

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

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an M.L.R. zone to an M.L. 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:

No. 105778

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

DATE 3/1/82 ACCOUNT 01-662
AMOUNT 1.000

RECEIVED FROM Bruce Campbell Nottingham
FOR Plans for rezoning petition
Nottingham Village
500.00

VALIDATION OR SIGNATURE OF CASHIER
I hereby certify that the amount herein stated is correct and is to be bound by the zoning laws of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser: (Type or Print Name)
Signature
Address
City and State

Legal Owner(s):
(Type or Print Name)
Signature
Address
City and State

Attorney for Petitioner:
Richard A. Reid
(Type or Print Name)
Signature
102 West Pennsylvania Avenue
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 823-1800

Name, address and phone number of legal owner, contract purchaser or representative to be contacted:
Mr. Richard R. Jones
Name 100 West Pennsylvania Avenue
Towson, Maryland 21204
Address 825-0545
City and State Phone No.

**BALTIMORE COUNTY
ZONING PLANS
ADVISORY COMMITTEE**



**PETITION AND SITE PLAN
EVALUATION COMMENTS**

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE
May 3, 1982

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21286

Richard A. Reid, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Item No. 5 - Cycle No. III
Petitioner - Nottingham Village, Inc.
Reclassification Petition

Dear Mr. Reid:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the April - October '82 reclassification cycle (Cycle III). 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 judgment as to their accuracy and submit the necessary amendments to this office before May 31. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of your client's proposal to have this 134 plus acre parcel of land reclassified to a M.L. Zone, this hearing is required. The site is surrounded by the Whitmarsh Mall to the north, I-95 to the south, and vacant land to the east and west.

In view of the fact that the submitted site plan does not indicate a proposed development of the subject property, the enclosed comments from the Committee are general in nature. If the requested reclassification is granted, more detailed comments from County agencies and/or the Committee will be submitted when a proposed development is shown.

Item No. 5 - Cycle No. III
Petitioner - Nottingham Village, Inc.
Reclassification Petition

If you have any questions concerning the enclosed comments, please feel free to contact me at 494-3591. Notice of the specific hearing date, which will be between September 1 and December 31, 1982, will be forwarded to you in the future.

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

NBC:nr
Enclosures
cc: Whitman, Reardon and Associates
2315 Saint Paul Street
Baltimore, Maryland 21218

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. WISTEL, P.E.
DIRECTOR

April 6, 1982

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

Re: Item #5 Zoning Cycle III (April-October 1982)
Property Owner: Nottingham Village, Inc.
S/S Honeygo Blvd. 750' E. from centerline of
Perry Hall Blvd.
Existing Zoning: M.L.
Proposed Zoning: M.L.
Acres: 134.4138
District: 14th

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:

This site is a portion of the property reviewed by the Baltimore County Joint Subdivision Planning Committee May 7, 1981.

The comments which were supplied September 8, 1981, in conjunction with the review of the Revised Preliminary Plan White Marsh Business Community Section "D" dated April 23, 1981 and revised July 27, 1981 (Project 81081), and supplemented September 29, 1981 and January 7, 1982, 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 5, Zoning Cycle III (April-October 1982).

Very truly yours,
Robert A. Morgan, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:ss
cc: Jack Wimbley
Catherine Warfield
M-SE & SW Key Sheets
26-29 HE 28-31 Pos. Sheets
NE 7 G & H, & NE 8H Topo
82 Tax Map

Maryland Department of Transportation
State Highway Administration

Lowell K. Briwell
Secretary
M. S. Catlidge
Administrator

March 22, 1982

Mr. William Hackett, Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204
Attention: Mr. N. Commodari

Re: RE-Classification Petitions
Cycle III - 1982
Meeting of March 16, 1982
ITEM: #5
Property Owner: Nottingham
Village, Inc.
Location: S/S Honeygo Blvd.
750' E. from centerline of
Perry Hall Blvd., also binds
on Interstate Route 95
Existing Zoning: M.L.R.
Proposed Zoning: M.L.
Acres: 134.4138
District: 14th

Dear Mr. Hackett:

With proper storm water management, future development, resulting from the proposed zoning, should have no adverse effect on the State Highway.

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

By: John Meyers

My telephone number is (301) 659-1350
Teletypewriter for Impaired Hearing of Speech
353-7555 Baltimore Metro - 565-0151 D.C. Metro - 1-800-402-5062 Statewide Toll Free
P.O. Box 717 / 707 North Calvert St., Baltimore, Maryland 21203 - 0717

BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN E. COLLINS
DIRECTOR

March 29, 1982

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle III - 1982, Meeting of March 16, 1982
Item No. 5
Property Owner: Nottingham Village, Inc.
Location: S/S Honeygo Blvd. 750' E. from centerline of
Perry Hall Blvd.
Existing Zoning: M.L.R.
Proposed Zoning: M.L.
Acres: 134.4138
District: 14th

Dear Mr. Hackett:

No increase in traffic generation is expected by the requested zoning change from M.L.R. to M.L.

Sincerely,
Michael S. Flanigan
Engineering Associate II

MSF/r1j

BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

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

April 7, 1982

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

Dear Mr. Hackett:

Comments on Item #5, Cycle III Meeting, March 16, 1982, are as follows:

Property Owner: Nottingham Village, Inc.
Location: S/S Honeygo Blvd. 750' from centerline of
Perry Hall Boulevard
Existing Zoning: M.L.R.
Proposed Zoning: M.L.
Acres: 134.4138
District: 14th

Metropolitan water and sewer are available.

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

Very truly yours,
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF/als

TED ZALESKI, JR. DIRECTOR April 19, 1982

Mr. William Hackett Board of Appeals RE: Reclassification Petition Cycle III - 1982 Meeting of March 16, 1982

Dear Mr. Hackett: I have no comment at this time for the following item numbers. Item No. 3 Item No. 5 Item No. 7 Item No. 8 Item No. 10 Item No. 11 Item No. 12 Item No. 14 Item No. 16 Item No. 17 Item No. 18 Item No. 19

Charles E. Burnham Plans Review Chief

CEB:es

PAUL H. RENCKE CHIEF April 6, 1982

Mr. William Hackett cc: William Hackett Zoning Commissioner Chairman of Board of Appeals Office of Planning and Zoning Baltimore County Office Building Towson, Maryland 21204

Attention: Nick Comodari, Chairman Zoning Plans Advisory Committee RE: Property Owner: Nottingham Village, Inc.

Location: S/S Honeygo Blvd. 750' E. from centerline of Perry Hall Blvd. Item No. 5 Zoning Agenda: Meeting of March 16, 1982

- Gentlemen: Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property. () 1. Fire hydrants for the referenced property are required and shall be located at intervals or feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works. () 2. A second means of vehicle access is required for the site. () 3. The vehicle dead end condition shown at EXCEEDS the maximum allowed by the Fire Department. () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation. (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy. () 6. Site plans are approved, as drawn. () 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: [Signature] Noted and Approved: [Signature] Planning Group Fire Prevention Bureau Special Inspection Division

JK/mb/cm

Robert Y. Dubel, Superintendent Towson, Maryland - 21204 Date: 3/22/82

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

Zoning Cycle #111

RE: Item No: 5 Property Owner: Nottingham Village, Inc. Location: S/S Honeygo Blvd. 750' from centerline of Perry Hall Blvd. Present Zoning: M.L.R. Proposed Zoning: M.L.

School Situation

Table with columns: School, Enrollment, Capacity, Over/Under. Row: No effect on student population.

Student Yield With:

Table with columns: Existing Zoning, And, Proposed Zoning. Rows: Elementary, Junior High, Senior High.

Very truly yours, [Signature] Mr. Nick Petrovich, Assistant Department of Planning

MNF/bp

Since the adoption of the Comprehensive Zoning Maps for Baltimore County in 1980, there has been a marked increase in the demand for land zoned M.L. in the White Marsh area; whereas, the demand for M.L.R. land has decreased. Petitioner's property is the prime area for industrial development in this part of the County, due to its location adjacent to a Town Center, size, topography, visibility from I-95 and accessibility from White Marsh Boulevard. Granting the rezoning requested would add substantially to the County's industrial tax base and be in harmony with plans for the industrial development of Baltimore County as formulated by its Economic Development Commission.

The fact that an unanticipated need for M.L. land has developed at White Marsh constitutes evidence of both error and change. To the extent that there has been an increase in demand for land zoned M.L. since the adoption of the Comprehensive Zoning Maps, there has been a change. To the extent that the County Council did not accurately forecast that need, there was error.

The Court of Appeals of Maryland addressed a similar issue from Baltimore County in the case of Rohde v. County Board, 234 Md. 259. There, the court, at pages 267-268, said:

"* * * It is sometimes difficult to say whether some evidence shows original error or a change in conditions, and it may not be necessary to resolve the question. Pressman v. City of Baltimore, 222 Md. 330 * * *. The applicant produced considerable expert testimony to show that either as a result of lack of anticipation of trends of development in 1955 or as a result of changes in trend which have occurred since then, whether anticipated or not, the existing zoning was in error at the time of the hearing. The trend has been towards apartments and, particularly in areas close to the city of Baltimore, towards high rise apartments. The need and demand for such rental accommodations have increased greatly over the last several years, and the subject property is described as prime site for apartment development, * * *"

ROYSTON, MUELLER, McLEAN & REID SUITE 600 102 W. PENNSA AVE. TOWSON, MD. 21204 825-1800

Furthermore, it is submitted that quite aside from the foregoing, it was error not to include some M.L. zoning of Petitioner's property in order to permit it to reach its full development potential as part of The White Marsh Town Center. The zoning should have been comprehensive enough to include a variety of manufacturing uses compatible with the Town Center concept and, conversely, such uses should not have been limited entirely to the more restrictive M.L.R. category. That M.L. uses are consistent with the Town Center concept is evidenced by the inclusion of 54 1/2 acres of such zone for the Owings Mills Town Center on the 1980 Comprehensive Zoning Map.

Here, the proposed rezoning sought by Petitioner, when considered with the areas not to be rezoned, presents the ideal package of industrial uses for a Town Center. Also, the M.L. zone would be located in an area where it could not impact property other than Petitioner's. Thirty-eight acres of M.L.R. land are retained to the south to act as a buffer between the residential uses and the M.L. uses in accordance with the purpose of M.L.R. zoning set forth in B.C.Z.R., §247. While no buffer is needed to the north (since White Marsh Boulevard separates the residential from industrial uses) the proposed plan, nevertheless, retains 32 acres of M.L.R. zoning in that area. Property to the east, zoned M.L., M.L.R. and D.R. 5.5 is separated from the proposed industrial zoning by the John F. Kennedy Expressway. To the west and across Honeygo Boulevard is Petitioner's Shopping Mall, with which M.L. uses are compatible. (See again zoning for Owings Mills Town Center, where M.L. zoning is adjacent to B.M.C.T. zoning.)

- 1/ All acreages herein have been rounded to the nearest whole acre. 2/ Additionally, §253.4 of B.C.Z.R., in effect, retains a 100' strip of M.L. zoning or screened M.L. uses along the west side of the John F. Kennedy Expressway within the M.L. zoning sought herein.

For the foregoing reasons, the Petition should be granted and 134 acres of the 204 acres zoned M.L.R. should be rezoned to M.L.

[Signature] Richard A. Reid Suite 600 102 West Pennsylvania Avenue Towson, Maryland 21204 823-1800 Attorney for Petitioner

ROYSTON, MUELLER, McLEAN & REID SUITE 600 102 W. PENNSA AVE. TOWSON, MD. 21204 825-1800

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750' EAST FROM THE CENTERLINE OF PERRY HALL BLVD., 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. 15/126/83-M-91

Zoning File No. R-83-60

ANSWER TO PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant Below and Appellee herein, answers the Petition on Appeal heretofore filed by the Appellant, viz: Appellee admits Paragraph 1, denies Paragraph 2 and each and every subparagraph thereof and opposes the relief prayed for in Paragraph 3.

The decision of the Board of Appeals herein was proper and justified by the evidence before it and Appellee prays that the decision of the Board be sustained as being properly and legally made.

AND AS IN DUTY BOUND, etc.,

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

[Signature] Peter Max Zimmerman Deputy People's Counsel Rm. 773, Court House Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this day of April, 1983, a copy of the foregoing Answer to Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to Richard A. Reid, Esquire, Suite 600, 102 W. Pennsylvania Avenue, Towson, MD 21204.

[Signature] Peter Max Zimmerman

RECEIVED BALTIMORE COUNTY APR 1 12 55 PM '83

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD., 14th District

Zoning File No. R-83-60

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, Joanne L. Suder and Leroy B. Spurrier, 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 THE DOCKET OF THE BOARD OF APPEALS OF BALTIMORE COUNTY

- No. R-83-60 March 1, 1982 Petition of Nottingham Village, Inc., for zoning reclassification from an M.L.R. zone to an M.L. zone, on property located on the south side of Honeygo Blvd., 750' east from the center line of Perry Hall Blvd., 14th District - filed Order of William T. Hackett, Chairman, County Board of Appeals, directing advertisement and posting of property - date of hearing set for Sept. 21, 1982, at 10 A.M. May 3, 1982 Comments of Baltimore County Zoning Plans Advisory Committee September 2, 1982 Certificate of Publication in newspaper - filed September 4, 1982 Certificate of Posting of property - filed

ROYSTON, MUELLER, McLEAN & REID SUITE 600 102 W. PENNSA AVE. TOWSON, MD. 21204 825-1800

Nottingham Village, Inc.
Case No. R-83-60

September 21, 1982 At 10 A.M. hearing held on petition

February 15, 1983 Order of County Board of Appeals denying the petition for reclassification

March 14, 1983 Order for Appeal filed in the Circuit Ct. for Baltimore County by Richard A. Reid, Esq., on behalf of Petitioner

March 15, 1983 Certificate of Notice sent to all interested parties

March 16, 1983 Petition to accompany Order for Appeal filed in Circuit Court

April 28, 1983 Transcript of testimony filed

People's Counsel's Exhibit No. 1 - Interoffice correspondence, to Robt. Marriott, Jr. from Arthur Putzel, 1/28/81.

Petitioner's Exhibit No. 1A - Bill for posting, 9/16/82

" " " 1B - Receipt for posting, 9/20/82

" " " 2A - Balto. Co. Zoning Regulations

" " " 2B - Council Bill No. 176-81

" " " 3 - Plat, 2/1982 by Whitman, Requardt

" " " 4 - Description of property in plot

" " " 5 - Council log of issues including issue 6144

" " " 6 - Survey of Vacant Industrial Land, 11/1980

" " " 7 - Study called Profile of the Economy, 1/1981

" " " 8 - Industrial Land Demand Analysis, 1/1981

" " " 9 - Industrial Land Marketability in the East County, 1/1982

" " " 10 - Analysis of Development Potentials and Public Policy Incentives, 1/1982

" " " 11 - Comments from Zoning Advisory Committee dated May 3, 1982

" " " 12 - Report from Director of Planning, 5/28/82

" " " 13 - Zoning Reclassification Petitions, July 15, 1982

" " " 14 - 1980 Comprehensive Zoning Map 2 C 3/1978

Nottingham Village, Inc.
Case No. R-83-60

exhibit indicates almost no land presently available in industrial parks. This study was completed and published after the 1980 Comprehensive Maps were adopted. Exhibits #7, #8, and #9 further supported this contention. He testified that as of January 1982 there were practically no sites available in already established industrial parks. He further testified that at the time of the 1980 map adoption, the County Council had no knowledge of these shortages and that it was his function to attract business and industry into Baltimore County and in order to do so, he needed M.L. industrial park land now and not in 1984 when the next maps are to be adopted.

Mr. George E. Goverillis, a land planner, also testified in support of the requested zoning change. He testified that he saw no conflict in the proposed zoning with any nearby properties and no conflicts with the Master Plan. He noted that the present resistance to M.L.R. zoned land as to sales, the almost total lack of industrial park land available, the need for more manufacturing land uses to promote employment, the labor for which is now available in this area and cited all these as being change in the area since the 1980 maps and supporting the requested reclassification. This concluded Petitioner's case along with a memorandum which is part of the case file.

Mr. Paul Jarosinski, a nearby resident, testified in opposition to the petition. He noted the increased industrial uses provided for under M.L. zoning and feared these would detract from the value of his holdings. He also objected to the increase in traffic, especially heavy trucks, that the proposed use would generate. He also noted on the Baltimore County zoning maps the large amount of M.L. zoned land in this area already in existence and felt this provided ample M.L. zoned land for this area.

Mr. James Hoswell, Planner for Baltimore County, testified at length as to the history of the zoning on this site. The Board will not attempt to delineate this zoning history, but merely summarize by saying that through this process the entire town center known as White Marsh Town Center was zoned and is now well under development. No issue as to this alleged need for this M.L. zoning was before the Council in the 1980 map process and there was no discussion relative to the restrictive effects of M.L.R. zoning.

Nottingham Village, Inc.
Case No. R-83-60

April 28, 1983 Record of proceedings filed in the Circuit Ct. for Baltimore County

Record of proceedings pursuant to which said Order was entered and said Board acted are permanent records of the Board of Appeals of Baltimore County and your respondent, respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

John Holmen
John Holmen
County Board of Appeals of Baltimore County

cc: Jack L'assian, Esq.
Richard A. Reid, Esq.

Nottingham Village, Inc.
Case No. R-83-60

It was his opinion that if M.L. land was needed it should have been proposed on the 1976 map, or the 1980 maps, and that there was no error on the 1980 maps, since a reasonable land use has been provided by M.L.R. and that there has been no changes since 1980 to qualify this parcel for reclassification. This concluded the County's case.

The Board must now decide whether to grant the requested reclassification or retain the existing classification. Petitioner has presented a strong case for its granting. The Board is however aware that this parcel, while of substantial size, is only a small percentage of the area zoned for the entire White Marsh Town Center. When the County Council considers an entire town center in a zoning process, each parcel or each classification of an area must be considered in light of its relation to the entire town center. The Board must, however, only consider this one individual parcel. To assume that the apparently now present need for industrial park land that was not addressed during the 1980 map process by the property owner constitutes error by the County Council, does not seem proper. To classify this same need as change is likewise deemed not proper. It is the opinion of this Board that if this reclassification requested is proper, that it should be addressed comprehensively, so that its impact on the entire town center can be evaluated and will therefore deny the petition and will so order.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 15th day of February, 1983, by the County Board of Appeals, ORDERED that the Petition by Nottingham Village Inc., requesting the reclassification of 134 acres of its holdings from M.L.R. to M.L., be and the same is hereby DENIED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

HAR/keg
3/14/83

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

NO. R-83-60

83M-91
15/126/

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal on behalf of Petitioner, Nottingham Village, Inc., from the ORDER of the County Board of Appeals of Baltimore County in the above-captioned matter dated February 15, 1983.

Richard A. Reid
Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204
823-1800

Attorney for Petitioner,
Nottingham Village, Inc.

I HEREBY CERTIFY that prior to filing the foregoing ORDER FOR APPEAL, a copy thereof was served upon the County Board of Appeals of Baltimore County.

Richard A. Reid

RECEIPT of a copy of the foregoing ORDER FOR APPEAL is acknowledged this 14th day of March, 1983.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

By: *Edith T. Eisenhart*
Edith T. Eisenhart,
Administrative Secretary

BOYTON, MULLER, HALEN & REID
SUITE 600
102 W. PENNSA. AVE.
TOWSON, MD. 21284
823-1800

Nottingham Village, Inc.
Case No. R-83-60

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hockett
William T. Hockett, Chairman

Joanne L. Suder

Leroy B. Spurrer
Leroy B. Spurrer

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Docket No. 15
Folio No. 126
File No. 83-M-91

Zoning File No. R-83-60

ORDER

Upon the foregoing Petition, it is this 31 day of MARCH, 1983, by the Circuit Court for Baltimore County

ORDERED, that the time for transmission of the record in the above-captioned case be and the same hereby is extended for an additional thirty days, to and including the 2nd day of APRIL, 1983.

John E. Smith, Jr.
John E. Smith, Jr.
JUDGE

RECEIVED
BALTIMORE COUNTY
MAR 31 2 26 PM '83
COURT CLERK'S
OFFICE

BOYTON, MULLER, HALEN & REID
SUITE 600
102 W. PENNSA. AVE.
TOWSON, MD. 21284
823-1800

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. R-83-60

PETITION ON APPEAL

Petitioner's petition on appeal pursuant to Md. Rule B.2.e. represents unto the court:

1. The action appealed from is the ORDER of the County Board of Appeals of Baltimore County in the above-captioned matter dated February 15, 1983, denying Nottingham's petition for reclassification.

2. The error committed by the County Board of Appeals of Baltimore County in taking such action is:

(a) It considered the land described in the petition for reclassification as part of the White Marsh Town Center when, in fact, it is outside the boundary of the Town Center.

(b) Although the Board found that "Petitioner has presented a strong case for its [the reclassification] granting" it denied the petition on the assumption that the Board did not have authority to consider reclassification of land in a Town Center between comprehensive zoning maps, viz. "It is the opinion of this Board that if this reclassification requested is proper, that it should be addressed comprehensively, so that its impact on the entire town center can be evaluated and will therefore deny the petition and will so order."

(c) If there was a finding by the Board that there was no error in the 1980 Comprehensive Zoning Map (which is denied),

such finding is not supported by and is contrary to the evidence in the record.

(d) If there was a finding by the Board that there had been no change justifying reclassification since the adoption of the 1980 Comprehensive Zoning Map (which is denied), such finding is not supported by and is contrary to the evidence in the record.

3. The relief sought by Petitioner is to have the Circuit Court for Baltimore County enter an order reversing the ORDER of the County Board of Appeals of Baltimore County (dated February 15, 1983) and ordering that the Petition by Nottingham Village, Inc. requesting reclassification of 134 acres of its holdings from M.L.R. to M.L. be granted.

Richard A. Reid
Suite 600
102 West Pennsylvania Avenue
Towson, Maryland 21204

Attorney for Petitioner,
Nottingham Village, Inc.

I HEREBY CERTIFY that on this 14th day of March, 1983, a copy of the foregoing PETITION ON APPEAL was mailed to the County Board of Appeals of Baltimore County, Room 200, Court House, Towson, Maryland 21204.

Richard A. Reid

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. Docket No. 15 Folio No. 126 File No. 83-M-91

Zoning File No. R-83-60

PETITION TO EXTEND TIME FOR TRANSMISSION OF RECORD

Petitioner, Nottingham Village, Inc., respectfully represents that:

- 1. On March 14, 1983, Petitioner filed an Order For Appeal in the above-captioned matter from the Order of the County Board of Appeals of Baltimore County dated February 15, 1983.
2. On March 14, 1983, Petitioner's counsel wrote to Ms. Carol Beresh, Court Reporter for the Board of Appeals requesting a transcript of the hearing of September 21, 1982 and forwarding a check in the amount of \$500.00 representing a deposit therefor.
3. On March 15, 1983, Petitioner filed a Petition On Appeal.
4. On March 22, 1983, Ms. Beresh called Petitioner's counsel and advised that she would be unable to have the transcript prepared within the time prescribed by Md. Rule 87. Petitioner's counsel requested that she notify him in writing of this fact as is evidenced by a copy of Ms. Beresh's letter to Mr. Reid of March 28, 1983, attached hereto as Exhibit 1.

WHEREFORE, your Petitioner prays this Honorable Court to pass an Order extending the time for transmission of the record herein for an additional thirty days.

Richard A. Reid
Suite 600
102 West Pennsylvania Avenue
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823-1800
Attorney for Petitioner

I HEREBY CERTIFY that on this 31st day of March, 1983, a copy of the foregoing PETITION TO EXTEND TIME FOR TRANSMISSION OF RECORD and ORDER thereon was mailed to Paul Jarosinski, 4545 Ambermill Road, Baltimore, Maryland 21236, Protestant; John W. Hessian III, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204; and County Board of Appeals of Baltimore County, Room 200, Court House, Towson, Maryland 21204.

Richard A. Reid

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IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BOULEVARD, 750' EAST FROM THE CENTERLINE OF PERRY HALL BOULEVARD, 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Case No. 83-M-91 Docket 15 Folio 126

Zoning File No. R-83-60

APPELLANT'S MEMORANDUM

STATEMENT OF THE CASE

Nottingham Village, Inc. is the owner of a tract of land west of the John F. Kennedy Expressway and south of White Marsh Boulevard, generally known as the White Marsh town center. Two hundred four acres of that land lying between the Kennedy Expressway and Honeygo Boulevard (across from the White Marsh Mall) was zoned M.L.R. on the Comprehensive Zoning Map adopted by Baltimore County in 1980. Nottingham Village, Inc. filed the Petition herein requesting that 134 acres of the M.L.R. Zoned land be zoned M.L. because of error in such map and a change in conditions since its adoption.

Although the Board found that "Petitioner has presented a strong case for its granting [the reclassification from M.L.R. to M.L.]", it denied the petition on the assumption that the Board should not consider reclassification of land in a Town Center between comprehensive zoning maps, viz. "It is the opinion of this Board that if this reclassification requested is proper, that it should be addressed comprehensively, so that its impact on the entire town center can be evaluated and will

Use of the term "town center" as used here is not limited to land within the boundaries of the "Town Center" established by the Planning Board.

therefore deny the petition and will so order." This appeal is from that Order.

STATEMENT OF FACTS

Nottingham Village, Inc. and Nottingham Properties, Inc. are related companies, having the same President, P. Douglas Dollenberg (T. 16). Nottingham Properties, Inc. is the developer of properties held by Nottingham Village, Inc. (T. 16).

Nottingham Village, Inc. owns large parcels of land in the northeast portion of Baltimore County, generally known as White Marsh. West of the Kennedy Expressway and south of White Marsh Boulevard, it owns 400 acres zoned M.L.R. (the subject), B.R., B.M.C.T. (which includes the White Marsh Regional Mall (T. 12)). North of White Marsh Boulevard and west of the Kennedy Expressway, it owns 430 acres zoned D.R.-16 and D.R.-5.5 which is now being developed as the Residential Community of White Marsh. East of the Expressway and west of Maryland Route 7, it owns approximately 600 acres zoned M.L., M.L.R. and D.R.-5.5 (T. 13), all of which is under a Mining Lease to Genstar Corporation, which is currently surface mining sand and gravel from that tract (T. 22, 27). To the south, it is the owner of 100 acres of land zoned D.R.-10.5 and D.R.-5.5 (T. 13), which is now vacant (T. 22).

The 134 acres sought to be rezoned from M.L.R. to M.L. would leave 32 acres of M.L.R. land as a buffer on the north side between the M.L. land and the residential land across White Marsh Boulevard, although no buffer is really needed because of the barrier effect of White Marsh Boulevard, and would leave 38 acres of M.L.R. land as a buffer between the M.L. use and the residential use on the south (T. 12). Land to the east would not be affected because it is insulated from the M.L. use by the Kennedy Expressway and by the fact that although it contains some residential zoning, it is being used for surface mining (T. 27). No buffer is required to the west

because the subject tract lies across Honeygo Boulevard from the extensive parking lots of the White Marsh Mall.

Petitioner herein submitted no request for a change in the zoning of the subject tract prior to the adoption of the 1980 Comprehensive Zoning Maps. It did not do so because: (1) it was preoccupied with the B.M. Zoning for the regional mall since an issue had been created which could have removed such zoning from the 1980 Map and cause Petitioner, Nottingham Properties, Inc., and The Rouse Company, to lose millions of dollars they had spent in anticipation of the regional mall; and (2) it did not fully realize or appreciate the restrictive nature of the M.L.R. Zone (T. 21). The subject tract was, however, made an issue at the 1980 rezoning by the Baltimore County Council on its own initiative. The zones under consideration at the 1980 rezoning as a result thereof were M.L.R., D.R.-10.5, B.M.C.T., D.R.-5.5, D.R.-16 and M.H. Curiously, M.L. was not listed (possibly because the County Council did not appreciate the difference between M.L. and M.L.R.) (T. 23). The result was that the entire 204 acres was zoned M.L.R.

From the beginning, Nottingham experienced extreme difficulty in marketing the M.L.R. land (T. 18, 19, 26). There was great confusion in the market place as to what uses were and were not permitted under the M.L.R. Zone (T. 18, 19). Lenders were very skeptical about lending money for uses to be installed in M.L.R. Zones and their attorneys, in many instances, gave opinion letters that a proposed industrial use was not permitted in the M.L.R. Zone (T. 19). That confusion was shared by Baltimore County. Nottingham lost potential buyers who would have gone into the industrial park, but were skeptical of the M.L.R. classification (T. 20, 28). Although Nottingham had been actively marketing the M.L.R. land for a year, they had been unable to sell any of it (T. 27).

While resistance to M.L.R. land continued, a demand for M.L. land particularly in the northeastern portion of Baltimore County

grew, especially demand for M.L. land in an industrial park (T. 19-20, 31). One reason for the demand was that previously zoned M.L. land had been absorbed and there was no M.L. land available in an industrial park in the entire area. Industrial users seek land in an industrial park because of the availability of utilities, roads and protective covenants (T. 31-36, 42).

This was particularly disadvantageous to Baltimore County because the northeast area contained the largest unemployed work force in Baltimore County (T. 57). That work force was mainly blue collar workers who had previously worked in the heavy metals industries at Bethlehem Steel and General Motors (T. 55). These people would be particularly suited to the type of manufacturing uses permitted by M.L. Zoning, but are generally not suited for employment in the type of use permitted in the M.L.R. Zone, which are generally high technology uses employing a white collar work force (T. 58). Since industry seeks to locate close to its available work force (T. 55), zoning of subject for high technology uses was a mismatch of industry and its labor force (T. 108).

These facts and trends would have been available to the County Council prior to its adoption of the 1980 Map if studies of industrial land in the northeast corridor had been completed on time. James D. Lucas, Jr., Director of the Economic Development Commission of Baltimore County since 1979 (T. 38) testified that a study of industrial land required the expertise of outside consultants and they were unable to obtain the necessary funding from the County Council when requested in 1979 (T. 44); that subsequently they obtained C.E.T.A. funds in late 1979 and early 1980; that they were in the process of completing the study at the time of the public hearing on the 1980 Map, but the final results of the study were not available in any published form prior to the Council's vote in 1980 (T. 44-45). This study

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is known as the "Survey of Vacant Industrial Land" and was prepared by the Commission in conjunction with Smith, Kirwin, Inc. (P. Ex. 6, T. 46). It revealed, at page 16, that the demand for industrially zoned land is for land in industrial parks (T. 42). As of November 1980, there were 140 acres of M.L.R. land in industrial parks in the northeast sector (where subject property is located (T. 40^{2/})) and 287 acres in the Eastern Sector, but that there was no M.L. land in industrial parks in the Northeast Sector and only 136 acres in the Eastern Sector (T. 43, P. Ex. 6, p. 16). There was no other sector in the entire County that did not have M.L. land in industrial parks in 1980 (T. 44).

In 1981, Hammer-Siler-George Associates prepared Industrial Land Development Analysis for Baltimore County (T. 45, P. Ex. 7). It also published that same year "Industrial Land Demand Analysis" for Baltimore County (T. 46, P. Ex. 8). These were followed by a report of the Economic Development Commission dated January, 1982, entitled "Industrial Land Marketability in the Eastern County" (T. 42, P. Ex. 9). It revealed that during the period 1970 through 1979, 84% of the land zoned for industrial use, which was absorbed was zoned M.L. (T. 49-50). With respect to industrial land in industrial parks, it determined that only 5 lots totaling 15.3 acres remained in the Pulaski Industrial Park as of January, 1982, the largest parcel of which was 5.82 acres (T. 50). Five acres of that land is now under contract to

2/ Subject property is in the northeast planning sector (T. 40), but with respect to employment, land absorption and land demand, it has been considered part of the entire eastern area of Baltimore County, which includes what is designated as the eastern and northeastern areas (T. 40). For purposes of marketable labor force, it extends into eastern Baltimore City and southwestern parts of Harford County (T. 40) as delineated and defined in the "Survey of Vacant Industrial Land," prepared by the Economic Development Commission and Smith, Kirwin, Inc., Landscape Architects (P. Ex. 6, T. 40-41).

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work force was a mismatch between industry and available skills in the neighborhood (T. 108). Mr. Gavrelis went on to say that all of the foregoing changes also indicate that the 1980 Map was in error and that there is a sense of public urgency, necessity and interest demanding an immediate change (T. 108-111).

In answer to questions relating to the specific requirements of the Baltimore County Zoning Regulations, Mr. Gavrelis testified that the proposed rezoning would be in accordance with the population trends in the neighborhood (T. 112); would be consistent with availability and adequacy of present and proposed transportation facilities in the neighborhood (T. 113); would not result in an increase in traffic (T. 113); would not have an effect upon the water supply facilities, sewage, solid waste disposal facilities, schools, recreational facilities or other public facilities in the area (T. 114); would be compatible with present and projected development and character of the surrounding area (T. 114); and that there was an absolute match between the proposed zoning and the Master Plan for Baltimore County. Mr. Gavrelis concluded his testimony by saying that experience with development of the M.L.R. Zone in Baltimore County has focused upon office uses rather than manufacturing uses and that office uses do not respond to the kind of skills which the available blue collar labor force in the neighborhood can provide (T. 116).

James G. Hoswell, a Planner in the Office of Planning and Zoning, was called to testify by People's Counsel. He testified on cross-examination that the main difference between the purpose of the M.L.R. Zone and the M.L. Zone was to provide a buffer between traditional industrial uses and residential uses (T. 185-187). On both direct (T. 172) and cross-examination (T. 177), Mr. Hoswell admitted that the only reason the Office of Planning

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a printing firm (T. 56). Only 5.8 acres remains in the Rossville Industrial Park and that as of January, 1982, County was essentially out of M.L. industrial park land east of York Road (T. 49). The vast majority of absorption of industrial land in the past three and one half years has been in planned parks because the purchaser does not have to be concerned with the infrastructure and other development problems (T. 51-52).

Mr. Lucas continued his testimony by saying that he is familiar with the demands of industry for sites in the east and northeast sector of Baltimore County and that in the view of the marketplace, M.L.R. land is solely reserved for office and distribution facilities (T. 53-54), that prospective purchasers of industrial land look for availability of a work force in the immediate area (T. 55) and that the work force in the immediate area of subject tract is blue collar and oriented to Martin Marietta, Aerospace, Bethlehem Steel, General Motors, Eastern Stainless Steel (T. 55); that unemployment in Baltimore County is running about 10.3% (T. 56), but that unemployment in the eastern end of the County was essentially twice that, approximately 20% (T. 57); that development of the M.L.R. Zone would not provide the kind of employment opportunity required by that work force, but that M.L. and M.H. would (T. 58); that the information about which he testified was not available to the County Council at the time that the 1980 maps were adopted (T. 59); that information demonstrating the critical nature of the existing need for industrial parks has become even more apparent since the 1980 maps were adopted (T. 59); that there is no land available in M.L. industrial parks east of York Road and there is a definite demand for such land (T. 59).

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opposed the change from M.L.R. to M.L. was that it was being requested by petition and not the quadrennial mapping process. At page T. 176-177, Mr. Hoswell was asked "Q So your objection is that we are taking this during one of these interim cycles as opposed to considering it in the 1984 map adoption? A That is my sole opposition to the petition before us."

ISSUES

1. Was there sufficient evidence of error in the 1980 zoning map or change in conditions since the 1980 map to require rezoning Petitioner's property from M.L.R. to M.L.?
2. Was the Board of Appeals of Baltimore County justified in denying Petitioner's request for reclassification on the grounds that it was a matter that would be better considered by the County Council during the quadrennial mapping process?

ARGUMENT

I.

THE EVIDENCE INTRODUCED BY PETITIONER SHOWED THAT THERE WAS ERROR IN THE 1980 ZONING MAP AND CHANGE IN CONDITIONS SINCE THE ADOPTION OF SUCH MAP SO THAT THE DENIAL OF THE REZONING OF PETITIONER'S PROPERTY FROM M.L.R. TO M.L. WAS NOT FAIRLY DEBATABLE.

From the foregoing Statement of Facts, it is apparent that the following facts have been established: (1) there is not now nor was there at the time of the adoption of the 1980 zoning map, land available for industrial development in an industrial park in the northeast sector of Baltimore County; (2) there is an urgent need for land zoned M.L. in industrial parks in the northeast sector of Baltimore County; (3) the need for land zoned M.L. in an industrial park has been engendered by a demand for such land in the market place and a need for the industrial uses such zoning will provide to alleviate the critical unemployment problem in the eastern section of Baltimore

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Mr. Lucas also said that if this issue were being considered by the Planning Board in connection with the 1984 map adoption, he would provide this same information to it (T. 61); that if the property owner did not make the request for reclassification to M.L., the Economic Development Commission would (T. 63), but that he does not think the issue can wait until 1984 (T. 64); that the County must continue to help expand the economic tax base with existing industry and bring new industries to meet the County's employment needs (T. 65).

Mr. Lucas concluded his testimony by stating that the study prepared by Morton Hoffman and Company, Inc., Urban Economic Consultants, entitled "The Analysis of Development Potentials and Public Policy Incentives, Perry Hall - White Marsh" dated January, 1982, prepared in conjunction with the Planning Office of Baltimore County contained information that might have caused the County Council to deal with subject reclassification if it had been available at the time of the 1980 map adoption (T. 65-66, P. Ex. 10). The subject tract is potentially the only piece of ground in the east side of the County that could meet some of the manufacturing demands mentioned above (T. 83).

George E. Gavrelis, former Director of Planning for Baltimore County, testified that the M.L.R. Zone was created to give the County Council the ability to do by mapping what theretofore had been limited to the petition process for M.R. Zoning - the ability to provide a transitional zone between Residential and M.L. and M.H. Zones, which would be limited to fairly restrictive industrial potential (T. 96). Mr. Gavrelis was of the opinion that the proposed change of 134 acres of M.L.R. to M.L. should be granted (T. 99) because: There was no conflict between the M.L. Zone and the Business Major and developed commercial town center that exists at the present time to the west, thirty-two

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County; (4) the need is urgent and cannot wait for the quadrennial remapping of Baltimore County to occur in 1984; (5) the subject property is ideally suited to meet part of that need; (6) there is little or no need or demand for land zoned M.L.R. in the eastern section of Baltimore County; and (7) the information upon which the foregoing conclusions of fact are based was not available to the Baltimore County Council in 1980 when it adopted the comprehensive rezoning map because studies of the industrial land available had been delayed for lack of funds, and the situation has become more critical since then.

The foregoing facts constitute evidence of both error in the 1980 map and change in conditions since that map. The Court of Appeals of Maryland, while addressing a similar issue for Baltimore County in Rohde v. County Board, 234 Md. 259 (1964), said at pages 267-268:

"* * *The applicant produced considerable expert testimony to show that either as a result of lack of anticipation of trends of development in 1955, or as a result of changes in trend which have occurred since then, whether anticipated or not, the existing zoning was in error at the time of the hearing. The trend has been towards apartments and, particularly in areas close to the City of Baltimore, towards high rise apartments. The need and demand for such rental accommodations have increased greatly over the last several years, and the subject property is described as a prime site for apartment development, including high rise apartments.* * *

Paraphrasing that opinion with the undisputed evidence in the instant case mandates the granting of the rezoning from M.L.R. to M.L.: "The applicant produced considerable expert testimony to show that either as a result of lack of anticipation of trends of development in [1980], or as a result of changes in trend which have occurred since then, whether anticipated or not, the existing zoning was in error at the time of the hearing.

3/ Mr. Hoswell admitted in cross-examination that there was not one park zoned M.L.R. which had been developed for industrial uses - that all had been developed in office parks.

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acres of M.L.R. land are left on the north to provide whatever buffer would be needed to the White Marsh Residential Community, the Kennedy Expressway separates the subject from the Genstar mining operation to the east (T. 100-101); 38 acres of M.L.R. land is left to serve as a buffer between the M.L. and the nearest potential residential use to the south (T. 101); that there is no need to provide any additional M.L.R. Zoning to serve its traditional transitional function (T. 101); that the proposed zoning is in accordance with the Master Plan of Baltimore County which has designated the area as one where growth should occur as soon as possible and the proposed zoning would facilitate that growth (T. 102).

Mr. Gavrelis defined the immediate neighborhood of the subject as basically that reflected on Exhibit 3, but went on to say that in the context of the petition, the neighborhood included the east and northeast sectors as defined in Exhibit 6 and even extended into portions of Harford County and Baltimore City (T. 105). Since the adoption of the 1980 Map, Mr. Gavrelis was of the opinion that there had been substantial change in the conditions in the neighborhood (T. 106). First, he said that there has developed a resistance and uncertainty in the industrial market with respect to locating in land zoned M.L.R. as contrasted with land zoned M.L. (T. 106). Second, there has developed a demand for M.L. land in industrial parks (T. 106-107), because M.L. Zoned land in industrial parks has been almost totally absorbed at the present time (T. 107). Third, unemployment in the neighborhood has increased dramatically since 1980 and the skills of that unemployed work force are primarily the blue collar skills associated with industry that would locate in an M.L. Zone and not an M.L.R. Zone (T. 107), so that the zoning of M.L.R. requiring a high tech white collar

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The trend has been towards [M.L. development], and, particularly in [the northeast area of Baltimore County, especially in industrial parks]. The need and demand for such [M.L. industrial parks has] increased greatly over the last several years and the subject property is described as a prime site for [M.L. park] development. * * *

The following cases are to the same effect: Pressman v. Mayor and City Council of Baltimore, 222 Md. 330 (1960 - failure to anticipate trend toward shopping centers and zone land of sufficient size therefor); Bosley v. Hospital, 246 Md. 197 (1967 - increase in housing units and concurrent growth of population in neighborhood sufficient to justify need for additional commercial zoning); accord: Finney v. Halle, 241 Md. 224 (1966 - failure to anticipate need for high rise apartments).

Furthermore, it is submitted that quite aside from the foregoing, it was error not to include some M.L. zoning of petitioner's property in order to permit it to reach its full development potential as part of The White Marsh Business Community. The zoning should have been comprehensive enough to include a variety of manufacturing uses consistent with the Town Center concept and, conversely, such uses should not have been limited entirely to the more restrictive M.L.R. category. That M.L. uses are consistent with the Town Center concept is evidenced by the inclusion of 54 acres of such zone for the Owings Mills Town Center Area on the 1980 Comprehensive Zoning Map (P. Ex. 14, T. 189-190).

Since Petitioner introduced overwhelming evidence of both error and change, it was entitled to the rezoning sought. As a matter of fact, everybody agreed that the rezoning sought by the petition was good and represented a reasonable use of the land (P. Ex. 12, p. 10). James Hoswell from the Office of Planning and Zoning representing Baltimore County testified

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that his only objection to the request was that it was being made by petition and not through the quadrennial mapping process (T. 176-177). The decision of the Board echoes this philosophy when it admits that the Petitioner made a strong case for rezoning, but, nevertheless, denied the petition because it felt that it was better considered during the quadrennial mapping process. That then is the real issue in this case and will be discussed in the following portion of the argument.

II.

THE BOARD OF APPEALS OF BALTIMORE COUNTY MAY NOT ABDICATE ITS FUNCTION OF REZONING BETWEEN QUADRENNIAL MAP ADOPTIONS ON THE GROUND THAT IT FEELS A PARTICULAR CASE MAY BE BETTER CONSIDERED BY THE COUNTY COUNCIL THAN THE BOARD.

Baltimore County has adopted a system for rezoning that is all encompassing. That system provides for a review by the Planning Board and County Council of the zoning maps every 4 years. That system also provides that between such review, a property owner may have his land rezoned if he can prove error in the immediately preceding map or change in conditions since that map. Together, the two avenues constitute a comprehensive system for rezoning in Baltimore County.

The mapping process is no more comprehensive than the petition process. Indeed, the petition process necessitates that the requested rezoning be given more extensive consideration than occurs during the mapping process. The mapping process permits requests to the Planning Staff for rezoning which are acted upon and recommendations made to the Planning Board. The Planning Board holds a public hearing at which the applicant and opponents have five minutes to speak. The Planning Board then makes its recommendation to the County Council which also holds public hearings at which the applicant and opponents are

again entitled to five minutes to speak. Rezoning by petition, on the other hand, requires consideration and reports by the Office of Planning, the Planning Board and the Zoning Advisory Committee, which includes all of the public facility offices of Baltimore County. Then the matter is submitted for hearing before the Board of Appeals at which all parties have ample opportunity to present their case without time limitations.

The Baltimore County Code charges the Board with the responsibility of reviewing petitions for rezoning between map review and to grant rezoning where, as here, there has been substantial evidence of error or change. Baltimore County Code (1978-1981 Cum. Supp.), §2-58.1). The Board may not abdicate that responsibility because the petition covers a large parcel of ground or because that parcel is part of a Town Center^{4/} or for any other reason. The Board must address all petitions before it on the basis of error or change and does not have the discretion to determine which petitions it should hear and which should be delayed for consideration by the County Council at the next map adoption. Indeed, if the County Council had attempted to delegate that discretion to the Board, it would have been an illegal delegation of authority without guidelines for its exercise. State v. Greenberg, 221 Md. 471; County Commissioners v. Northwest Cemetery Company, Inc., 160 Md. 653; Maryland Theatrical Corporation v. Brennan, 180 Md. 377; County Council for Montgomery County v. Investors Funding Corporation, 270 Md. 403; Hagerstown v. B & O R.R. Company, 107 Md. 178. A fertiori, the Board cannot have such discretion where there has been no attempt by the County Council to delegate it.

The foregoing is especially true in the instant case where, it is apparent that the Town Center theory was merely used by the

4/ As a matter of fact, the property covered by subject petition is not part of the Town Center designated by the Planning Board.

Board to avoid addressing the strong case that Petitioner had presented. Without attempting to define the actual boundaries of the town center as fixed by the Planning Board, it is obvious that a change from M.L.R. to M.L. could not in any way be contrary to the Town Center concept, or require exhaustive study of planned uses, since subject is totally surrounded by land owned by Petitioner, a large portion of which has already been developed. As was pointed out above, M.L. zoning is fully compatible with B.M.C.T. zoning because the town center at Owings Mills contains 54 acres of M.L. land adjacent to the B.M.C.T. land.

The Board's feeble attempt to bring its decision within the parameters prescribed by law merely compounded its error. In the last paragraph of its Opinion, the Board, for the only time, addressed the issue of error and change and said:

"To assume that the apparently now present need for industrial park land that was not addressed during the 1980 process by the property owner constitutes error by the County Council, does not seem proper. To classify this same need a change is likewise deemed not proper."

Failure to anticipate trends whether as a result of lack of knowledge or otherwise still constitutes error in the map. Rohde v. County Board; Pressman v. Mayor and City Council of Baltimore; Bosley v. Hospital; accord: Finney v. Halle (all supra). Error, as used in this zoning sense, does not require a finding of a culpable wrong. In its simplest sense, it means only that if the legislative body knew then what it knows now, it would or should have acted differently. Furthermore, the Board's refusal to consider the developing need for M.L. land in an industrial park in the eastern end of the County as constituting change files in the teeth of the holding in all of the above cited cases.

CONCLUSION

The evidence of error in the 1980 zoning map and change in conditions in the neighborhood since adoption of such maps was so strong that the Board was required to reclassify the property from M.L.R. to M.L. and its failure to do so is not fairly debatable. The Board's reason for refusing to grant the reclassification - that the matter should be considered by the County Council during the quadrennial mapping process and not by the Board of Appeals constitutes an error of law. Accordingly, this court should reverse the Board of Appeals and grant the reclassification of 134 acres of Petitioner's land from M.L.R. to M.L.

Respectfully submitted,

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Attorney for Appellant

I HEREBY CERTIFY that on this 16th day of May, 1983, a copy of the foregoing APPELLANT'S MEMORANDUM was mailed to Paul Jarosinski, 4545 Ambermill Road, Baltimore, Maryland 21236, Protestant; John W. Hessian III, People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204; and County Board of Appeals of Baltimore County, Room 200, Court House, Towson, Maryland 21204.

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IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BOULEVARD, 750' EAST FROM THE CENTERLINE OF PERRY HALL BOULEVARD, 14th District
Zoning File No. R-83-60

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. 15/126/83-M-91

APPELLEE'S MEMORANDUM

People's Counsel for Baltimore County, Appellee herein and Protestant below, files this Memorandum pursuant to Maryland Rule 812.

This case is not as complicated as Petitioner would have it. As the County Board of Appeals indicated, and we agree, Petitioner may well have fashioned a persuasive argument for a philosophic change from the County's present approach to industrially oriented land use throughout an entire region of Baltimore County, but that broad-scale approach is far beyond the reactive capacity of the Board, which is constrained to deal with the traditional concepts of "error" or "change in conditions".

There are many appellate cases which discuss the quality of the informational base upon which the legislative body bases its comprehensive zoning action and we have selected a Baltimore County case, Boyce v. Sembly, 25 Md. App. 43, for citation. At page 57, the Court addresses the point, saying:

"At the time of comprehensive rezoning, the Council is required to take into account only existing facts and those projects or trends which are reasonably probable of fruition in the foreseeable future." (Emphasis ours)

We think that this instruction becomes the guideline to apply in this case.

The provisions of Sections 22-19, et seq., of Title 22 of the Baltimore County Code require that the County Council of Baltimore County adopt a "complete county-wide zoning map" [Section 22-21(a), et seq.] every fourth year. The Petitioner has cited, among others, Baltimore County cases dealing with the requirement that the

Council anticipate projects or trends with some degree of acuity, and these cases hold that should the Council fail in that endeavor, error results. Our review indicates that each of those cases was based on a former law which required comprehensive rezoning no more frequently than every twenty years (see Section 22-20 of Title 22 of the 1968 Edition of the Baltimore County Code). The Baltimore County cases cited by Petitioner antedate the new law enacted in 1968 to take effect in 1970, and which applies today.

Therefore, to comply with the requirement that i anticipate trends or needs, the County Council need not project for twenty years, and then abandon appropriate correction of its miscalculations to the County Board of Appeals and when those miscalculations surface many years hence. Baltimore County is, we think, unique among the political subdivisions of the State because of the short period of time between comprehensive zoning map reviews. Under this format, the County Council can - and does - rechart the course of the comprehensive maps to meet newly perceived trends or needs every fourth year, in a process which conjoins and coordinates the Capital Budget, the Master Water and Sewer Plan, the State Highway Commission's annually revised construction projects, and the myriad of other detail pertaining to utilities, highways, and other necessary services appertinent to major zoning classification, that is necessary for calm, rational and effective placement of major zones. The Petitioner, however, unwilling to enter the now-occurring process which will lead to the adoption of the 1984 Comprehensive Zoning Map for consideration of its perceptions with regard to trends and needs, demands that the County Board of Appeals accomplish the same review using a piecemeal approach involving only Petitioner's 144 acres of land. Petitioner, whose business is industrial land development, didn't foresee the difficulty with development of M.L.R. land and the need for additional M.L. land during the comprehensive process that was carried on in 1979 and 1980. The Petitioner's case shows rather clearly that, in part, however, the County Council was aware, not that there was definitely a problem, but that there might be a problem with a shortage of

industrial land when it adopted its Map in 1980. The Council's reaction to the symptoms that it perceived was exactly the responsible sort of response one would expect. It approved the use of funds from federal sources available for the specific purpose of assembling a factual basis upon which an orderly and rational approach to any problem or shortage that might be found as a result of the survey might form the basis for corrective action during its 1984 Comprehensive Map process. Petitioner produced the Director of Economic Development for Baltimore County whose testimony was essentially that, utilizing hindsight and the results from that Council-approved survey, that there is a need for additional M.L. land in Baltimore County. The facts upon which he bases his retroactive opinion, however, were not "existing" as that concept is expressed in Sembly, supra.

Because Baltimore County is unique in the briefness of the pauses between comprehensive zoning, we can cite no case which tells us that a failure to consider or anticipate a trend in one comprehensive map process, which can be corrected within the relatively brief period of four years, casts the event into the limbo of the "foreseeable future" within the context of a twenty year span. However, we would proffer on the basis of common sense that the Council's failure to affirmatively act in 1980 on symptoms of a perceived problem, responsibly calling for an assemblage of data which was in fact produced in usable form in 1981, and which is being employed now in 1983 in the Planning Staff-Planning Board phase of the comprehensive map review which will be completed in 1984, hardly constitutes a failure to recognize or anticipate a trend in the foreseeable future.

The Board's reaction has been styled by the Petitioner as an "abdication." The Board, we submit, not only did not "abdicate" its responsibilities, but, to the contrary, fulfilled them. The Board is not of course an integral part of the comprehensive rezoning process, it being essentially quasi-judicial in nature. However, when the information is assembled by the Planning Staff and the Planning Board with regard to properties for which a change in zoning classification is being considered, the existence of a Board opinion with

regard to any property which is being so considered is duly noted and that opinion is available to the County Council. The Board has heard the testimony and reviewed the exhibits and in recognition of its non-statutory but de facto participation in the comprehensive zoning process, added its view to that of Petitioner and the then-Director of Economic Development that a reaction to the status of the inventory of industrially-zoned land in Baltimore County as displayed in the report is appropriate; the difference is the Board recognizes that it is a comprehensive rather than a piecemeal reaction that is necessary.

The Board is following its mandate in Section 25B.1(j)(1) of the Baltimore County Code which requires that the Board find there has occurred a substantial change of the neighborhood in which the property is located, or that the last classification was established in error, and has simply said it cannot grant Petitioner rezoning on that basis. Baltimore County Code, 1978 Edition, 1981 Cum. Supp.

Taking all of the evidence in the record, one must conclude that Petitioner's complaint with the Board's decision is that the Board refused to permit itself to exceed its mandate and become a second Planning Staff-Planning Board-County Council and arrogate to itself the privilege of creating a major philosophic change with regard to M.L.R. zones and the provision of industrial land in Baltimore County. The Board quite properly refused to do so.

We therefore submit that the Board's decision in this case was eminently correct and should be affirmed.

Respectfully submitted,

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

Rec'd 6:45 PM
5-03 PM

Peter Max Zimmerman

Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 9th day of June, 1983, a copy of the foregoing Appellee's Memorandum was mailed to Richard A. Reid, Esquire, Suite 600, 102 West Pennsylvania Avenue, Towson, Maryland 21204; and Paul Jarosinski, 4545 Ambermill Road, Baltimore, Maryland 21236; and a copy was delivered to the Administrative Secretary, County Board of Appeals, Room 200, Court House, Towson, Maryland 21204.

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

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14TH DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY MISCELLANEOUS 15/126/83-M-91

OPINION AND ORDER

This is an appeal from the decision of the County Board of Appeals of Baltimore County concerning the reclassification from M.L.R. to M.L. of 134 acres located on the south side of Honeygo Boulevard, east of Perry Hall Boulevard. The entire site of 204 acres is presently zoned M.L.R. The Petitioner's request is for 134 acres to be reclassified to M.L.

On July 13, 1983, counsel for the Petitioners and People's Counsel were heard in open court. After reading the transcript, memoranda, and examining the numerous exhibits and the applicable law, the Court finds that the Petitioner presented more than sufficient evidence to overcome the presumption of correctness which attaches to the comprehensive zoning map, and that there was substantial probative evidence that there was "error", and that the Petitioner established events occurring subsequent to the comprehensive zoning that proved the Council's initial premises were incorrect.

Therefore, it is this 13th day of July, 1983, by the Circuit Court for Baltimore County ORDERED that the decision of the County Board of Appeals of Baltimore County is REVERSED.

William R. Buchanan, Sr.
William R. Buchanan, Sr.
JUDGE
EILED JUL 13 1983

198
H
Rec'd 7/20/83
3:00

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Misc. Doc. No. 15
Folio No. 126
File No. 83-M-91

CERTIFICATE OF NOTICE

Mr. Clerk: Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Joanne L. Suder and Leroy B. Spurrier, 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, Richard R. Jones, 100 W. Pennsylvania Ave., Towson, Md. 21204, Petitioner; Richard A. Reid, Esq., 102 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Petitioner; Paul Jarosinski, 4545 Ambermill Rd., Baltimore, Md. 21236, Protestants; and John W. Hession, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

Nottingham Village, Inc.
Case No. R-83-60

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Richard R. Jones, 100 W. Pennsylvania Ave., Towson, Md. 21204, Petitioner; Richard A. Reid, Esq., 102 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Petitioner; Paul Jarosinski, 4545 Ambermill Road, Baltimore, Md. 21236, Protestants; and John W. Hession, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 15th day of March, 1983.

June Holmen
June Holmen
County Board of Appeals of Baltimore County

CIRCUIT COURT FOR BALTIMORE COUNTY

CATEGORY APPEAL

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD. 14th District

ATTORNEYS
Richard A. Reid
Suite 600 - 102 W. Penna. Ave.
(04) 825-1800

John W. Hession, III
Peter Max Zimmerman,
Rm. 223 Courthouse, (4) 494-2188

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
Protestant & Appellee

7-18-83 8/6/83
7-18-83 8/6/83

(1) March 14, 1983 - Petitioner's Order for Appeal from the Order of the County Board of Appeals of Baltimore County fd.
(2) March 15, 1983 - Petition on Appeal fd.
(3) March 15, 1983 - Certificate of Notice fd.
(4) Mar. 31, 1983 - Pltff's Petition to Extend Time for Transmission of Record and Order of Court extending time up to and including the 2nd day of May 1983 fd. (JBR)
(5) Apr. 4, 1983 App. of John W. Hession, III & Peter Max Zimmerman for the Protestant. Same day Answer fd.
(6) April 28, 1983 - Transcript of Record fd.
(7) April 28, 1983 - Notice of Filing of Record fd. Copies sent.
(8) May 10, 1983 Appellant's Memorandum id.
(9) June 9, 1983 - Appellee's Memorandum fd.
July 12, 1983 Hon. William R. Buchanan, Sr. Hearing had. Opinion held sub-curia.
(10) July 13, 1983 - Opinion and Order of Court that the decision of the County Board of Appeals of Baltimore County is REVERSED fd. (WRB)

COSTS \$391.00
L-CLERK 60.00
B-LIBRY 5.00
CHECK TL 65.00
H06602 0001 002 715330

DOCKET 15 PAGE 126 CASE NO. 83-M-91

IN THE MATTER OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. FOR REZONING FROM M.L.R. TO M.L. ON PROPERTY LOCATED ON THE SOUTH SIDE OF HONEYGO BLVD., 750 FT. EAST FROM THE CENTER LINE OF PERRY HALL BLVD., 14th District

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW Misc. 15/126/83-M-91

Zoning Case No. R-83-60 (Item 5, Cycle III, 1982)

ORDER FOR APPEAL

MR. CLERK: Please note an appeal to the Court of Special Appeals of Maryland from the Opinion and Order of the Circuit Court for Baltimore County in the above-entitled case, under date of July 13, 1983, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 8th day of August, 1983, a copy of the foregoing Order was mailed to Richard A. Reid, Esquire, 102 W. Pennsylvania Avenue, Towson, Md. 21204.

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

Rec'd 8-8-83
2:45 pm

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
from M.L.R. to M.L. Zone
S/S of Honeygo Blvd., 750'
E of Perry Hall Blvd., 14th District : OF BALTIMORE COUNTY

Nottingham Village, Inc., Petitioner : Case No. R-83-60 (Item 5, Cycle III)

ORDER TO ENTER APPEARANCE

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

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel

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

I HEREBY CERTIFY that on this 6th day of August, 1982, a copy of the foregoing Order was mailed to Richard A. Reid, Esquire, 102 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Petitioner.

RECEIVED
BALTIMORE COUNTY
AUG 6 2 25 PM '83
COUNTY BOARD OF APPEALS
BY:

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

March 15, 1983

BILLED TO: Richard A. Reid, Esq.
102 W. Penna. Ave.
Towson, Md. 21204

Cost of certified documents filed in Case No. R-83-60 \$ 21.00

Nottingham Village, Inc.
S/S Honeygo Blvd. 750' E.
from the c/l of Perry Hall Blvd.
14th District

MAKE CHECKS PAYABLE TO: Baltimore County, Md.

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

RECEIVED
BALTIMORE COUNTY
AUG 21 1 55 PM '83
COUNTY BOARD OF APPEALS
BY:

PER CURIAM:

In November of 1980, Baltimore County adopted its current zoning maps as part of its legislative quadrennial comprehensive rezoning process. The subject property here involved is owned by Nottingham Village, Inc., the appellee (hereinafter "Nottingham").

It is located in the White Marsh Town Center, comprising 134.41 acres sandwiched between the John F. Kennedy Memorial Highway (I-95) to the east and the recently developed White Marsh Mall, zoned B.M.-C.T. (Business, Major-Commercial, town-center core District). The petitioner is the principal property owner in the immediate neighborhood. The 134 acres designated for consideration form but a part of a larger vacant 200-acre tract zoned M.L.R. (Manufacturing Light, Restricted). The petitioner also owns the mall property and the residential property to the north and south (together approximately 930 acres), and property on the opposite side of I-95 (600 acres) zoned residential but currently under lease for strip mining of sand and gravel.

In 1971, Baltimore County inaugurated its countywide legislative comprehensive zoning process, which is repeated at four year intervals. The County Council at that time followed the recommendation of the Planning Board in classifying the subject property M.L.R. In 1976 and 1980, neither the petitioner nor the Planning Staff raised any specific question as to the appropriateness of that classification, and the M.L.R. zoning was retained.

*Rec'd. 2-13-84
10:30 AM*

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1010

September Term, 1983

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

v.

NOTTINGHAM VILLAGE, INC.

R-83-60

Moylan,
Liss,
Bell, JJ.

Per Curiam

Filed: February 10, 1984

The stated purpose of the M.L.R. zone is,

To permit grouping of high types of industrial plants in industrial subdivisions in locations with convenient access to expressways or other primary motorways so as to minimize the use of residential streets; to fill special locational needs of certain types of light industry; to permit planned dispersal of industrial employment centers so as to be conveniently and satisfactorily related to residential communities; and as traditional bands between residential or institutional areas and M.L. or M.H. Zones. [Baltimore County Zoning Regulations, Section 2-7].

In March of 1982, Nottingham petitioned the Board of Appeals of Baltimore County to reclassify the 134 acres here involved from M.L.R. to M.L.

The requested M.L. classification gives a wider choice of permitted uses, generally involving somewhat heavier manufacturing uses and providing for outdoor storage. Many of the uses in the two classifications, however, are identical. For example, so-called "high technology" industry, office buildings, and warehouses, are permitted in both M.L. and M.L.R.

The Planning Board of Baltimore County reviewed the property and recommended that the reclassification not be granted. A hearing was then held before the Board of Appeals during the course of which Nottingham presented witnesses in support of its contention that there had been error in the original zoning of the particular tract, that there had been substantial change in the conditions of the neighborhood and that blue-collar unemployment had increased substantially in the northeastern area of the county and public urgency demanded an immediate rezoning.

March 28, 1983

Richard A. Reid, Esquire
102 West Pennsylvania Avenue
Towson, Maryland 21284

Re: Nottingham Village
8-83-60

Dear Mr. Reid:

Your office filed an appeal in the above captioned matter on March 16, 1983. At this time I have an overload in my work schedule, and I will not be able to file the transcript timely. Therefore, it will be necessary for you to file for a thirty-day extension.

Your prompt attention in this matter will be greatly appreciated.

Please send a copy of the extension to the Office of the Board of Appeals so they will have it for their files.

Sincerely,

Carol A. Beresh

Carol A. Beresh
Court Reporter
Board of Appeals

cc: file

EXHIBIT 1

People's Counsel for Baltimore County, the appellant herein, presented witnesses who gave the Board of Appeals the history of the establishment of the M.L.R. by the County Council without objection from Nottingham. His witness concluded that there was no error in zoning and that the M.L.R. zone provided for a reasonable use of the property. It was called to the attention of the Board that Nottingham had made no effort to request a change to M.L. since 1972. The expert witness opined that the issue here raised should be considered by the County Council in the 1984 Comprehensive zoning map process, that legislative body being in a better position to consider the relationship between the several properties here involved.

In his opinion the zoning would be more orderly and effective if considered on the broad comprehensive basis rather than on a piecemeal basis. He finally denied there had been any error or change and pointed out that the town center concept had developed as originally contemplated by the County Council in the adoption of the comprehensive zoning maps.

The Board denied the petitioner's application for reclassification and gave the following reasons for their decision:

The Board must now decide whether to grant the requested reclassification or retain the existing classification. Petitioner has presented a strong case for its granting. The Board is however aware that this parcel, while of substantial size, is only a small percentage of the area zoned for the entire White Marsh Town Center. When the County Council considers an entire town center in a zoning process, each parcel or each classification of an area must be considered in light of its relation to the entire town center. The Board must, however, only consider this one individual parcel. To assume that the apparently now present need for industrial park land that was not addressed

during the 1980 map process by the property owner constitutes error by the County Council, does not seem proper. To classify this same need as change is likewise deemed not proper. It is the opinion of this Board that if this reclassification requested is proper, that it should be addressed comprehensively, so that its impact on the entire town center can be evaluated and will therefore deny the petition and will so order.

The petitioner appealed to the Circuit Court for Baltimore County and on July 13, 1983, the trial judge issued the following opinion and order, reversing the Board of Appeals:

This is an appeal from the decision of the County Board of Appeals of Baltimore County concerning the reclassification from M.L.R. to M.L. of 134 acres located on the south side of Honeygo Boulevard, east of Perry Hall Boulevard. The entire site of 204 acres is presently zoned M.L.R. The Petitioner's request is for 134 acres to be reclassified to M.L.

On July 13, 1983, counsel for the Petitioners and People's Counsel were heard in open court. After reading the transcript, memoranda, and examining the numerous exhibits and the applicable law, the Court finds that the Petitioner presented more than sufficient evidence to overcome the presumption of correctness which attaches to the comprehensive zoning map, and that there was substantial probative evidence that there was "error", and that the Petitioner established events occurring subsequent to the comprehensive zoning that proved the Council's initial premises were incorrect.

It is from that order that this appeal was filed. The issue to be decided by this appeal is whether the Circuit Court erred in reversing the decision of the County Board of Appeals refusing zoning reclassification of the property sought to be rezoned?

The scope of judicial review of an administrative decision in a reclassification case has been stated to be:

It is only when there is no room for reasonable debate or where the record is devoid of substantial supporting facts that the courts are justified in reversing a decision of the Board, or declaring its actions arbitrary or capricious. [Citations omitted]. Jobar Corp. v. Rodgers Forge, 236 Md. 106, 120 (1964).

In Boyce v. Sembly, 25 Md. App. 43, 51-52 (1975), this Court discussed the presumption of validity accorded comprehensive zoning:

It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the adoption of the map, the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be readily visible or discernible at the time of the comprehensive zoning. . . . Thus, unless there is probative [citation omitted] . . . Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not "fairly debatable." [Footnote omitted].

Appellee offers as proof of the error in comprehensive zoning in 1980 the fact that the Council did not have available to it the subsequent studies made by the county which it contends established the need for land zoned M.L. in industrial parks in the northeast section of Baltimore County.

In the more recent case of Howard County v. Dorsey, 292 Md. 351, 356-57 (1982), the Court of Appeals, quoting Boyce v. Sembly, supra, discussed the evidence required to overcome the presumption of validity of comprehensive zoning:

A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is 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. [Citations omitted]. 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. [Citations omitted].

We find it significant that neither the County Council nor the petitioner had any question that the M.L.R. zoning classification was appropriate at the time of comprehensive rezoning in 1980 and that petitioner apparently was satisfied with that zoning classification from 1972 through 1980, since it made no effort to have it reconsidered at the time of the general review of zoning. That the Council acted responsibly is evidenced by the fact that it authorized studies to address the general question of the need for land for industrial use. These studies will be available to the Council when it next considers comprehensive zoning in 1984. The procedure for comprehensive zoning map reviews in Baltimore County is unique because of the short period between reviews. The scheme permits the County Council to meet newly perceived trends every fourth year. The process conjoins and coordinates the Capital Budget, the Master Water and Sewer Plan, the State Highway Commission's annual construction projects and all other considerations necessary for the integration of a comprehensive general zoning plan rather than a piecemeal review of individual tracts. See Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974).

From our own independent review of the record in this case, we find no error in the County Council's adoption of the comprehensive zoning in 1980 as it affected the property here involved. Nor is there any evidence of a change in the character of the neighborhood. Conversely, we conclude that the White Marsh area has developed exactly as contemplated in the original comprehensive zoning and this development does not support a finding probative of a substantial change in the character of the neighborhood. See Prince George's Co. v. Prestwick, 263 Md. 217 (1971).

It is clear to us that the Board had before it sufficient evidence to make the question of reclassification of the property here considered "fairly debatable" and that in the light of that legislative situation the action of the trial judge in reversing the Board exceeded his proper scope of review and was arbitrary and capricious. We shall reverse the trial judge's order and affirm the Board.

ORDER OF CIRCUIT COURT REVERSED.
ORDER OF COUNTY BOARD OF APPEALS
AFFIRMED. COSTS TO BE PAID BY
APPELLEE.

*Rec'd. 2-13-84
10:30 AM*

UNREPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1010

September Term, 1983

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

v.

NOTTINGHAM VILLAGE, INC.

R-83-60

Moylan
Liss
Bell, JJ.

Per Curiam

Filed: February 10, 1984

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To permit grouping of high types of industrial plants in industrial subdivisions in locations with convenient access to expressways or other primary motorways so as to minimize the use of residential streets; to fill special locational needs of certain types of light industry; to permit planned dispersal of industrial employment centers so as to be conveniently and satisfactorily related to residential communities; and as transitional bands between residential or institutional areas and M.L. or M.H. Zones. (Baltimore County Zoning Regulations, Section 2-7).

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The scope of judicial review of an administrative decision in a reclassification case has been stated to be:

It is only where there is no room for reasonable debate or where the record is devoid of substantial supporting facts that the courts are justified in reversing a decision of the Board, or declaring its actions arbitrary or capricious. [Citations omitted]. Jobar Corp. v. Rodgers Forge, 236 Md. 106, 120 (1964).

In Boyce v. Sembly, 25 Md. App. 43, 51-52 (1975), this Court discussed the presumption of validity accorded comprehensive zoning:

It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the adoption of the map, the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning. . . . [citation omitted] . . . Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not "fairly debatable." [Footnote omitted].

Appellee offers as proof of the error in comprehensive zoning in 1980 the fact that the Council did not have available to it the subsequent studies made by the county which it contends established the need for land zoned M.L. in industrial parks in the northeast section of Baltimore County.

In the more recent case of Howard County v. Dorsey, 292 Md. 351, 356-57 (1982), the Court of Appeals, quoting Boyce v. Sembly, supra, discussed the evidence required to overcome the presumption of validity of comprehensive zoning:

A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is 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. [Citations omitted]. 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. [Citations omitted].

We find it significant that neither the County Council nor the petitioner had any question that the M.L.R. zoning classification was appropriate at the time of comprehensive rezoning in 1980 and that petitioner apparently was satisfied with that zoning classification from 1972 through 1980, since it made no effort to have it reconsidered at the time of the general review of zoning. That the Council acted responsibly is evidenced by the fact that it authorized studies to address the general question of the need for land for industrial use. These studies will be available to the Council when it next considers comprehensive zoning in 1984. The procedure for comprehensive zoning map reviews in Baltimore County is unique because of the short period between reviews. The scheme permits the County Council to meet newly perceived trends every fourth year. The process conjoins and coordinates the Capital Budget, the Master Water and Sewer Plan, the State Highway Commission's annual construction projects and all other considerations necessary for the integration of a comprehensive general zoning plan rather than a piecemeal review of individual tracts. See Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974).

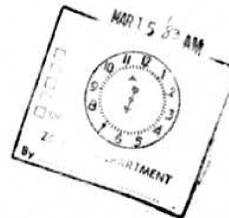
From our own independent review of the record in this case, we find no error in the County Council's adoption of the comprehensive zoning in 1980 as it affected the property here involved. Nor is there any evidence of a change in the character of the neighborhood. Conversely, we conclude that the White Marsh area has developed exactly as contemplated in the original comprehensive zoning and this development does not support a finding probative of a substantial change in the character of the neighborhood. See Prince George's Co. v. Prestwick, 263 Md. 217 (1971).

It is clear to us that the Board had before it sufficient evidence to make the question of reclassification of the property here considered "fairly debatable" and that in the light of that legislative situation the action of the trial judge in reversing the Board exceeded his proper scope of review and was arbitrary and capricious. We shall reverse the trial judge's order and affirm the Board.

ORDER OF CIRCUIT COURT REVERSED.
ORDER OF COUNTY BOARD OF APPEALS AFFIRMED. COSTS TO BE PAID BY APPELLEE.

494-3180
12-80
PB

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
March 15, 1983



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

Dear Mr. Hession:

Re: Case No. R-83-60
Nottingham Village, Inc.

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 Holman
June Holman, Secretary

Encl.
cc: Paul Jarosinski
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. G. Hoswell
Bd. of Education

RECEIVED
MAR 15 8 30 AM
COURT HOUSE
TOWSON, MARYLAND

SETTLEMENTS - If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put in the record if no order of satisfaction is filed prior to trial.

RE: NEW JURY - 03 M 91 - JURY HEARING OF THE APPLICATION OF NOTTINGHAM VILLAGE, INC. VS COUNTY BOARD OF APPEALS ON THE FOLLOWING: Tuesday, July 12, 1983, 9:30 a.m. Appeals 1 hour

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to confer, stipulate, claim or 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 Court 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. CROON. Please direct all inquiries to the attention of the Settlement Conference Clerk - 494-3487.

ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Royal Avenue
P.O. Box 6194
Towson, Maryland, 21204-0194
May 16, 1983.

John W. Hession, III, Esq.
County Board of Appeals of Baltco, Co.

Richard A. Reid, Esq.
Suite 600
102 W. Pennsylvania Ave.
Towson, Md. 21204

John W. Hession, III
Peter Max Zimmerman
Rm. 223
Courthouse
Towson, Md. 21204

June Holman
mail stop 2203

NOTICE OF FILING OF RECORD

TO: Richard A. Reid
Suite 600
102 W. Pennsylvania Ave.
Towson, Md. 21204

John W. Hession, III
Peter Max Zimmerman
Rm. 223
Courthouse
Towson, Md. 21204

June Holman
mail stop 2203

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on April 28, 1983.

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Royal Avenue
P.O. Box 6194
Towson, Maryland, 21204-0194
May 16, 1983.

Richard A. Reid, Esq.
Suite 600
102 W. Pennsylvania Ave.
Towson, Md. 21204

John W. Hession, III
Peter Max Zimmerman
Rm. 223
Courthouse
Towson, Md. 21204

June Holman
mail stop 2203

NOTICE OF FILING OF RECORD

TO: Richard A. Reid
Suite 600
102 W. Pennsylvania Ave.
Towson, Md. 21204

John W. Hession, III
Peter Max Zimmerman
Rm. 223
Courthouse
Towson, Md. 21204

June Holman
mail stop 2203

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on April 28, 1983.

Rec'd 4-24-83
H. 0000

1 Brown Manila Envelope
1 Red Expansion folder

FILED APR 28 1983

Theresa J. Kalkin
Clerk

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
February 15, 1983

Richard A. Reid, Esq.
102 W. Panna. Ave.
Towson, Md. 21204

Dear Mr. Reid:

Re: Case No. R-83-60
Nottingham Village, Inc.

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 Holman
June Holman, Secretary

Encl.
cc: Mr. Richard R. Jones
Mr. Paul Jarosinski
J. W. Hession, Esq.
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. G. Hoswell
Board of Education

WHITMAN, REQUARDT and ASSOCIATES

February 25, 1982

NOTTINGHAM
BUSINESS COMMUNITY
Engineering Description
ML ZONE

Lying and being in Election District No. 14 of Baltimore County, Maryland.

BEGINNING for the same at a point on the centerline of Honeygo Boulevard, 130 feet wide, as shown on the plat of "WHITEMARSH MALL, SHEET 3 of 3 (AMENDED)" recorded among the Plat Records of Baltimore County, Maryland in Plat Book E.H.K., Jr. No. 40 at folio 84, said point being South 71°45'00" East, 750.00 feet from the centerline intersection of Perry Hall Boulevard, 130 feet wide, and the aforesaid Honeygo Boulevard, thence binding on said centerline and binding also on the BM Zone Line as shown on the aforementioned plat and as also shown on the plat of "WHITEMARSH MALL, SHEET 2 of 3 (AMENDED)" recorded among the Plat Records of Baltimore County, Maryland in Plat Book E.H.K., Jr. No. 48 at folio 83, the following three courses and distances, (1) South 71°45'00" East, 568.82 feet; (2) Northeasterly along a curve to the left, having a radius of 1,811.93 feet, for a distance of 2,846.17 feet, being subtended by a chord bearing and distance of North 63°15'00" East, 2,562.46 feet; (3) North 18°15'00" East, 150.00 feet, thence leaving said centerline of Honeygo Boulevard, but binding still on the BM Zone Line as shown on the secondly mentioned plat, (4) Northeasterly along a curve to the left, having a radius of 2,503.13 feet, for a distance of 260.16 feet, being subtended by a chord bearing and distance of North 15°16'21" East, 260.04 feet to a point on the southerlymost right of way line of a 30 foot Baltimore County Utility Easement recorded among the Land Records of Baltimore County, Maryland in Liber O.T.G. No. 4831 at folio 527, thence binding on said southerlymost right of way line the following three courses and distances, (5) South 73°59'25" East, 1,155.02 feet; (6) Southeasterly along a curve to the right, having a radius of 723.51 feet, for a distance of 297.17 feet, being subtended by a chord bearing

WHITMAN, REQUARDT and ASSOCIATES

February 25, 1982

-2-

and distance of South 62°13'17" East, 295.09 feet; (7) South 50°27'14" East, 302.83 feet to a point on the North 33°35'31" East, 100.50 foot line of the Northeastern Expressway as shown on Plats No. 27862 and 27861 by the State Roads Commission of Maryland, said point being 3.00 feet from beginning thereof, thence binding reversely on said line and binding also on the westerlymost outline of the Northeastern Expressway, the following four courses and distances, (8) South 33°49'01" West, 3.00 feet; (9) South 39°31'37" West, 110.36 feet; (10) Southwesterly along a curve to the right, having a radius of 5,579.58 feet, for a distance of 1,705.94 feet, being subtended by a chord bearing and distance of South 48°17'10" West, 1,699.31 feet; (11) South 57°02'42" West, 2,647.44 feet, thence leaving said westerlymost outline of the Northeastern Expressway and running for lines of division, the following six courses and distances, (12) North 45°15'45" West, 529.12 feet; (13) Northeasterly along a curve to the left, having a radius of 650.00 feet, for a distance of 516.30 feet, being subtended by a chord bearing and distance of North 21°53'56" East, 502.83 feet; (14) South 89°13'38" West, 430.00 feet; (15) North 59°51'58" West, 781.45 feet; (16) Northeasterly along a curve to the left, having a radius of 1,000.00 feet, for a distance of 370.61 feet, being subtended by a chord bearing and distance of North 28°52'01" East, 368.49 feet; (17) North 18°15'00" East, 412.16 feet to the point of BEGINNING.

Containing 134.4138 acres of land, more or less.
Being in part a piece or part of the right of way of Honeygo Boulevard, 130 feet wide as shown on the plats of "WHITEMARSH MALL, SHEET 2 of 3 (AMENDED)" and "WHITEMARSH MALL, SHEET 3 of 3 (AMENDED)", recorded among the Plat Records of Baltimore County, Maryland in Plat Books E.H.K., Jr. No. 48 at folios 83 and 84 respectively. Being also a piece or part of Parcels G and H, as shown on the "PLAT SHOWING RESIDENTIAL DENSITY ALLOWED BY ZONING, NOTTINGHAM VILLAGE, AREA 4," Sheet 2 of 2 dated February 5, 1975 and recorded among the Plat Records of Baltimore County, Maryland in Plat Book E.H.K., Jr. No. 38 at folio 55.

Maryland Department of Transportation
State Highway Administration

Lowell K. Bridwell
Secretary
W. S. Caltrider
Administrator

Mr. William Hackett, Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

Attention: Mr. N. Commodari

Dear Mr. Hackett:

With proper storm water management, future development, resulting from the proposed zoning, should have no adverse effect on the State Highway.

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

By: John Meyers

RECEIVED
BALTIMORE COUNTY
MAR 25 9 46 AM '82
CL:JM:maw

Mr. J. Wimbley
Mr. G. Wittman

April 7, 1982

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

Dear Mr. Hackett:

Comments on Item #5, Cycle III Meeting, March 16, 1982, are as follows:

Property Owner: Nottingham Village, Inc.
Location: S/S Honeygo Blvd. 750' from centerline of Perry Hall Boulevard
Existing Zoning: M.L.R.
Proposed Zoning: M.L.
Acres: 134.4138
District: 14th

Metropolitan water and sewer are available.

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

Very truly yours,

Jan T. Forrest
Jan T. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

LJP/als/JRP

PETITION FOR RECLASSIFICATION

14th Election District

ZONING: Petition for Reclassification
LOCATION: South side of Honeygo Boulevard, 750 ft. East of the centerline of Perry Hall Boulevard
DATE & TIME: Tuesday, September 21, 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: M.L.R.
Proposed Zoning: M.L.

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

Being the property of Nottingham Village, Inc., as shown on plat plan filed with the Zoning Department.

Hearing Date: Tuesday, September 21, 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



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

WILLIAM E. HAMMOND
ZONING COMMISSIONER

September 16, 1982

Richard A. Reid, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

Re: Petition for Reclassification
S/S of Honeygo Blvd., 750' E of the c/l
of Perry Hall Blvd.
Nottingham Village, Inc. - Petitioner
Case #R-83-60 Cycle III - Item #5

Dear Mr. Reid:

This is to advise you that \$287.53 is due for advertising and posting of the above property.

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

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No 108978
DATE 9/20/82 ACCOUNT 01-662
AMOUNT \$287.53
RECEIVED FROM Nottingham Village, Inc.
FOR Advertising & Posting Case #R-83-60 Cycle III Item #5
100*****2075310 8214A
VALIDATION OR SIGNATURE OF CASHIER

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

Your Petition has been received this 1st day of Sept, 1982
Filing Fee \$82.00 Received: Check Cash Other

Petitioner Nottingham Village, Inc. Submitted by *Richard Reid*
Petitioner's Attorney *Richard Reid* Reviewed by *William E. Hammond*
William E. Hammond, Zoning Commissioner

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

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 14 Date of Posting 9/14/82
Posted for Petition for Reclassification
Petitioner Nottingham Village, Inc.
Location of property 750' E of Honeygo Blvd., S/S of Perry Hall Blvd.
Location of Signs 102 W. Pennsylvania Ave., Towson, Md. & 750' E of Honeygo Blvd.
Remarks M.L.R. to M.L. (see attached memo)
Posted by *William E. Hammond* Date of return 9/10/82
Number of Signs 2

Richard A. Reid, Esquire
102 W. Pennsylvania Avenue
Towson, Maryland 21204

August 25, 1982

NOTICE OF HEARING
Re: Petition for Reclassification
S/S of Honeygo Blvd., 750' E of the centerline of Perry Hall Boulevard
Nottingham Village, Inc. - Petitioner
Case No. R-83-60 Cycle III - Item #5

TIME: 10:00 A.M.
DATE: Tuesday, September 21, 1982
PLACE: Room 218, Courthouse, Towson, Maryland

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

CERTIFICATE OF PUBLICATION

TOWSON, MD. September 2, 1982

THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., one time before the day of September 1982, the 2nd day of September 1982, appearing on the 2nd day of September 1982.

THE JEFFERSONIAN
Richard A. Reid
Manager

Cost of Advertisement, \$

BALTIMORE COUNTY, MARYLAND
OFFICE OF REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 85118
DATE 3/21/83 ACCOUNT 01-712
AMOUNT \$21.00

RECEIVED Richard A. Reid, Esq., 102 W. Penna. Ave. (21204)
FOR Cost of certified documents filed in Case No. R-83-60
Nottingham Village, Inc., Honeygo Blvd. & Perry Hall Blvd.

B 100*****21001a 8216F
VALIDATION OR SIGNATURE OF CASHIER

1) Seem to find a replica could be...
2) Look at difference in property...
3) The talk of failure to obtain...
4) Did they have any...
5) At present feel that proposal is unacceptable.

3 points
1) M.L.R. - changes should go through...
2. As a citizen who lives in the immediate area...
3 Economic hardship of residents in Dundalk Essex area should not be argument for zoning changes in a white collar area such as Perry Hall White Marsh...
P.C. for info only

P.C. for info only

Cpt Blum

- 1- Please complete your portion of form. Attach Advanced Course diploma and have Unit complete its portion
- 2- After Unit's completion (Part II), return form and diploma in enclosed envelope
- 3- An additional enrollment form is included for interested officers
- 4- Some info on the course
 - A- 3 years broken down into 3 TOT's and 3 ROT's. 24 meetings, during TOT's 2 weeks for A.T. TOT runs Oct thru May
 - B- Course qualifications may 17 " " 7 yrs comm. or more per 7 yrs remaining after course completion
5. To contact me phone Home 484-0932 Business 1-443-1990 Lt Col Blum

The Times

Middle River, Md., Sept 2 1982

This is to Certify, That the annexed

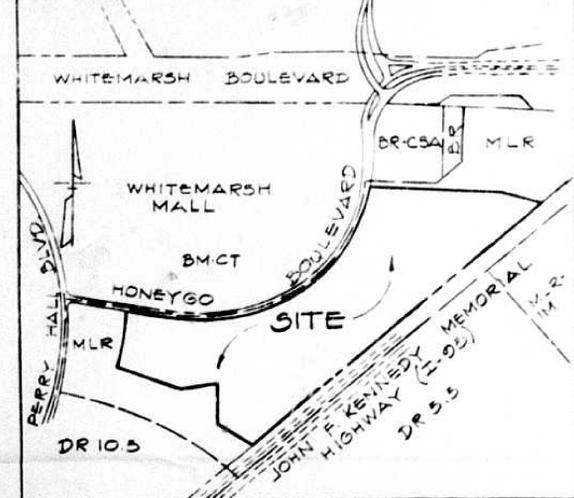
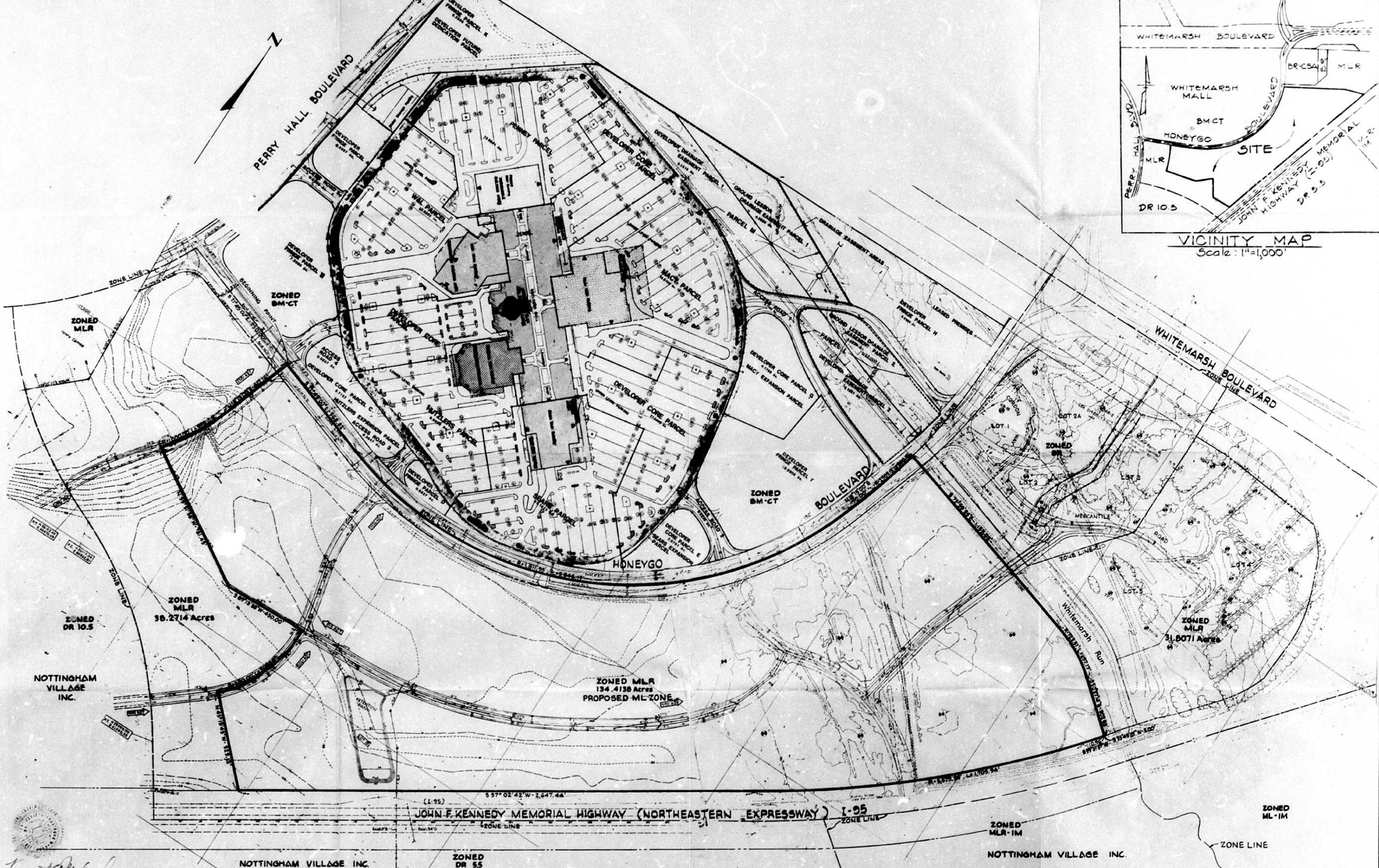
Petition

was inserted in The Times, a newspaper printed and published in Baltimore County, once in each of one successive weeks before the 2nd day of Sept, 1982

Annexed Publisher.

Public Hearing

14th Street



VICINITY MAP
Scale: 1"=1,000'

ENGINEER
WHITMAN, REQUARDT AND ASSOCIATES
BALTIMORE, MARYLAND

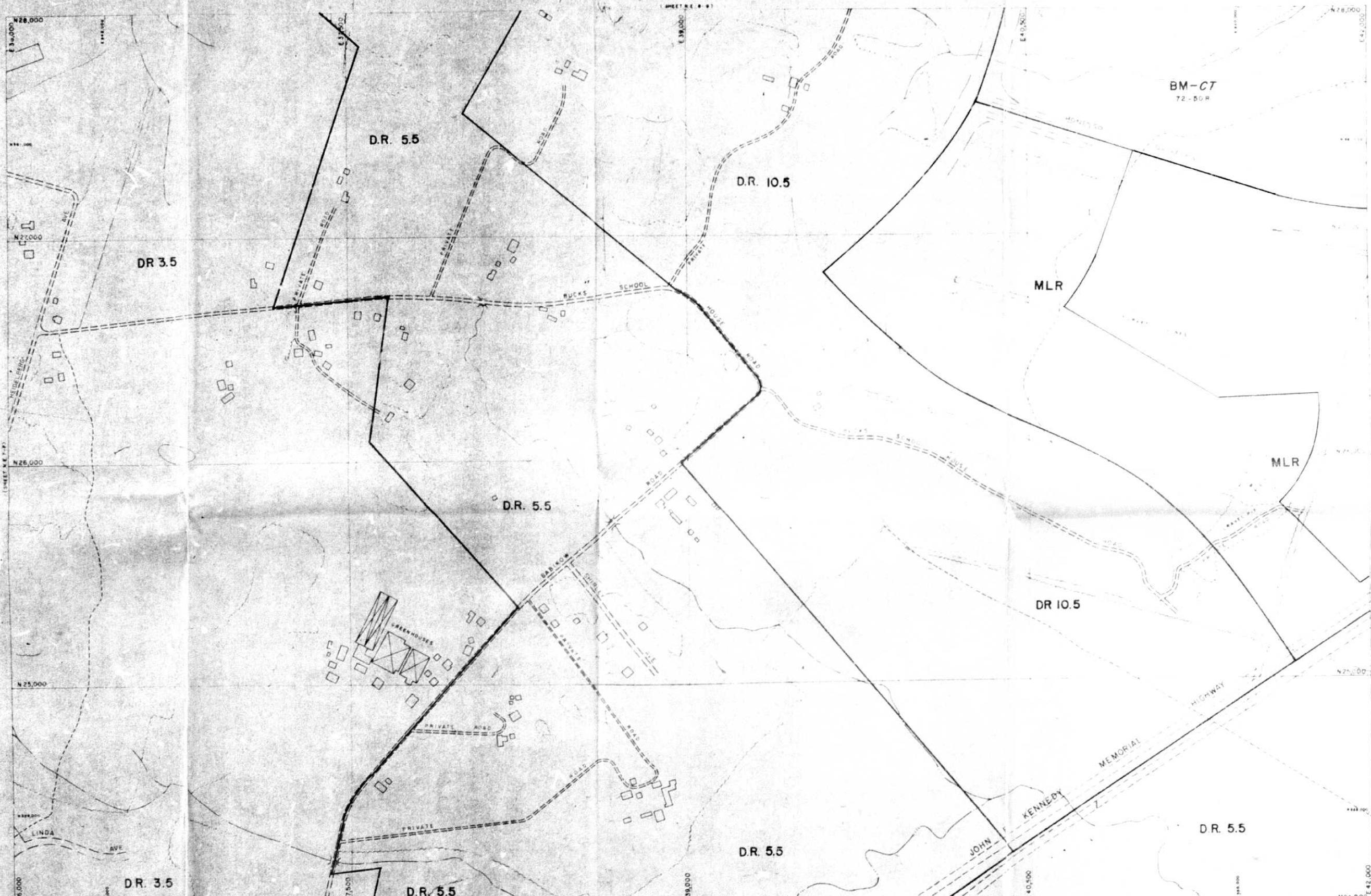
OWNER
NOTTINGHAM VILLAGE, INC.
TOWSON, MARYLAND

**WHITE MARSH BUSINESS COMMUNITY
PLAT TO ACCOMPANY ZONING RE-CLASSIFICATION**

ELECTION DISTRICT 14C6

SCALE: 1"=200'



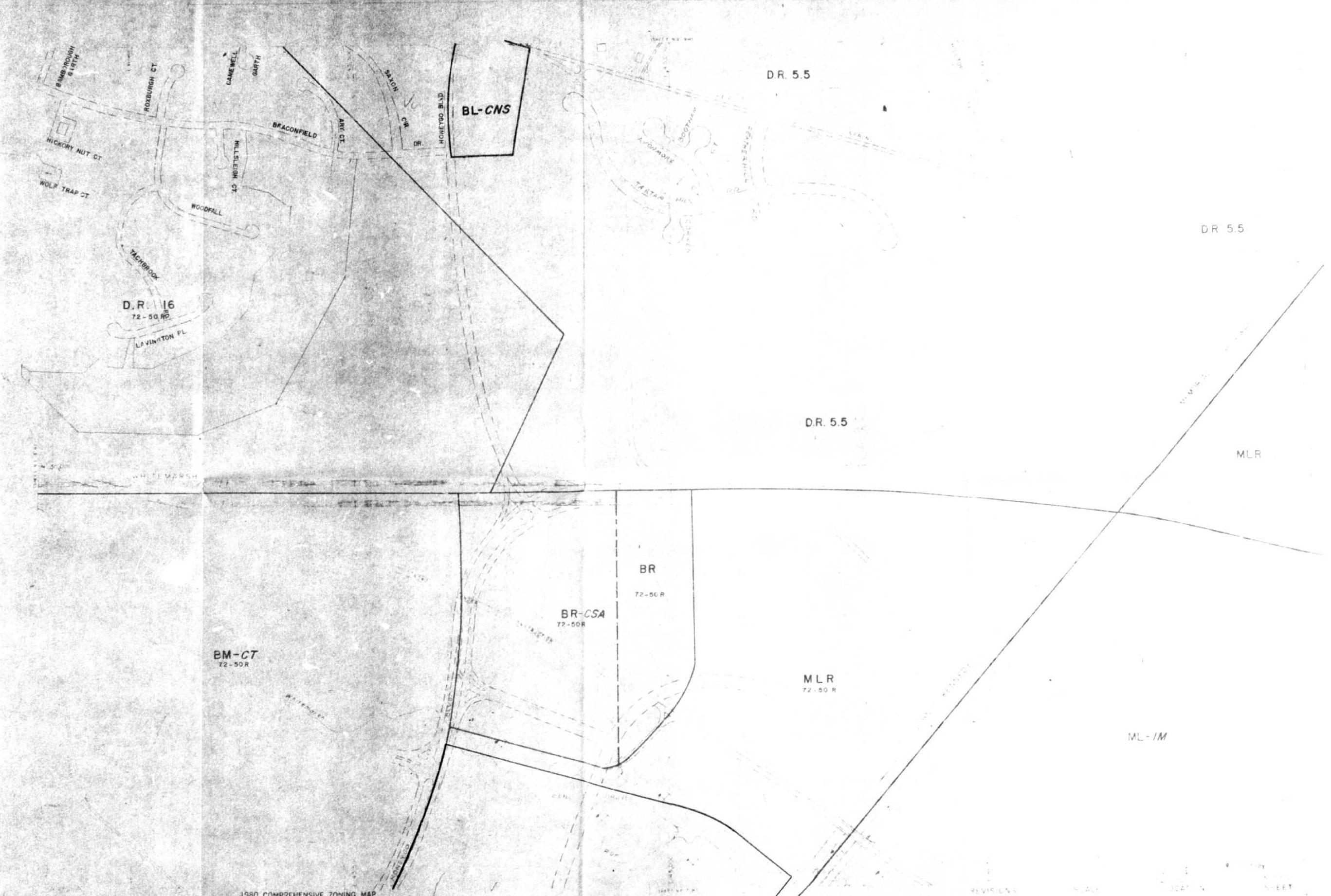


1980 COMPREHENSIVE ZONING MAP
 ADOPTED BY THE
 BALTIMORE COUNTY COUNCIL
 OCT. 14, 1980
 BILL NOS. 184-80, 185-80, 186-80,
 187-80, 138-80, 189-80 AND 190-80
James W. ...
 CHAIRMAN, COUNTY COUNCIL

PHOTGRAMMETRIC MAP OF
 BALTIMORE COUNTY METROPOLITAN AREA
 OFFICIAL ZONING MAP

REVISIONS		SCALE	LOCATION	SHEET
BY	DATE	1" = 200'	FULLERTON	N 5
		DATE OF PHOTOGRAPHY APRIL 1953	VICINITY	7-G
<small>Compiled By Photogrammetric Methods AERO SERVICE CORPORATION-PHILADELPHIA, PA</small>				





M W M SE
M NW M NE

1980 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT 14, 1980
BILL NOS. 184-80, 185-80, 186-80,
187-80, 188-80, 189-80 AND 190-80
James W. ...
CHAIRMAN, COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS
DATE
SCALE
DATE OF PHOTOGRAPHY
APRIL 1951

LOCATION SHEET
FULLERTON NE
WHITE MARSH BH
VICINITY

Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION - PHILADELPHIA, PA

BM-C7
72-50 R

MLR
72-50 R

ML-IM

MLR

MLR-IM

D.R. 5.5

D.R. 3.5

ML-IM

D.R. 5.5

D.R. 3.5

D.R. 2

MH-1A

RO

1980 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT. 14, 1980
BILL NOS. 134-80, 135-80, 136-80,
137-80, 138-80, 139-80 AND 130-80
Norm W. Casselman
CHAIRMAN, COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA OFFICIAL ZONING MAP

REVISIONS
BY DATE

SCALE
1" = 200'

DATE OF
PHOTOGRAPHY
APRIL 1953

LOCATION

FULLERTON

VICINITY

SHEET

NE

7-H

Compiled By Photogrammetric Methods
AERO SERVICE CORPORATION, PHILADELPHIA, PA.

