needed at this time for Paper Mill Road.

The intersection of Ashland Road and Paper Mill Road is to be designed with left turn storage lanes on Paper Mill Road.

The proposed public roads and private driveways are to be designed for 60 mph stopping sight distance. This includes the panhandle access for lots 47 and 48.

The road profile drawings for Paper Mill Road must show that the access point will meet 60 mph stopping sight distance criteria. Individual lot access will not be permitted on Paper Mill Road and Ashland Road. Only two access points will be permitted on each side of Paper Mill Road with individual lots having access at these points and not on Paper Mill Road.

C. Richard Moore
Assistant Traffic Engineer

CRM/GMJ/hms
cc: Mr. Jack Wimbley
Mr. Edward McDonough

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: August 3, 1978

FROM: Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

		IDCA PLAN	
PROJECT NAME:	Paper Mill Industrial Park	PRELIMINARY PLAN	X
PROJECT NUMBER:	87164	TENTATIVE PLAN	
LOCATION:	E. of York Road, N. & S. of Paper Mill Road	DEVELOPMENT PLAN	
DISTRICT:	8C3	FINAL PLAT	

The preliminary plan for the subject site, dated August 29, 1977 and revised June 30, 1978, has been reviewed by the Developers Design Approval Section and we comment as follows:

GENERAL COMMENTS:

All private contracts for construction of storm drains and roads intended for public title and maintenance must be let under a contract form, proposal and attachments adopted by Baltimore County, Department of Public Works. The Developer has the option of placing the storm drains under a public contract.

This property is within the Urban-Rural Demarcation Line on Water Map W-10B and Sewer Map S-10B, in W-3 and S-3 service areas planned for service in 3 to 5 years. The Developer must initiate the procedure to obtain approval from the State Health Department by letter to Mr. Mouring, Director of Public Works advising of service to this site being a deviation to the plan.

HIGHWAY COMMENTS:

Access to this property at the present is from Ashland Avenue and Paper Mill Road.

Paper Mill Road ultimately shall extend to York Road as a State project, which is in the 20-year need study. Requirements and information concerning this road come under the jurisdiction of the Maryland State Highway Administration.

Ashland Avenue shall be relocated ultimately as shown on the preliminary plan to intersect Paper Mill Road at right angles. This relocation shall be accomplished in connection with development of this property. The bridge on Ashland Avenue west of this site is posted for a maximum 12 ton load limit and the bridge over the railroad is rated at a 15 ton load limit. Baltimore City maintains the bridge over Western Run, a tributary of Loch Raven and Baltimore County maintains the bridge over the railroad, which is scheduled for removal. There is a current project authorized in the Baltimore County 1976-1977 Budget as Project 298, Item 503 to eliminate the bridge and railroad tracks and construct Paper Mill Road as a continuous roadway.

HIGHWAY COMMENTS: (Cont'd)

Ashland Avenue and Paper Mill Road shall be improved with a concrete curb and gutter and 50-foot bituminous paving section on a 70-foot right-of-way, except at the intersection of the two roads where 80-foot right-of-way is required to allow for channelization. The Developer shall be responsible for preparation of right-of-way plats for offsite right-of-way. He shall convey all right-of-way and slope easements at no cost to Baltimore County. He shall be responsible for all paving costs for the concrete curb and gutter and 50-foot paving section 11 inches thick.

All interior roads shall be improved with a 40-foot combination curb and gutter cross-section on a 6[illegible] foot right-of-way and shall be the Developer's full responsibility.

Thornton Mill Road shall terminate at Millcircle Drive as no extension of this road is planned beyond this development.

The cul-de-sac shall be improved with a 65-foot paving radius with combination curb and gutter on a 150-foot diameter right-of-way and shall be the Developer's full responsibility.

The sharp curves on Millcircle Drive must conform with Baltimore County Standards for minimum length of curve, minimum radii and widening for this type of street.

The entrance locations are subject to approval by the Department of Traffic Engineering.

It shall be the responsibility of the Developer's engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The Developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

Sidewalks are required on all public roads adjacent to this site. The walks shall be 5 feet wide and shall be installed to conform with Baltimore County Standards (Detail R-19) which places the back edge of the sidewalk 2 feet off the property line.

The Developer shall be responsible for construction stake-out of all highway improvements required in connection with this site and all stake-outs shall be in accordance with Baltimore County Standards.

It shall be the Developer's responsibility to have his engineer set property line control stakes on the points of curvature and points of tangency and on adjacent rights-of-way along proposed roads to be used as control for the stake-out of utilities.

The Developer shall not convey to any railroad or utility company a right-of-way or easement which enjoys superior rights to those entitled to or to be entitled to by inference of the record plat by Baltimore County within the public road right-of-way.

HIGHWAY COMMENTS: (Cont'd)

In accordance with Bill No. 32-72, street lights are required in all developments. The Developer's engineer shall indicate on the preliminary plan the locations of the light standards so that comments can be given on these, as well as other County requirements. The Developer will be responsible for the full costs of installation of the cable, poles and fixtures. The County will assume the cost of the power when the streets have been accepted for County maintenance.

STORM DRAIN COMMENTS:

In accordance with the drainage policy, the Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - including the deeding in fee to the County of the rights-of-way. Preparation of all construction, rights-of-way and easement drawings including engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

Western Run is adjacent to and crosses this site on the west. 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. For tentative approval of this plat, the Developer must furnish the Bureau of Engineering with a drainage study containing the following information:

a. A map of scale 1"=200' for the entire drainage area which contributes to the open stream including a tabulation of flow quantities.

b. Field run cross-sections of the stream with the flood plain of a 100-year design storm indicated on them. These sections are to be taken at 50-foot intervals and are to be shown on standard cross-section paper at 1"=5' horizontal to 1"=5' vertical scale.

c. A profile of the stream on the same scale as the aforementioned cross-sections.

d. A plat with the limits of a 100-year design storm and the location of the field run cross-sections indicated.

e. Hydraulic computations which were used to establish the elevation of the flood plain for each cross-section based on Manning's formula.

The Developer shall be responsible for 25% of the cost of the culvert required for Western Run under Paper Mill Road relocated.

Construction drawings are required for offsite drainage facilities and any onsite facilities serving offsite areas. The plans are to be designed in accordance with Baltimore County Standards and Specifications, and the drawings submitted for review and approval by the Baltimore County Bureau of Engineering. Construction is to be accomplished under County inspection.

STORM DRAIN COMMENTS: (Cont'd)

The Developer 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 Developer.

The Developer is responsible for the cost of temporary structures and measures required in the event of sectional development.

SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS:

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

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

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

A permanent method for retaining storm water runoff in excess of the original runoff based on a 2-year, 10-year and 100-year frequency storm must be provided on the site. Controlled release allowing the original runoff based on a 2-year, 10-year and 100-year frequency rate must be provided.

The Developer shall be responsible to stabilize the sidewalk areas and supporting slopes on all road rights-of-way following completion of the initial grading of the based-out subgrade. The stabilization shall be accomplished within the nearest period of optimum seeding as established in the Baltimore County Sediment Control Manual. Minimum acceptable stabilization measures will be as specified in the Baltimore County Sediment Control Manual under "Critical Area Stabilization (With Semi-Permanent Seedings)".

Failure by the Developer to accomplish the stabilization as aforementioned will result in the termination of all processing phases of this development.

In accordance with Baltimore County Council Grading Ordinance (Bill No. 10-77) a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit. The number of square feet of land disturbed shall be indicated on the sediment control drawing.

WATER COMMENTS:

A preliminary print of this property has been referred to the Baltimore City Water Division, for review and comment in regard to adequacy of water pressure in this development. If Baltimore City has any comment, it will be forwarded.

Public water can be made available to serve this property by constructing a public 12-inch water main extension, approximately 2,200 feet in length, from the existing 30-inch water main in York Road.

The public 12-inch water main shall be constructed in Paper Mill Road and all interior roads.

The Developer is responsible for any deficit to be incurred by the construction, under County contract and inspection, of public water main extension required to serve this property. He is responsible for the preparation and the cost of construction drawings and right-of-way plats required. He is further responsible for conveying any required right-of-way to Baltimore County at no cost to the County.

This property is subject to a Water System Connection Charge based on the size of water meter utilized. This charge will be in addition to the normal front foot assessment and permit charges. The total Water System Connection Charge is determined, and payable, upon application for the Plumbing Permit.

SANITARY SEWER COMMENTS:

Public sanitary sewerage can be made available to serve this property by constructing a public sanitary sewer extension from the existing Ashland Sub-Interceptor, shown on Drawing #72-0320. Public 8-inch sanitary shall be constructed in all interior roads and in Paper Mill Road.

The Developer is responsible for any deficit to be incurred by the construction, under County contract and inspection, of the public sanitary sewerage required to serve this property. He is responsible for the preparation and cost of construction drawings and right-of-way plats required. He is further responsible for conveying the required right-of-way to Baltimore County at no cost to the County.

Right-of-way is required through this property for future construction and maintenance of public sanitary sewerage to the north. The Developer is responsible for the establishment of the right-of-way, and the conveyance thereof, to Baltimore County at no cost to the County.

This property is subject to a Sanitary Sewer System Connection Charge based on the size of water meter used. This charge is in addition to the normal front foot assessment and permit charges. The total public Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit.

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

A Public Works Agreement must be executed by the owner and Baltimore County for the above mentioned improvements, prior to the recording of a record plat.

(SIGNED) EDWARD A. McDONOUGH

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:CLM:rs

cc: File

baltimore county
department of public works
TOWSON, MARYLAND 21204

DONALD M. MOURING, P.E.
DIRECTOR

RECEIVED
OCT 6 1978
PLANNING & ZONING
BALTIMORE COUNTY

October 5, 1978

Universal Housing & Development Company
9901 Langs Road
Baltimore, Maryland 21220

Re: Paper Mill Industrial Park
District 8-C3

Gentlemen:

The enclosed Bureau of Engineering comments dated September 26, 1978, are supplementary to those comments from this agency dated August 3, 1978.

very truly yours,

(SIGNED) ROBERT A. MORTON

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

RAM:EAM:lhm

Enclosure

cc: George Wm. Stephens, Jr. & Assoc., Inc.
303 Allegheny Avenue
Towson, Maryland 21204

Edward A. McDonough
William Ovenshalt
Eugene Dobur
Pauline Foos
PWA File
Subdiv. File

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: September 26, 1978

FROM: Ellsworth N. Diver, P.E.
Chief, Bureau of Engineering

		IDCA PLAN	
PROJECT NAME:	Paper Mill Industrial Park	PRELIMINARY PLAN	X
PROJECT NUMBER:	87164	TENTATIVE PLAN	
LOCATION:	E. of York Road, N. & S. of Paper Mill Road	DEVELOPMENT PLAN	
DISTRICT:	8C3	FINAL PLAT	

These comments are supplementary to those transmitted to your office.

SUPPLEMENTARY HIGHWAY COMMENTS:

The Department of Traffic Engineering originally called for a 120-foot right-of-way for Paper Mill Road. We have discussed the right-of-way width and it is agreed between the Department of Traffic Engineering and the Department of Public Works that an 80-foot right-of-way shall be provided along the frontage of the Paper Mill Industrial Park. Please revise future plans and/or right-of-way plats accordingly.

(SIGNED) EDWARD A. McDONOUGH

ELLSWORTH N. DIVER, P.E.
Chief, Bureau of Engineering

END:EAM:CLM:rs

cc: File
Dept. of Traffic Engineering