

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

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:  
 The undersigned, legal owner(s) of the property situated 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 zoned D.R. 5.5 to an (A) B.R.-CNS or (a) M.-I.M. zone, for the reasons given in the attached statement; and (2) to request a special exception to the zoning regulations of Baltimore County to use the property as a residential use.

and to pay the reasonable costs of the proceedings in accordance with the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

MAX 1/2  
 SEC 1/2  
 EVIDENCE  
 REC. CH.  
 REC. CL.  
 FILE  
 MAIL ROOM  
 BY

Property is to be posted and advertised as prescribed by The Baltimore County Code.  
 I, or we, agree to pay expenses of above Re-classification, Special Exception, and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser: Real Estate and Improvement Co. of Baltimore City  
 (Type or Print Name)  
 Signature: J.R. Hickman  
 707 E. Main St., Suite 350  
 Richmond, VA 23219  
 City and State

Legal Owner(s): Real Estate and Improvement Co. of Baltimore City  
 (Type or Print Name)  
 Signature: G.C. Totty  
 G.C. Totty, Director-Real Estate and Industrial Development  
 19th Floor - One Charles Center  
 Baltimore, MD 21201  
 City and State

Attorney for Petitioner:  
 Richard C. Keene  
 (Type or Print Name)  
 Signature: Richard C. Keene  
 22nd Floor - One Charles Center  
 Baltimore, MD 21201  
 City and State

Attorney's Telephone No.: (301) 237-3121

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS  
 FROM D.R. 5.5 to B.R.-CNS and : OF BALTIMORE COUNTY  
 M.L.-IM ZONES  
 SE Corner Merritt Blvd. and  
 Peninsula Expressway, 12th District :  
 REAL ESTATE & IMPROVEMENT CO. : Case No. R-84-1 (Item 1, Cycle V)  
 OF BALTIMORE CITY, Petitioner

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

I HEREBY CERTIFY that on this 14th day of July, 1983, a copy of the foregoing Order was mailed to Richard C. Keene, Esquire, 22nd Floor, One Charles Center, Baltimore, MD 21201, Attorney for Petitioner; J. R. Hickman, Mr. Clare Properties (Md.), Inc., 707 E. Main Street, Suite 350, Richmond, VA 23219, Contract Purchaser and David L. Lancaster or William P. Coffing, Jr., 707 E. Main Street, Richmond, VA 23219, who requested notification.

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

**BALTIMORE COUNTY**  
**ZONING PLANS**  
**ADVISORY COMMITTEE**



**PETITION AND SITE PLAN**  
**EVALUATION COMMENTS**

**BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE**  
 May 2, 1983

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

Richard C. Keene, Esquire  
 22nd Floor  
 One Charles Center  
 Baltimore, Maryland 21201

RE: Item No. 1 - Cycle No. V  
 Petitioner - Real Estate and Improvement Co. of Baltimore City  
 Reclassification & Redistricting Petitions

Dear Mr. Keene:  
 This reclassification/redistricting petition has been timely filed with the Board of Appeals for a public hearing within the April-October reclassification cycle (Cycle V). 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/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgement as to their accuracy and submit the necessary amendments to this office before Tuesday, May 31, 1983. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

The subjects of this petition consist of two parcels of land currently zoned D.R. 5.5 and proposed to be reclassified to B.R.-C.N.S. or in the alternative M.L.-I.M. Parcel #1, consisting of 12.875 acres, is located at the southeast corner of Merritt Boulevard and Peninsula Expressway, while parcel #2, consisting of .104 acre is located on the south side of Peninsula Expressway east of the first parcel. Both parcels are vacant and were zoned M.L.-I.M. prior to the adoption of the 1980 comprehensive zoning maps.

Item No. 1 - Cycle No. V  
 Petitioner - Real Estate & Improvement Co. of Baltimore City  
 Reclassification & Redistricting Petitions  
 Page 2

As indicated in my conversation with your engineer, Mr. Dick Smith, the ninth call in the description and on the plat indicates the wrong distance, while neither the title of this description nor the submitted site plan indicates the requested M.L.-I.M. zoning. Revisions to the descriptions and site plans should be made, and the petition forms should be amended to reflect the redistricting request.

In view of the fact that the submitted site plan does not indicate a proposed development, the enclosed comments from this Committee are general in nature. If the requested reclassification is granted, more detailed comments from County agencies and the Committee (if a hearing is required) will be written when a proposed development is indicated.

If you have any questions concerning the enclosed comments, please feel free to contact me at 494-3391. Notice of the specific hearing date which will be between September 1 and December 31, 1983, will be forwarded to you in the future.

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

NBC:bsc  
 Enclosures  
 cc: David L. Lancaster  
 707 E. Main Street  
 Richmond, Virginia 23219  
 Kidde Consultants, Inc.  
 1020 Cromwell Bridge Road  
 Baltimore, Maryland 21204

BALTIMORE COUNTY  
 DEPARTMENT OF PUBLIC WORKS  
 TOWSON, MARYLAND 21204

HARRY J. PISTEL, P. E.  
 DIRECTOR

March 25, 1983

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

Re: Item #1 Zoning Cycle V (Apr.-Oct. 1983)  
 Property Owner: Real Estate and Improvement Company of Baltimore City  
 S/E cor. Merritt Blvd. and Peninsula Expressway  
 Existing Zoning: D.R. 5.5  
 Proposed Zoning: Parcel "1" - B.R.-CNS  
 Parcel "2" - M.L.-IM  
 Acres: Parcel "1" - 12.875  
 Parcel "2" - 0.104  
 District: 12th

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.

**Highways:**  
 Merritt Boulevard and Peninsula Expressway are existing County roads improved as indicated. No further highway improvements are proposed at this time.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards and Specifications.

**Storm Drains:**  
 In accordance with the drainage policy, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to a suitable outfall.

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

The property to be developed is located adjacent to tidewaters of Bull Neck Creek. The Petitioner is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor including basements of residential and commercial development.

Item #1 Zoning Cycle V (Apr.-Oct. 1983)  
 Property Owner: Real Estates and Improvement Company of Baltimore City  
 Page 2  
 March 25, 1983

**Water and Sanitary Sewer:**  
 There is an 8-inch public water main in Merritt Boulevard, and public 8-inch water main and 12-inch sanitary sewerage in Stansbury Road.

Very truly yours,  
Robert A. Morton  
 ROBERT A. MORTON, P. E., Chief  
 Bureau of Public Services

RAM:EAM:FWR:iss  
 E-5W 1 P-5E Top Sheets  
 14-16 SE 20-22 Pos. Sheets  
 SE 4 E & P Topo  
 103 Tax Map

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

STEPHEN E. COLLINS  
 DIRECTOR

April 25, 1983

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

Cycle V - Meeting of March 15, 1983  
 Item No. - 1  
 Property Owner: Real Estate and Improvement Co. of Balto. City

Location: SE/Cor. Merritt Blvd. and Peninsula Expressway

Existing Zoning: D.R. 5.5  
 Proposed Zoning: Parcel "1" - B.R.-CNS or M.L.-IM  
 Parcel "2" - B.R.-CNS or M.L.-IM

Acres: Parcel "1" - 12.875 Parcel "2" - 0.104  
 District: 12th

Dear Mr. Hackett:

The existing D.R. 5.5 zoning can be expected to generate approximately 700 trips per day and the proposed B.R.-CNS zoning can be expected to generate approximately 6400 trips per day. If this site is zoned M.L.-IM the site can be expected to generate approximately 1500 trips per day.

This site has access problems and any change that increases the volume of traffic or size of vehicles using this site can add to the problems.

Michael S. Flanigan  
 Michael S. Flanigan  
 Traffic Engineer Assoc. II

MSF/ccm

**PETITION FOR RECLASSIFICATION AND REDISTRICTING**  
 12th Election District

**ZONING: Petition for Reclassification and Redistricting**  
 LOCATION: Parcel 1 - Southeast corner of Merritt Boulevard and Peninsula Expressway and Parcel 2 - Southwest side of Peninsula Expressway, 2400 ft. South-east of Merritt Boulevard.  
 DATE: TIME: Wednesday, September 7, 1983 at 10:00 A.M.  
 PUBLIC HEARING: Room 318, Courthouse, Towson, Maryland.

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter will hold a public hearing:  
 Present Zoning: D.R. 5.5 (Parcels 1 and 2)  
 Proposed Zoning: B.R.-C.N.S. or M.L.-I.M. (Parcels 1 and 2)  
 All that parcel of land in the Twelfth District of Baltimore County

**Parcel 1**  
 Beginning at the southeast corner of Merritt Boulevard and Peninsula Expressway and running thence binding on the southwest side of said Peninsula Expressway, two courses: (1) S 50° 30' 35" E 2090.37 feet and (2) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 79.75 feet, thence binding on the easterly and southeasterly outlines of the land owned by The Real Estate and Improvement Company of Baltimore City, five courses: (3) S 10° 49' 19" E 138.26 feet, (4) S 25° 41' W 34.40 feet, (5) N 64° 42' 00" W 146.31 feet, (6) N 25° 22' 00" E 15.00 feet and (7) N 64° 42' 00" W 146.31 feet to the southeast side of said Merritt Boulevard, thence binding thereon, three courses: (8) N 31° 57' 11" E 142.64 feet, (9) N 41° 10' 00" E 149.50 feet and (10) N 40° 05' 00" E 43.99 feet to the place of beginning. Containing 12.875 acres of land.

**Parcel 2**  
 Beginning on the southwest side of Peninsula Expressway at a point distant 2400 feet, more or less, as measured southeasterly along the southwest side of said Peninsula Expressway, from the southeast side of Merritt Boulevard, running thence binding on the southwest side of said Peninsula Expressway, two courses: (1) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 79.75 feet, thence binding on the southeast and west outlines of the land owned by The Real Estate and Improvement Company of Baltimore City, two courses: (2) N 64° 42' 00" W 90 feet, more or less, to the east side of the existing transmitter right-of-way and (4) binding thence a N 05° 49' 15" W 107.77 feet to the place of beginning. Containing 0.104 of an acre of land.

Being the property of Real Estate and Improvement Co. of Baltimore City, as shown on plat plan filed with the Zoning Department. Hearing Date: Wednesday, September 7, 1983 at 10:00 A.M.  
 Public Hearing: Room 318, Courthouse, Towson, Maryland.  
 By order of  
 WILLIAM T. HACKETT,  
 Chairman  
 County Board of Appeals of Baltimore County  
 Aug. 18.

R-344

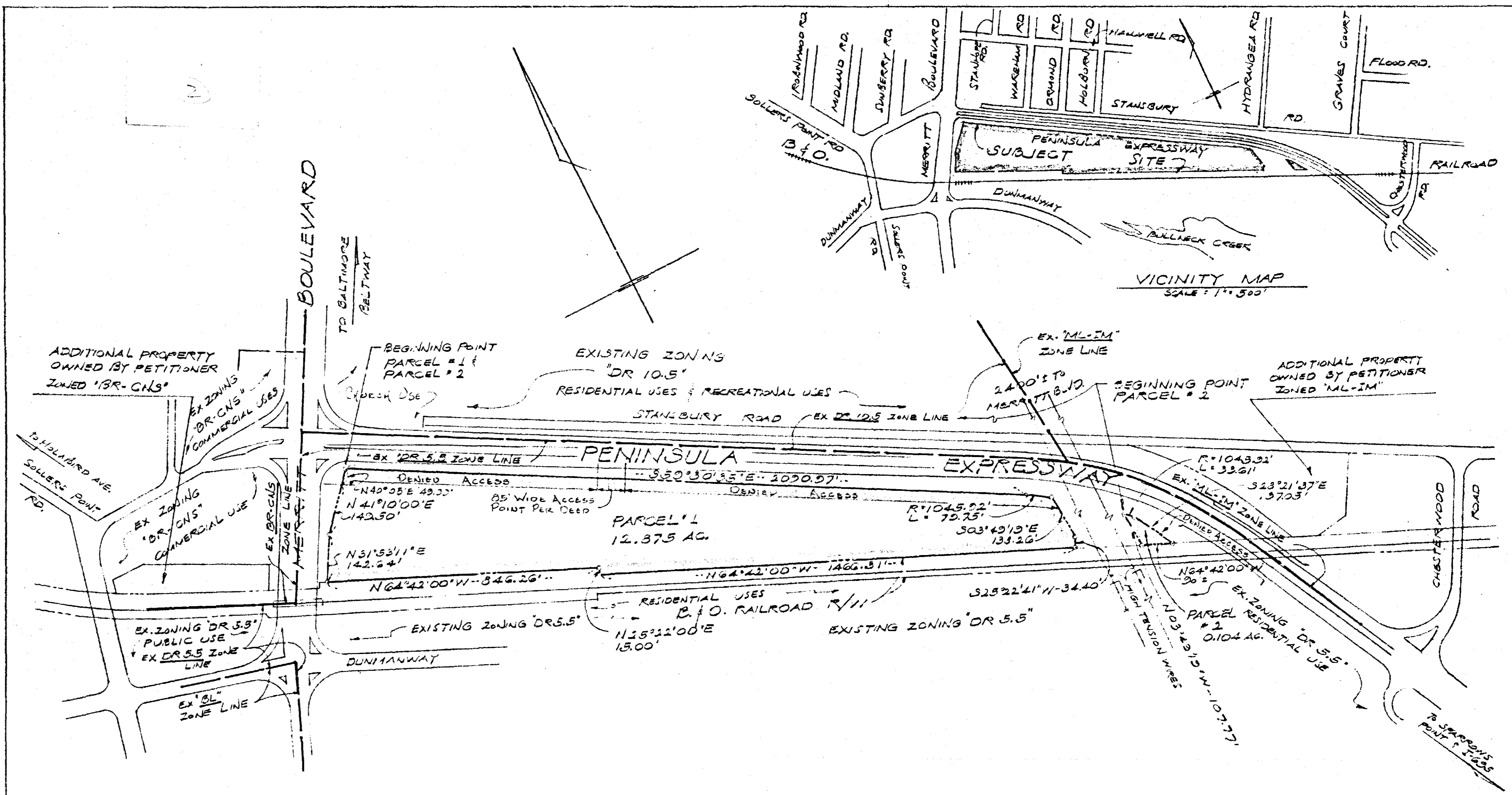
# CERTIFICATE OF PUBLICATION

TOWSON, MD., August 18, 1983

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on one time ~~XXXXXX~~ before the 7th day of September, 1983, the first publication appearing on the 18th day of August, 1983.

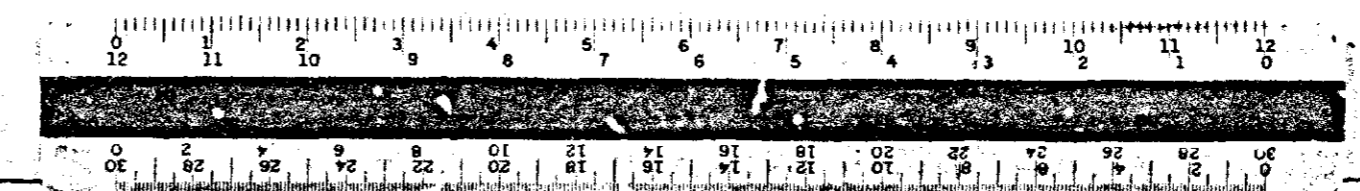
THE JEFFERSONIAN  
*L. Frank Strickland*  
 Manager.

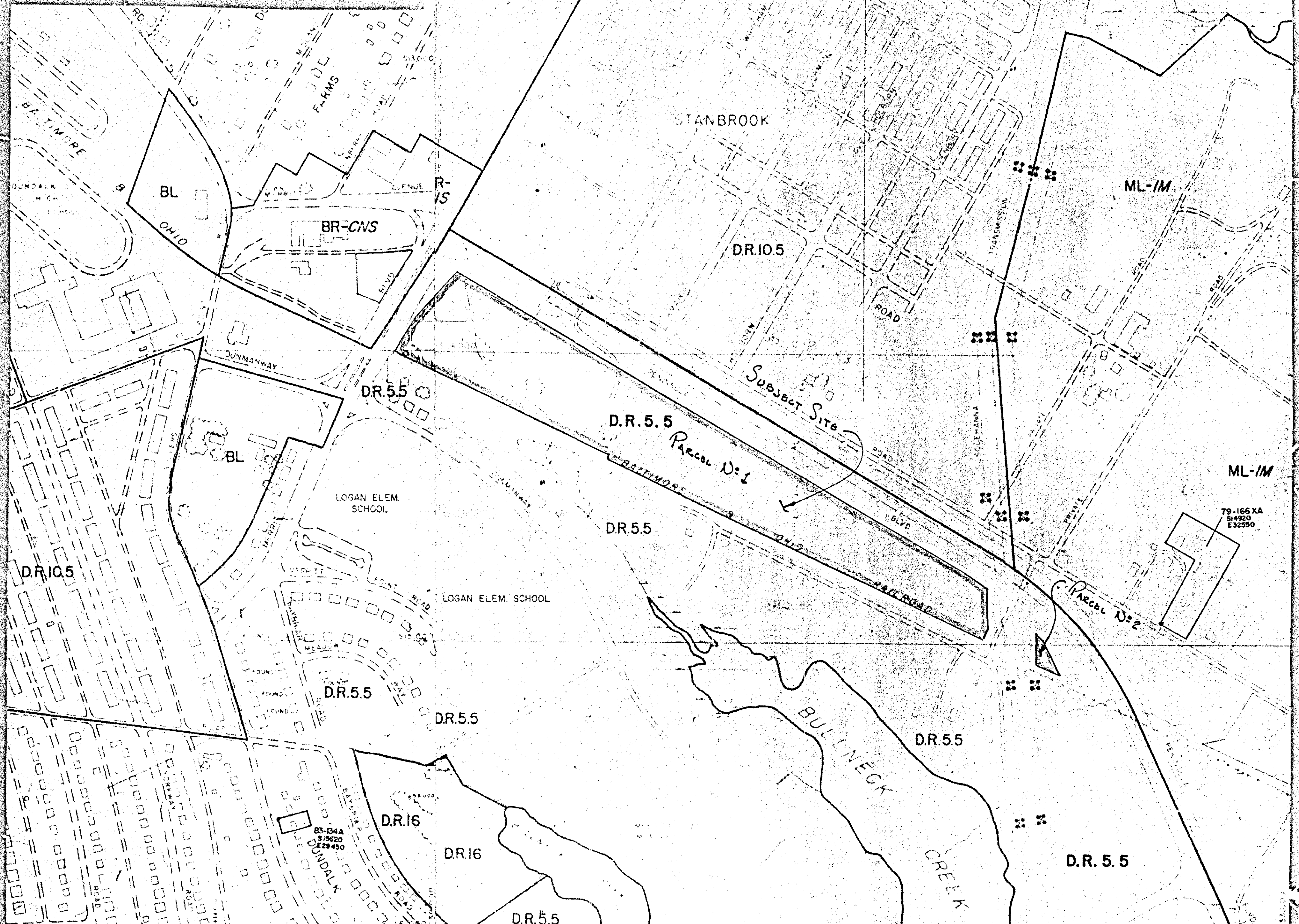
Cost of Advertisement, \$ 35.00



- GENERAL NOTES**
1. TOTAL AREA OF PARCELS #1 & #2 = 12.979 ac.
  2. EXISTING ZONING OF PROPERTY = "DR 5.5"
  3. EXISTING USE OF PROPERTY = VACANT LAND
  4. PROPOSED ZONING OF PROPERTY = "BR-CNS" or "ML-IM"
  5. PROPOSED USE OF PROPERTY = "COMMERCIAL USE" OR "MANUFACTURING USE"

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF PROPERTY SOUTHEAST CORNER MERRITT BLVD & PENINSULA EXPRESSWAY ELECTION DIST. No 12 BALTIMORE COUNTY, MD. FEB. 28, 1983 REVISED: MAY 24, 1983

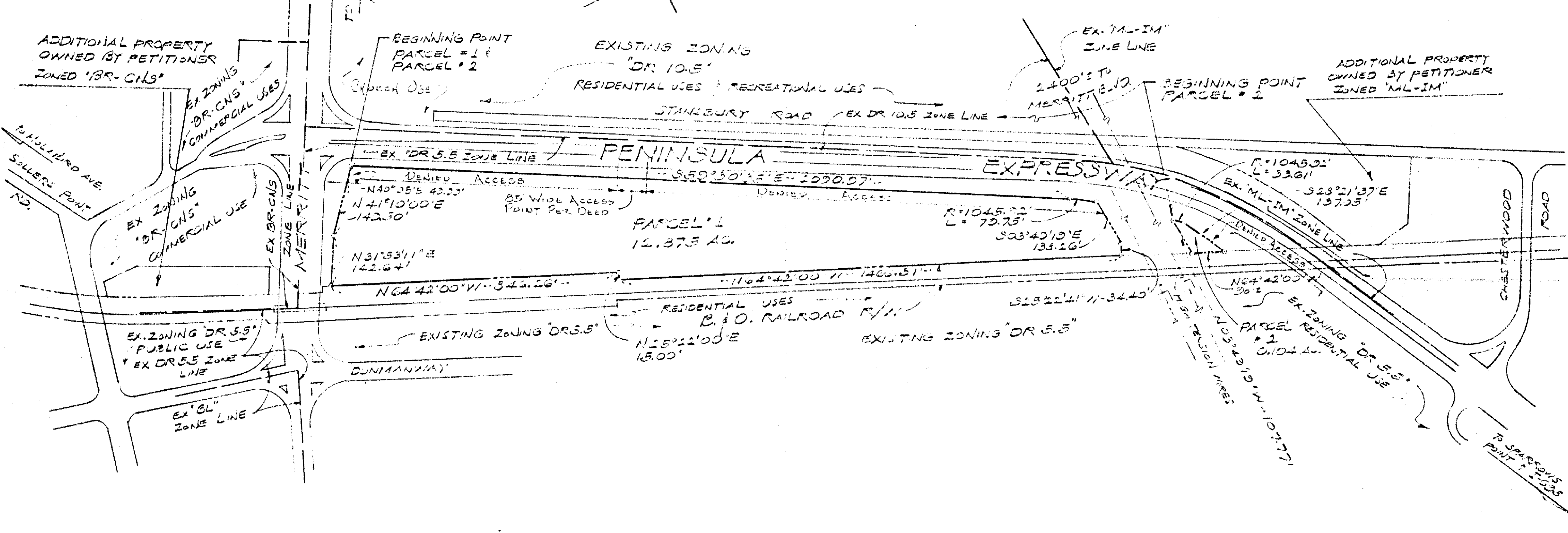
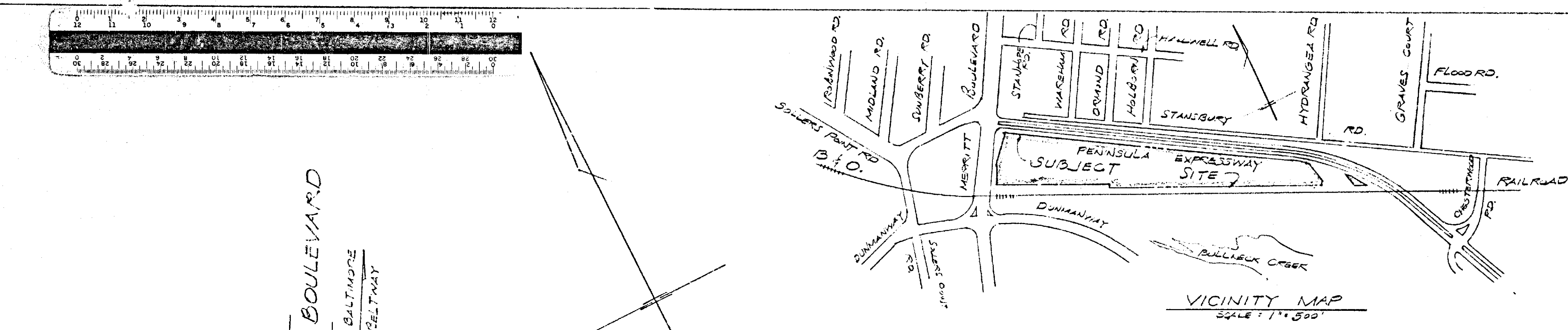




1986 COMPREHENSIVE ZONING MAP  
 ADOPTED BY THE BALTIMORE COUNTY COUNCIL  
 OCT. 14, 1983  
 BILL NOS. 184-80, 185-80, 186-80,  
 187-80, 188-80, 189-80 AND 190-80

PHOTOGRAMMETRIC  
 BALTIMORE COUNTY, MD

BY DATE SCALE LOCATION SHEET  
 DATE OF PHOTOGRAPHY  
 DUNDALK SE 4-E



- GENERAL NOTES
- TOTAL AREA OF PARCELS #1 & #2 = 12,384 sq. ft.
  - EXISTING ZONING OF PROPERTY = 'DR.5.5'
  - EXISTING USE OF PROPERTY = VACANT LAND
  - PROPOSED ZONING OF PROPERTY = 'BR-CNS' OR 'ML-IM'
  - PROPOSED USE OF PROPERTY = 'COMMERCIAL USE' OR 'MANUFACTURING USE'

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF PROPERTY

SOUTHEAST CORNER MERRITT BLVD & PENINSULA EXPRESSWAY

ELECTION DIST. NO. 12 BALTIMORE COUNTY, MD.

FEB. 23, 1983

REVISED PLANS

JUN 14 1983

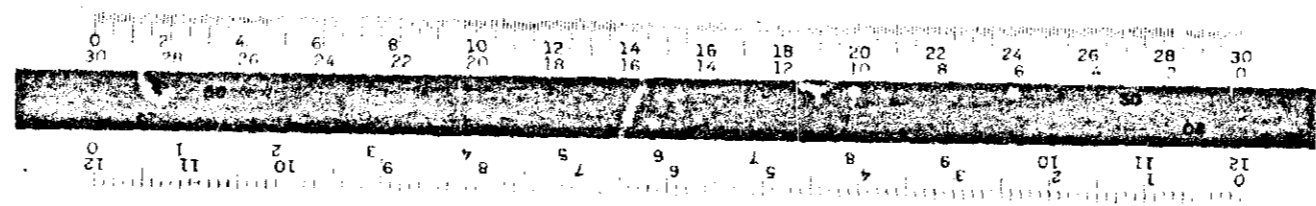
Item #1 cycle ✓

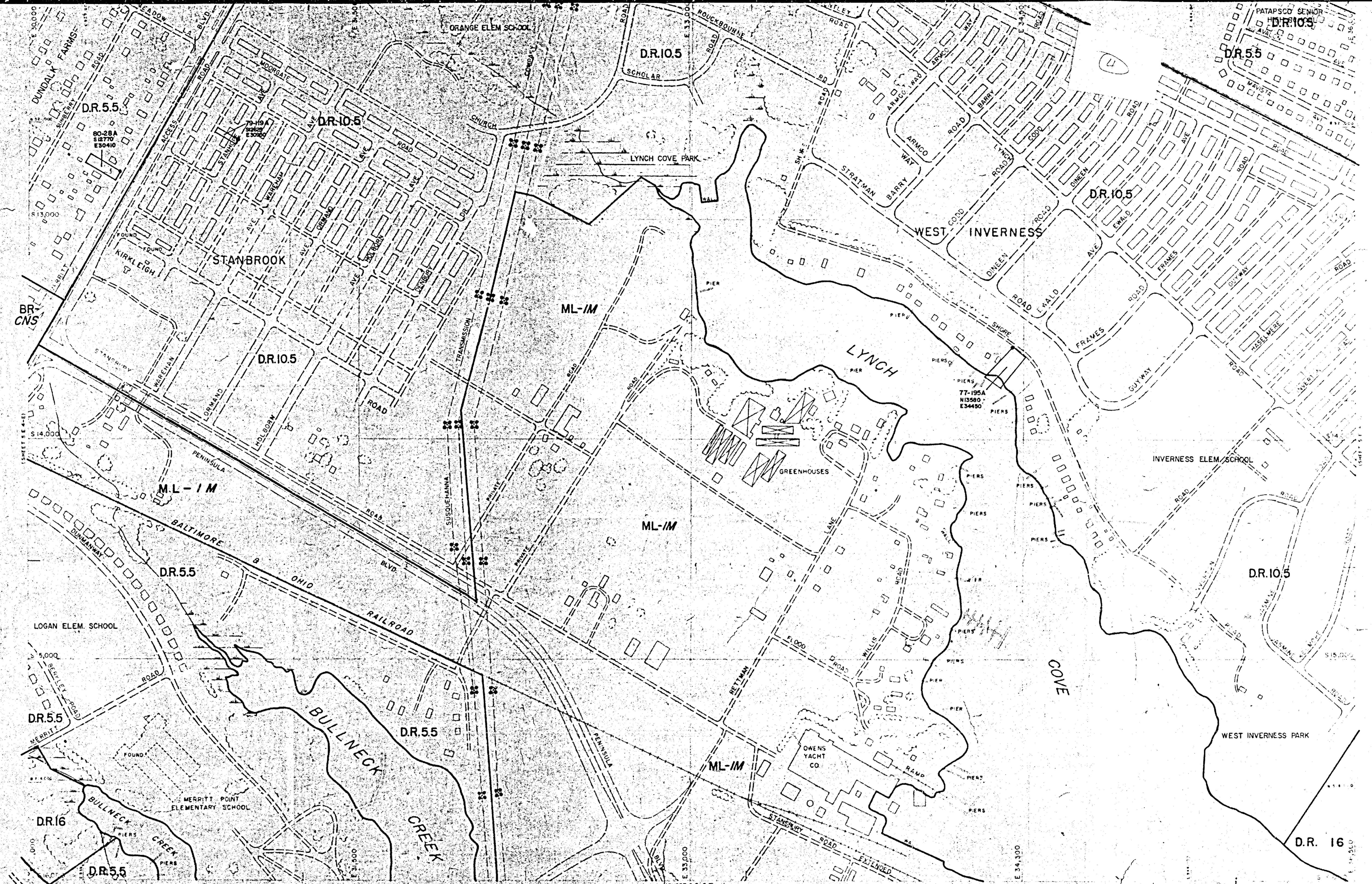


LIST OF EXISTING USES

- |                               |                                |
|-------------------------------|--------------------------------|
| 1. DUNDALK PRES. CHURCH       | 15. DUNDALK MOBILE HOME PARK   |
| 2. TRUCK SERVICE GAR.         | 16. 12TH DISTRICT HIGHWAY SHOP |
| 3. CONTAINER STORAGE          | 17. DUNDALK ATHLETIC CLUB      |
| 4. G-S COMPANY                | 18. AMOCO STATION              |
| 5. UNITED EQUIP. RENTAL       | 19. TEXACO STATION             |
| 6. TIRSHMAN PALLET CO.        | 20. FIRE DEPARTMENT            |
| 7. OWL CORPORATION            | 21. MOOSE HALL                 |
| 8. EDGEWATER TERMINALS        | 22. KNIGHTS OF COLUMBUS        |
| 9. CABINET COMPANY            | 23. GOLF STATION               |
| 10. LYNCH COVE IND. CENTER    | 24. NEIGHBORHOOD SHOPS         |
| 11. TRUCK TERMINAL            | 25. HAROLD'S TAVERN            |
| 12. AUTO CARRIER PARKING AREA | 26. AFL-CIO LOCAL 16           |
| 13. STEEL STORAGE YARD        |                                |
| 14. CONTAINER STORAGE         |                                |

ADAR AERIAL DATA REDUCTION ASSOCIATES, INC.  
 SCALE: 1" = 500'





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

CHAIRMAN COUNTY COUNCIL

PHOTOGAMMETRIC MAP OF  
 BALTIMORE COUNTY METROPOLITAN AREA  
 OFFICIAL ZONING MAP

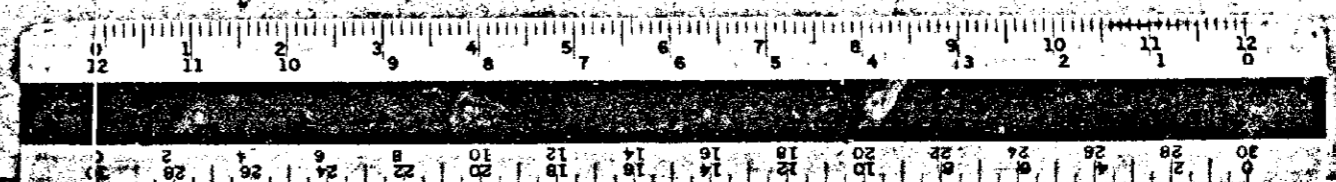
REVISIONS		SCALE 1" = 200'
BY	DATE	
		DATE OF PHOTOGRAPHY DEC 1954

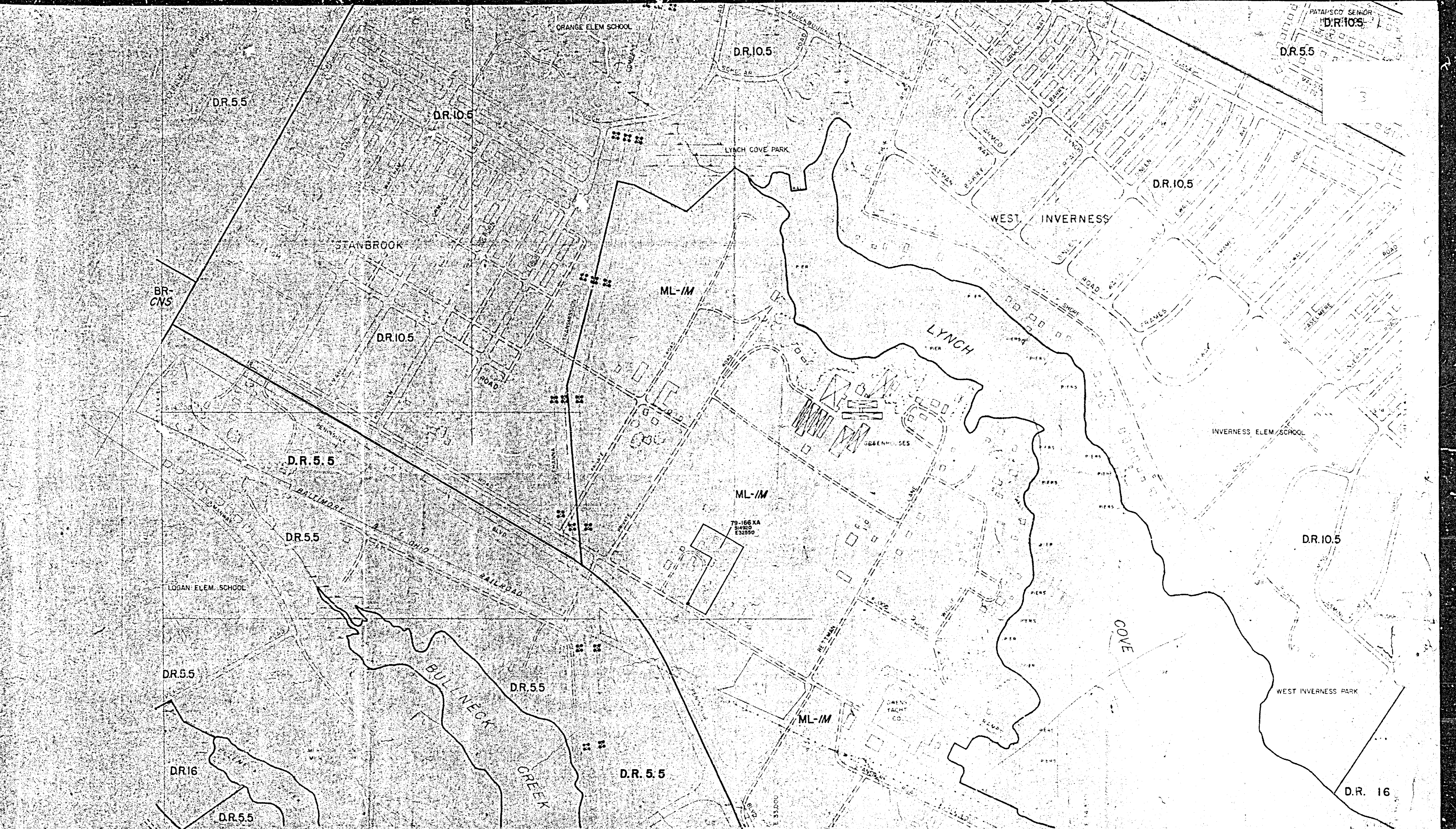
Topography Compiled By Photogrammetric Methods  
 ABRAMS AERIAL SURVEY CORP LANSING MICH.

LOCATION	SHEET
DUNDALK	SE 4 F
	W.L.D. 10/70



TRUE COPY - TEST  
 J. M. Jones  
 ZONING COMMISSIONER OF BALTO. CO.



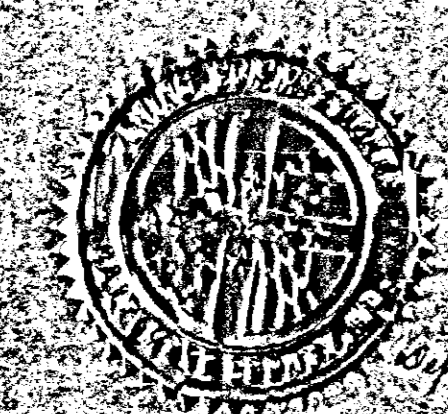
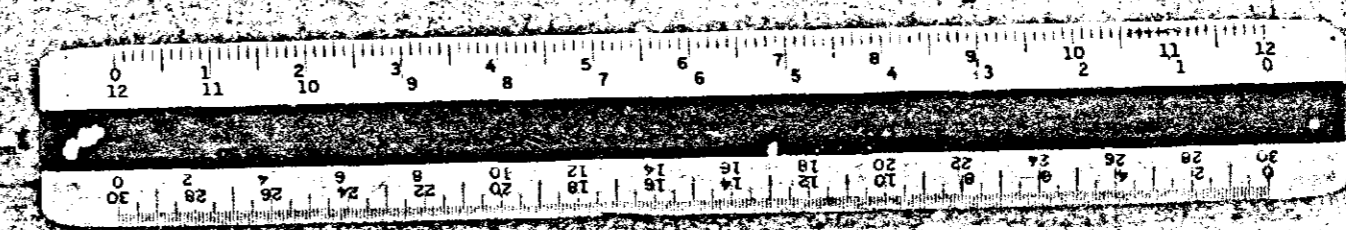


1980 COMPREHENSIVE ZONING MAP  
 ADOPTED BY THE  
 BALTIMORE COUNTY COUNCIL  
 OCT. 14, 1980  
 BILL NOS. 184 23, 185-80, 186-80,  
 187 80, 188 80, 189 80 AND 190-80  
 CHAIRMAN, COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF  
 BALTIMORE COUNTY METROPOLITAN AREA  
 OFFICIAL ZONING MAP

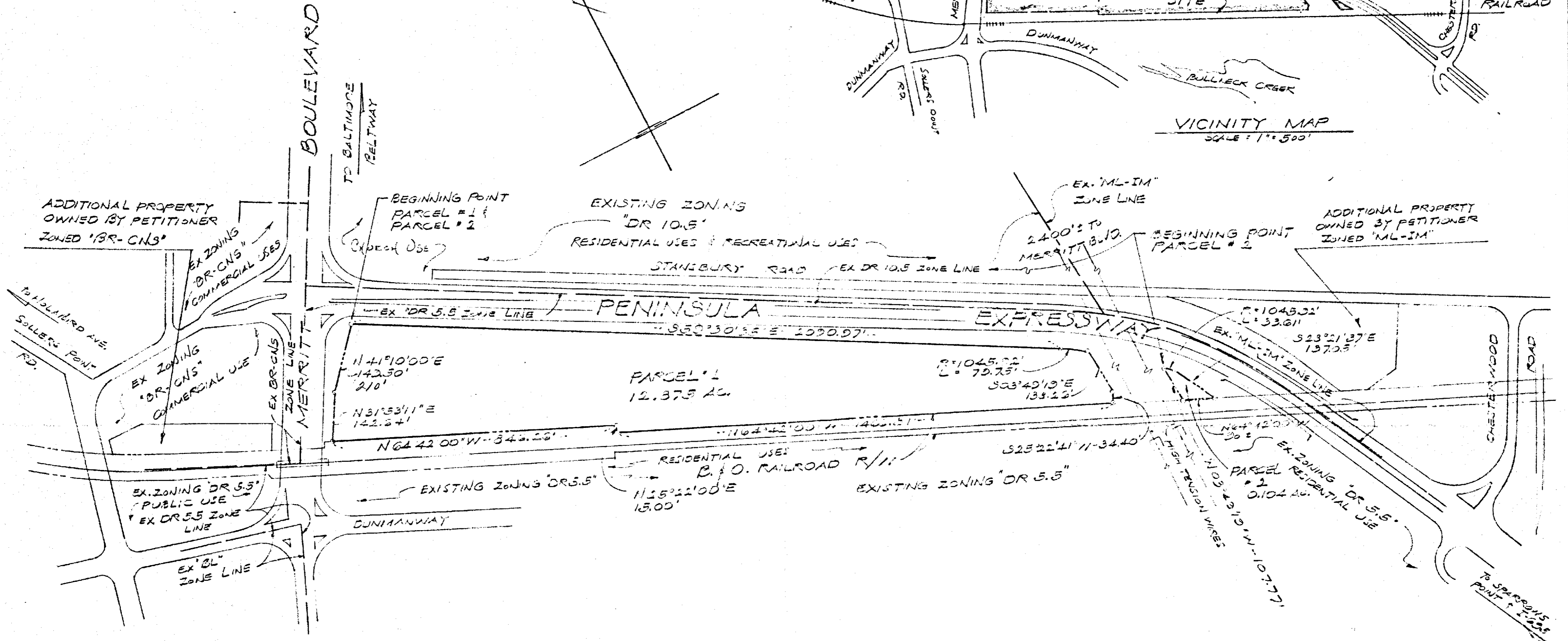
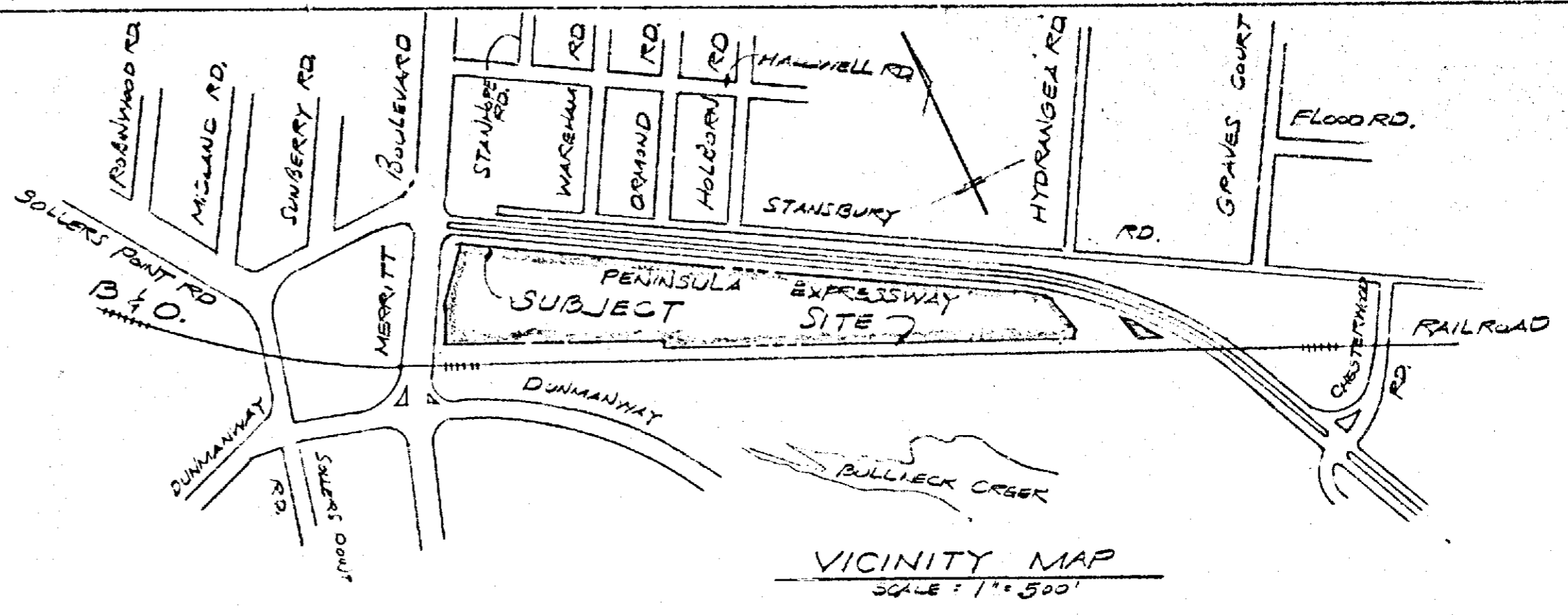
REVISIONS	DATE	BY

Topography Compiled By Photogrammetric Methods  
 LABRAMS AERIAL SURVEY CORP LANSING, MI 48106



TRUE COPY - TEST  
 Jan 11/81  
 [Signature]

SHEET  
 DUNDALK  
 R.O.E.J.  
 7/24/79



ADDITIONAL PROPERTY OWNED BY PETITIONER ZONED 'BR-CNS'

ADDITIONAL PROPERTY OWNED BY PETITIONER ZONED 'ML-IM'

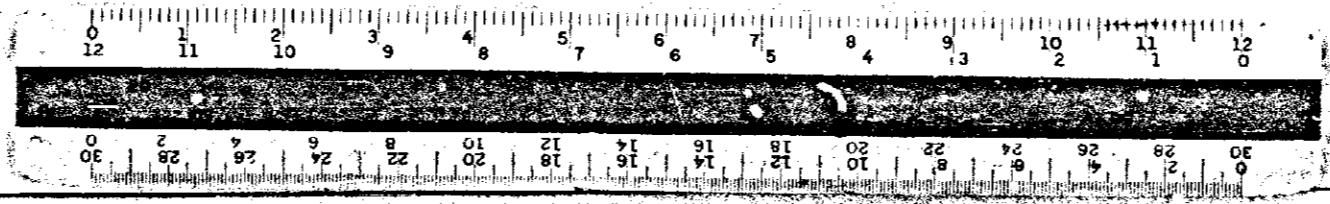
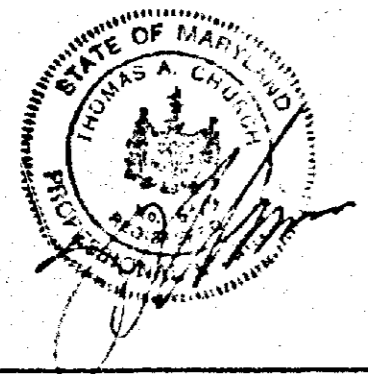
- GENERAL NOTES**
1. TOTAL AREA OF PARCELS #1 & #2 = 12.382 AC
  2. EXISTING ZONING OF PROPERTY = "DR 5.5"
  3. EXISTING USE OF PROPERTY = VACANT LAND
  4. PROPOSED ZONING OF PROPERTY = "BR-CNS"
  5. PROPOSED USE OF PROPERTY = "COMMERCIAL USE"

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF PROPERTY SOUTHEAST CORNER MERRITT BLVD & PENINSULA EXPRESSWAY ELECTION DIST. No 12 BALTIMORE COUNTY, MD. FEB. 23, 1933 SCALE: 1" = 200'

MAP	54
SECTION	12
ELECTION	12
DISTRICT	12
DISTRICT	12
TYPE	3/25
HEARD	6/8
BY	1/15
FINAL	
BY	

*Old Plat*

ITEM #1 cycle V



April 25, 1983

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

Dear Mr. Hackett:

Comments on Item #1, Cycle V Meeting, March 15, 1983, are as follows:

Property Owner: Real Estate and Improvement Company of Baltimore City  
Location: SE/Cor. Merritt Blvd. and Peninsula Expressway  
Existing Zoning: D.R. 5.5  
Proposed Zoning: Parcel "1" - B.R.-CNS  
Parcel "2" - M.L.-IM  
Acres: Parcel "1" - 12.875  
Parcel "2" - 0.104  
District: 12th

The development of this property must utilize metropolitan water and sewer. The developer must submit a Hydrogeological Study and an Environmental Effects Report prior to submission of Development Plans to the County Review Group.

Very truly yours,

*Ian J. Forrest*  
Ian J. Forrest, Director  
BUREAU OF ENVIRONMENTAL SERVICES

IJF/als

March 30, 1983

PAUL H. RENCKE  
CHIEF

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

Attention: Nick Commodari, Chairman  
Zoning Plans Advisory Committee

RE: Property Owner: Real Estate and Improvement Co. of Baltimore City

Location: SE/Cor. Merritt Blvd. and Peninsula Expressway

Item No.: 1 Zoning Agenda: Meeting of March 15, 1983

Gentlemen:

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

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 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.

REVIEWED BY: *George M. McGonigle*  
Planning Group  
Special Inspection Division  
Noted and Approved: *George M. McGonigle*  
Fire Prevention Bureau

JK /mb /cm

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. William Hackett  
Chairman of the Board of Appeals  
TO: *1/2* Nicholas Commodari, Zoning Dept. Date: *March 18, 1983*  
Mr. Charles E. Burnham  
FROM: Building Plans Review Chief, *1/2* B  
Celia Zoning V 1983  
SUBJECT: Meeting of March 15, 1983

ITEM #1 Real Estate and Improvement Company of Baltimore City  
SE/Cor. Merritt Blvd. and Peninsula Expressway

Any proposed changes of use or occupancy or new construction to this property will require an applicable permit/permits. At such time, as the applicant may wish to begin such improvement or use, certain construction drawings, site plans, plot plans, etc., may be required along with the required permit applications. Unapproved occupancies, uses or construction could be deemed a violation of the Baltimore County Building Code as adopted under Council Bill #4-82, and subject to penalties or correction.

The Baltimore County Building Code is composed of the 1969 B.O.C.A. Basic Building Code, The 1981 B.O.C.A. Basic Mechanical Code, The 1981 B.O.C.A. Basic Energy Code, The 1979 One & Two Family Code and Council Bill #4-82. Also enforced by Baltimore County is the State of Maryland Handicapped Code also known as the Code of Maryland Regulations 05.01.07.

Work should begin only after a permit is issued and should be inspected and approved by the various Inspecting Departments before an occupancy permit can be granted.

No other comment can be made at this time due to the limited amount of information provided by the plan submitted.

Section 101.5  
Section 103.1 Amended  
Section 103.2  
Section 111.1 Amended  
Section 111.5  
Section 111.7  
Section 112.0  
Section 117.0

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent  
Towson, Maryland - 21204

Date: March 15, 1983

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

Zoning Cycle #V

RE: Item No: 1  
Property Owner: Real Estate and Improvement Co. of Baltimore City  
Location: SE/Cor. Merritt Blvd. and Peninsula Expressway  
Present Zoning: D.R. 5.5  
Proposed Zoning: Parcel "1" - B.R.-CNS  
Parcel "2" - M.L.-IM

School Situation	Enrollment	Capacity	Over/Under
------------------	------------	----------	------------

This area, if developed with the existing zoning, could yield 20 elementary and 18 secondary pupils while the proposed zoning would not yield any. Schools servicing this area are all below capacity and able to absorb any pupil yield generated by this parcel of land.

Student Yield With:	Existing Zoning	And	Proposed Zoning
---------------------	-----------------	-----	-----------------

Elementary

Junior High

Senior High

Very truly yours,

*Walter Reiter*  
Walter Reiter, Assistant  
Department of Planning

WNP/bp

Richard C. Keene  
General Attorney  
Law Department

File: S-1334-2



100 North Charles Street  
Baltimore, Maryland 21201  
501 237 3121  
November 14, 1983

Board of Zoning Appeals  
Baltimore County  
2nd Floor - County Courts Building  
Towson, MD 21204

Re: Case No. R-84-1; Property at Southeast Corner of  
Merritt Boulevard and Peninsula Expressway; 12th Election District

Attention: Keith Franz, Chairman

Dear Mr. Franz:

Thank you for the opportunity, expressed after the hearing on November 8th, to submit case citations and argument. This letter will be in a form of legal argument, but will not be a formal brief.

As we have stated in the opening statement, and attempted to prove through the introduction of evidence, it is the position of the Petitioners that the reclassification by the County Council in 1980 was an error itself, in that the action of the County Council was arbitrary, capricious, without reasonable basis and based on invalid assumptions. The Petitioner understands the case law presumptions in Maryland that "original zoning was well planned" and designed to be permanent, sometimes called the "presumption of correctness", and that therefore justification for amendatory action (including but not limited to Petitions for Reclassification) must show either: (a) a change in the character of the neighborhood, as defined in the particular instance, or (b) a mistake in the original (or last classification) zoning.

It is the position of the Petitioner, however, that the presumption of correctness does not exist in this situation, and that the "well planned" justification for retention of the existing zoning does not apply because: the Planning Committee staff and Planning Board in 1976 designated the subject parcel to stay ML-IM; the Planning Committee and Planning Board in its recommendations to the Council in 1980 designated this land to stay ML-IM; the Planning Committee and Planning Board in 1983, in preliminary recommendations for the 1984 Zoning Map, have recommended that the property be changed from the DR 5.5 category imposed by the Council in 1980 to another classification. It is obvious that the County's "expert" staff does not support and did not support the 1980 arbitrary and capricious change.

It is further the position of the Petitioner that mistake existed in the 1980 action of the Council in that the reclassification by the Council in 1980 to DR 5.5 severely impacted the usability and developability of the subject parcel, as evidenced by testimony of an expert planner and other witnesses on behalf of the Petitioner. Testimony was that, considering recent (May-Sept. 1983) sales in the 12th Election District, development of the subject parcel under the imposed DR 5.5 classification

The Chessie System Railroads, a unit of CSX Corporation, are the Chesapeake and Ohio Railway, Baltimore and Ohio Railroad, Western Maryland Railway and affiliated lines.

via construction of single family residential units would be precluded, because the cost of development (including construction, roads, sewerage, utilities, financing, development and site preparation, as well as return on land value) would require sale of the housing units at a price far in excess of the comparable market price indicated for Dundalk housing units. Development funding would not exist based on the costs and land value return factors expressed. The only evidence offered to the contrary by the Peoples' Counsel was the factually unsupported opinion testimony of Mr. Haswell that residential property development "was reasonable" and his personal opinion that the property would lend itself to development of a nursing or convalescent home, which requires special exception within the 1980 imposed classification, which special exception process has been generally opposed by Dundalk residents in other cases within recent years.

There was obviously no change in the character of the neighborhood between 1976 and 1980 to justify its reclassification. That was evidenced by testimony of all witnesses. In fact, the population trend, as testified even by Mr. Haswell, indicated a downward adjustment in population figures from 1970 to 1980 of 23%. The 1980 census figures were obviously not available and could not have been considered by the County Council in its 1980 imposition of the D.R. 5.5 classification. The Council obviously erred in use of earlier population trend figures that were shown subsequently to be invalid. See *Rockville v. Stone*, 271 Md. 655 (at 662), 319 A.2d 536 (1974), cited in *Peoples' Counsel vs. Williams*, 43 Md. App. 617, 415 A.2d 585 (1980) and *Boyce v. Semby*, 25 Md. App. 43, 334 A.2d 137 (1975).

In *City of Rockville v. Henley*, 268 Md. 469, 302 A.2d 45 (1973), an applicant for rezoning was allowed to show that he had been deprived of all reasonable use of his property and that it cannot be used for any of the permitted uses in the existing zone. That case, along with *Cabin John Limited v. Montgomery County*, 239 Md. 661, 271 A.2d 174 (1970), *Montgomery County v. Kacur*, 233 Md. 220, 232 A.2d 832 (1969), and other cases cited by *Stratakis v. Beauchamp*, 268 Md. 643, 304 A.2d 244 (1973), point out that "generalizations of economic infeasibility" are insufficient evidence. In the case before the Board the evidence of Petitioner was not of generalizations but specifics.

This *Stratakis* court also pointed out, at page 655, that:

"... an opinion, even that of an expert, is not evidence strong or substantial enough to show error in the comprehensive rezoning or confiscation unless the reasons given by the expert as the basis for his opinion or other supporting facts relied upon by him are, themselves, substantial and strong enough to do so." (underlining supplied)

In the instant case, the testimony of Mr. Smith, using a detailed map and planning diagram, considered setback lines, floodplain impact, open space requirements, topography, lot configuration, road access, proximity of railroad line, parking and building height restrictions, and showed that all of the property could be physically developed for the single-family group homes, but the testimony of Mr. Fox and Mr.

Smith was that the development costs of such units, coupled with the land cost, would exceed the market price of comparable units sold in the Dundalk (12th Election District) area in the 6 months prior to the first portion of the hearing in September, and subsequent to the rezoning change in 1980, and thus the physical development would be economically precluded. These statements were not mere generalizations, but were detailed and supported by factual developments, and were uncontroverted by factual testimony offered by Peoples' Counsel.

To the contrary, the testimony of the "expert" witness for Peoples' Counsel was a generalization that the property "could be reasonably used and developed under the D.R. 5.5 zoning" and that the issue was "fairly debatable". The only such specific development use proffered (again, without plans or detailed specifications of the construction, cost, placement, compliance with other regulations, etc.) by Mr. Haswell, was a use permitted only under Special Exception within the general category, without affirmative proof that such a Special Exception could or would be granted. In the current case, comments of the Planning Staff, in its written report, concerning utilization of area highways, were refuted, both by testimony of the Transit and Traffic witness for Peoples' Counsel, and testimony of the expert witness (Mr. Erdman) proffered by Petitioner.

Although *Stratakis v. Beauchamp* supra, confirmed prior holdings that "in some cases a report of the Planning Staff recommending approval of an application may alone be sufficient to make the issue fairly debatable", it provided that the opinions of the Planning Staff and recommendations of the Planning Staff must also, as the opinions of all other experts, meet the same test of reasonable factual basis. Where a Staff report deals largely in abstractions, without meaningful specifics, it is akin to a "tinkling cymbal". *Stratakis v. Beauchamp*, at page 657, citing *Board v. Oak Hill Farms*, 232 Md. 274 (1967), at page 284. *Montgomery County v. Woodward & Lothrop*, 280 Md. 686, 376 A. 483 (1977), at page 486 indicates that: "Zoning is, of course, a legislative function, and our (sic: Court's) review of the acts of the zoning authority is restricted and narrow in scope. We decide only whether the zoning action was arbitrary, discriminatory or illegal; we do not substitute our judgment for that of the zoning authority if its decision is supported by substantial evidence and the issue is fairly debatable" (underlining supplied). The 1980 zoning decision was not supported by any evidence, including any recommendation (even by generalization) of the Planning Staff or Planning Committee.

In the *Sinking Fund Cases*, 99 U.S. 700 (1878), cited with approval in *Feldstein v. Kamnauf*, 209 Md. 479 (1956) at 487, it has been held as a long-standing principle of American law that "the police power cannot interfere with private property rights for purely aesthetic purposes". In the instant case, the primary concerns of the citizens, and expressed concerns of the County planner and Planning Staff, are that the subject parcel is visible from the residential areas which surround it (and which had surrounded it for 30 years prior to its rezoning in 1980) and this visual impact was detrimental to the community. All other concerns raised by the Planning Staff in its attempt to support the 1980 change (which it did not recommend in 1979-80, and which it now has abandoned in 1983-84) were rebutted strongly by evidence of the Petitioner: evidence of access to the subject parcel by way of a reserved traffic cut in Peninsula Expressway, which could be relocated with necessary traffic signalization by agreement between the property owner and the County; the impact of wetness and floodplain or flood zones, which is in fact greater upon residential

development than industrial development; the underutilization of Peninsula Expressway and other commercial access roadways adjacent to the property; proximity of the railroad tracks (over which trains continue to operate several times per day or night and which were expressed by area residents who live further away from the subject site as annoying to them); the decline in a future residential housing base in the neighborhood; need of the community for on-going employment opportunities.

Again, it is proffered that the desires of the Planning Staff, acting as agent for the County Council, in the current case are to establish a "buffer zone", or "open space", for benefit of the area residential property owners, which buffer zone or open space are public benefits, required to be performed at the expense of the private property owner. Such actions are violations of the 4th and 5th Amendments of the United States Constitution, and Article 23, of the Declaration of Rights of the State of Maryland. *Kracke v. Weinberg*, 197 Md. 339, 79 A.2d 387 (1951).

The Court of Appeals, in *Montgomery County v. Woodward & Lothrop*, supra, recognized, from *Spaid v. Board*, 239 Md. 389, 269 A.2d 797 (1970), that there may be lawful as well as unlawful buffer zones: "That there may be a transitional zone or less intensive use properly placed between a residential use district and a district permitting commercial or more intensive uses as long as the transitional use does not deprive the property owner of all reasonable use of his property." In the instant case, the Petitioner argues that the Council's actions in the 1980 rezoning result in an expansion of the legitimate transition zones (already allowed under other regulation sections not challenged) into creation of the entire parcel of Petitioner as a buffer zone, depriving the petitioner-property owner of its rights and property, without just compensation, an action sounding in eminent domain rather than proper exercise of the police power.

Where there is strong evidence of a mistake in the original (lastest) zoning (as in failure to anticipate a trend toward or away from a use or increase or decrease in demand for a use) a correction of that mistake by the Board will be sustained on appeal. *Overton v. Board*, 225 Md. 212, 170 A.2d 172 (1961), *Rohde v. County Board*, 234 Md. 239, 199 A.2d 216 (1964), *Dill v. Jobar Corp.*, 242 Md. 16, 217 A.2d 564 (1966), *Mack v. Crandell*, 244 Md. 193, 223 A.2d 248 (1966).

Although the Petitioner initially argued that insufficient notice was given to the Petitioner of the subject change, in 1980, and although the testimony of the Petitioner's witness was corroborated by that of the Planning Staff member, James Haswell, to the effect that the zoning of the subject parcel was not recommended for change by the Planning Staff Commission either in 1976 or 1980, but that the property was identified as parcel 7-55 only in August 1980 for the final September 1980 Council Hearing, Petitioner believes at this point that its arguments on notice are precluded by *Rasnaek v. Cecil County Board*, 268 Md. 795, 300 A.2d 651 (1973), and *Swarthmore Company v. Kaestner*, 238 Md. 317, 266 A.2d 341 (1970), citing prior cases of *Hewitt v. Baltimore County Commission*, 220 Md. 48, 131 A.2d 144 (1959), *Ark Redi-mix Concrete Corp. v. Smith*, 231 Md. 1, 246 A.2d 220 (1968) and *Nottingham Village v. Baltimore County*, 266 Md. 339, 292 A.2d 680 (1972). The *Hewitt-Swarthmore* and *Nottingham Village* line of cases involved changes in comprehensive zoning maps, wherein the subjects to be considered at hearings were wide, as opposed to involving a single, narrow subject or property, as did the cases of *Rasnaek* and *Storch v. Howard County Board*, 267 Md. 476, 298 A.2d 8 (1972) et al.



In summation, the Petitioner believes that it has offered strong and substantial probative evidence that there was mistake in fact and law in the action of the County Council in 1980 in changing the zoning of the subject parcel from ML-IM to D.R. 5.5, and that such action should be reversed, and the original ML-IM zoning reinstated.

Thank you for the opportunity to present this final argument in writing. We would expect that, if Peoples' Counsel believes it necessary, Peoples' Counsel will also submit a written argument. Regardless of the nature of the argument, we will offer no further rebuttal.

Very truly yours,

*Richard C. Keene*

RCK:fab

cc: John W. Hessian, III, Esq., Peoples Counsel  
Suite 603  
102 West Pennsylvania Avenue  
Towson, MD 21204

Richard L. Smith,  
Kiddo Consultants, Inc.  
1020 Cromwell Bridge Road  
Towson, MD 21204

D. L. Lancaster

Rec'd. 10/17/83  
2:50



County Board of Appeals of Baltimore County

Room 200 Court House  
Towson, Maryland 21204  
(301) 494-3180

January 24, 1984

Richard C. Keene, Esquire  
22nd Floor, One Charles Center  
Baltimore, Maryland 21202

Re: Case No. R-84-1  
Real Estate and Development  
Co. of Baltimore City, Inc.

Dear Mr. Keene:

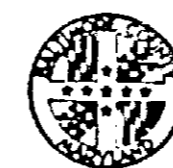
Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

*Edith T. Eisenhart*  
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: G. C. Totty  
Mt. Clare Properties (Md.), Inc.  
David L. Lancaster  
William P. Coffing, Jr.  
Phyllis C. Friedman  
J. E. Jablon  
J. E. Dyer  
N. E. Gerber  
J. G. Hoswell  
Board of Education



County Board of Appeals of Baltimore County

Room 200 Court House (Hearing Room #218)  
Towson, Maryland 21204  
(301) 494-3180

CONTINUED HEARING

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. R-84-1

REAL ESTATE AND IMPROVEMENT CO. OF BALTO. CITY

FOR RECLASSIFICATION FROM D.R. 5.5 to  
B.R.-CNS and M.L.-IM

SE corner Merritt Blvd. and  
Peninsula Expressway

12th District

ASSIGNED FOR:

TUESDAY, NOVEMBER 8, 1983 at 10 a.m.

cc: Richard C. Keene, Esq. Counsel for Petitioner  
G. C. Totty, Director Real Estate and Industrial Dev. Real Estate and Improv. Co. Petitioner  
Mt. Clare Properties (Md.), Inc. Contract Purchaser  
J. B. Hickman  
David L. Lancaster or William P. Coffing, Jr. Representatives of Contract Purchaser  
John W. Hessian, III, Esq. Peoples' Counsel  
J. E. Jablon  
J. E. Dyer  
N. E. Gerber  
J. G. Hoswell  
Board of Education

Edith T. Eisenhart, Adm. Secretary

BEFORE THE BALTIMORE COUNTY BOARD OF ZONING APPEALS

Application of Mt. Clare Properties (Md.) Inc.,  
Owner, for Reclassification:  
D.R. 5.5 (1980) to M. L.-I.M. (1976)

Case No. R-84-1

The Property Southeast Corner  
of Merritt Boulevard and Pen-  
insula Expressway; 12th Election  
District.

REQUEST FOR SUBPOENA DUCES TECUM

The Petitioner, Mt. Clare Properties (Maryland) Inc. by its attorney,

Richard C. Keene, respectfully requests the Baltimore County Board of Appeals to  
Issue a Subpoena and Subpoena Duces Tecum, in accordance with Rule 5, Rules of  
Practice and Procedure of the County Board of Appeals, as follows:

Party(ies) to be summoned:

(A. Thomas D. Toporovich), Baltimore County Council Secretary, (Room  
212) Courts and Administration Building, 111 W. Pennsylvania Avenue, Towson, MD  
21204;

B. Custodian of Records, Office of Planning and Zoning, Baltimore  
County, 401 Bosley Avenue, (Suite 406) County Courts Building, Towson, MD 21204;

C. Custodian of Records, Baltimore County Planning Board, 401 Bosley  
Avenue, Towson, MD 21204;

And each of the above parties summoned shall bring with him or her the  
following materials:

(A. Baltimore County Council Secretary)

1. Preliminary Report of the Planning Board recommending adoption of  
the 1980 Comprehensive Zoning Map;

RECEIVED  
JUL 17 1983  
SHERIFF'S OFFICE  
BALTIMORE COUNTY

SUB  
10/17/83  
gm

August 10, 1983

Richard C. Keene, Esquire  
Suite 2204  
100 North Charles Street  
Baltimore, Maryland 21201

NOTICE OF HEARING

Re: Petition for Reclassification & Redistricting  
Parcel 1 - SE/corner Merritt Blvd. & Peninsula  
Expressway; Parcel 2 - SW/S Peninsula Expressway,  
2,400' SE of Merritt Blvd.  
Real Estate and Improvement Co. of Balto. City - Petitioner  
Case No. R-84-1 Cycle V - Item #1

TIME: 10:00 A.M.

DATE: Wednesday, September 7, 1983

PLACE: Room 218, Courthouse, Towson, Maryland

cc: Peoples' Counsel

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

9/8/83

Above notified of CONTINUED HEARING scheduled for TUESDAY, NOVEMBER 8, 1983 at 10 a.m.

2. Final Report of the Planning Board to the Council, recommending adoption of the 1980 Comprehensive Zoning Map;

3. Copies of Notices and Hearing Minutes for Public Hearing(s) of the County Council on the 1980 Comprehensive Zoning Map;

4. Date, place, time, copy of Notice and Minutes of subsequent hearing(s) held in reference all amendments or changes proposed by the County Council to the Map as originally proposed by the Planning Board;

5. Date, place, time, copy of Notice and Minutes for Council Hearing(s) held specifically in the Seventh Councilmanic District on the 1980 Comprehensive Zoning Map;

6. Date, place, time, copy of Notice and Minutes of subsequent hearing(s) held in reference all amendments or changes proposed by the County Council to the 1980 Comprehensive Zoning Map (Map 4A only), as originally proposed by the Planning Board, within the Seventh Councilmanic District;

7. Record of votes cast and counted for adoption of the 1980 Comprehensive Zoning Map, particularly Map 4A, 7th Councilmanic District.

B. Office of Planning and Zoning:

1. Copies of each draft of the 1980 Comprehensive Zoning Map, Map 4A only, and proposed amendment(s) thereto, commencing with the original proposal by the Planning Board to the County Council and terminating with the Zoning Map as adopted by the County Council by Ordinance;

2. Copies of Departmental notes, comments, suggestions, revisions, objections, minority reports, etc., relative to any changes on 1980 Comprehensive Zoning Map, Map 4A only, between the date of original issuance by the Planning Board and date of adoption by Ordinance by the County Council.

- 2 -

3. Copies of notes, comments, suggestions, revisions, etc., proposed by the Planning Board and/or Planning Committee relative to changes proposed for Map 4A for the 1980 Zoning Cycle.

C. Planning Board:

1. Copies of each draft of the 1980 Comprehensive Zoning Map, Map 4A only, and proposed amendment(s) thereto, commencing with the original proposal by the Planning Board to the County Council and terminating with the Zoning Map as adopted by the County Council by Ordinance;

2. Copies of Departmental notes, comments, suggestions, revisions, objections, minority reports, etc., relative to any changes on 1980 Comprehensive Zoning Map, Map 4A only, between the date of original issuance by the Planning Board and date of adoption by Ordinance by the County Council.

3. Copies of notes, comments, suggestions, revisions, etc., proposed by the Planning Board and/or Planning Committee relative to changes proposed for Map 4A for the 1980 Zoning Cycle.

And the same shall appear with the requested records, at the hearing on the above Petition, now rescheduled for Tuesday, November 8, 1983, at 10:00 AM at the Board of Zoning Appeals Hearing Room, Courthouse and Administrative Building, 111 Pennsylvania Avenue, Towson, Maryland 21204, and there testify in the above matter.

Respectfully submitted,

*Richard C. Keene*  
Richard C. Keene  
Attorney for Applicant

- 3 -

CERTIFICATE OF MAILING

I hereby certify that I mailed a copy of the aforesaid Request for Summons/Subpoena Duces Tecum to John W. Hessian, III, Esq., Peoples Counsel, Suite 603, 102 W. Pennsylvania Ave., Towson, MD 21204, this 10th day of October, 1983.

*Richard C. Keene*  
Richard C. Keene

Rec'd, 10/17/83  
9 a.m.

Mr. Sheriff:

Please issue this summons.

*Edith T. Eisenhart*

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

- 4 -

WALK  
146



STATEMENT TO SUPPORT ZONING RECLASSIFICATION

Richmond, Virginia 23261

At the time the Legal Owner/Petitioner, Real Estate Improvement Company of Baltimore City, acquired the subject property in 1945, the property was zoned for industrial use.

However, under the most recent amendment to the Comprehensive Zoning Map, in 1980, the industrial zoning was downshifted to DR-5.5 (Residential).

(1) During the initial hearings on the 1980 Comprehensive Zoning Plan Map amendment, the County Planning Department stated that there was no access to the subject property.

(2) The subject property is surrounded on three sides by major arterial and through highways and bounded on the south by the mainline of the B&O Railroad (also a corporate affiliate of Petitioners).

(3) A portion of the property to the east is crossed by a high voltage transmission line which would restrict the height of any construction on the property, also constitute a nuisance and danger, and is not conducive to a residential environment.

(4) A large portion of the property is located in the 500 Year Flood Plain; and although acceptable for industrial and/or commercial uses, such a location would be disadvantageous for habitation.

(5) The widest portion of the property, to the west, is subject to a public easement for surface water drainage and a culvert draining the Merritt Boulevard - Peninsula Expressway interchange south to Bullock Creek.

CSX Corporation is the parent company of: Family Lines Rail System, Chessie System Railroads, Florida Publishing Company, The Greenbrier resort hotel, Aviation Enterprises, Inc., and coal, land, real estate and oil and gas enterprises.



Richmond, Virginia 23261

(6) Water and closed sewerage are not directly available to the site, the closest point being from Stansbury Road to the north, across Peninsula Expressway.

The petitioners' position is that: because of (a) the extensive highway and railroad impact; (b) the narrow depth, irregular shape, and topography; (c) utility and services impairments; and (d) errors and omissions in the 1980 decision process;

With the extensive frontage on Peninsula Expressway (2,090 feet), the proximity of existing neighborhood served, the demand for employment sources and tax base expansions, the highest and best use of the subject property would be for light-commercial purposes, and therefore, a reclassification to BR-CNS is requested.

In the event that BR-CNS zoning is inconsistent with County Planning Guidelines, Petitioners request that the property be returned to its original zoning classification of ML-IM.

MT. CLARE PROPERTIES (Md.) INC.

J. R. Wickham

MD 87-10 form

CSX Corporation is the parent company of: Family Lines Rail System, Chessie System Railroads, Florida Publishing Company, The Greenbrier resort hotel, Aviation Enterprises, Inc., and coal, land, real estate and oil and gas enterprises.

KIDDE CONSULTANTS, INC.

Cable: KIDDENGR  
Telex: 87769

1020 Cromwell Bridge Road  
Baltimore, Maryland 21204  
(301) 3215500

Direct Dial Number  
321-5512

DESCRIPTION

TWO PARCELS, SOUTHWEST SIDE OF PENINSULA EXPRESSWAY AT MERRITT BOULEVARD, DUNDALK, BALTIMORE COUNTY, MARYLAND.

This Description is for Rezoning from DR 5.5 to BR-CNS, or ML-IM Zoning.

Parcel 1

Beginning at the southeast corner of Merritt Boulevard and Peninsula Expressway and running thence binding on the southwest side of said Peninsula Expressway, two courses: (1) S 59° 30' 35" E 2090.97 feet and (2) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 79.75 feet, thence binding on the easterly and southwesterly outlines of the land owned by The Real Estate and Improvement Company of Baltimore City, five courses: (3) S 03° 49' 19" E 138.26 feet, (4) S 25° 22' 41" W 34.40 feet, (5) N 64° 42' 00" W 1466.31 feet, (6) N 25° 22' 00" E 15.00 feet and (7) N 64° 42' 00" W 846.26 feet to the southeast side of said Merritt Boulevard, thence binding thereon, three courses: (8) N 31° 53' 11" E 142.64 feet, (9) N 41° 10' 00" E 149.50 feet and (10) N 40° 05' 00" E 49.99 feet to the place of beginning.

Containing 12.875 acres of land.

REVISOR PLANS

JUN 1 1983

Handwritten initials

CONSULTING ENGINEERS

KIDDE CONSULTANTS, INC.

Description  
May 24, 1983  
Page Two.

Parcel 2

Beginning on the southwest side of Peninsula Expressway at a point distant 2400 feet, more or less, as measured southeasterly along the southwest side of said Peninsula Expressway, from the southeast side of Merritt Boulevard, running thence binding on the southwest side of said Peninsula Expressway, two courses:

(1) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 33.61 feet and (2) S 28° 21' 37" E 137.05 feet, thence binding on the southwest and west outlines of the land owned by The Real Estate and Improvement Company of Baltimore City, two courses: (3) N 64° 42' 00" W 90 feet, more or less, to the east side of the existing transmission right-of-way and (4) binding thereon N 03° 49' 19" W 107.77 feet to the place of beginning.

Containing 0.104 of an acre of land.

RWB:rjm

J.O. 1-83039

May 24, 1983



PETITION FOR RECLASSIFICATION AND REDISTRICTING

12th Election District

ZONING: Petition for Reclassification and Redistricting

LOCATION: Parcel 1 - Southeast corner of Merritt Boulevard and Peninsula Expressway and Parcel 2 - Southwest side of Peninsula Expressway, 2,400 ft. Southeast of Merritt Boulevard

DATE & TIME: Wednesday, September 7, 1983 at 10:00 A.M.

PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Present Zoning: D.R. 5.5 (Parcels 1 and 2)  
Proposed Zoning: B.R.-C.N.S or M.L.-I.M. (Parcels 1 and 2)

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

Being the property of Real Estate and Improvement Co. of Baltimore City, as shown on plat plan filed with the Zoning Department.

Hearing Date: Wednesday, September 7, 1983 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

IN THE MATTER OF THE APPLICATION OF REAL ESTATE AND IMPROVEMENT CO. OF BALTIMORE CITY, INC. FOR REZONING OF PROPERTY FROM D.R. 5.5 to B.R.-CNS and M.L.-IM (2 parcels) SE CORNER MERRITT BLVD. and PENINSULA EXPRESSWAY 12th DISTRICT

OPINION

This case came before the Board on a request by the Petitioner for reclassification of 12.875 acres from D.R. 5.5 to B.R.-CNS and .104 acres from D.R. 5.5 to M.L.-I.M. The parcels are adjacent and comprise the site located at the southeast corner of Merritt Boulevard and Peninsula Expressway, in the Twelfth Election District of Baltimore County. The property was zoned M.L.-I.M. on the 1976 comprehensive zoning map and then rezoned D.R. 5.5 in the 1980 zoning map process.

Petitioner presented experts who testified as to the suitability of the proposed change. The Board will not describe in detail the basis of their opinions but will rather let the record speak for itself in this regard. There is no dispute that the subject property is surrounded on three sides by major highways and on one side by the mainline of the B & O Railroad. In addition, high voltage wires cross the property at one end and a large portion of the lot is located in the 500 year flood plain. Water and closed sewerage are not readily available to the site and the widest portion of the property is subject to a public easement for surface water drainage and a culvert draining the Merritt Boulevard-Peninsula Expressway interchange south to Bullock Creek. Additionally, the Petitioner argues upon the testimony of credible expert witnesses that development of the parcel into single family dwellings under the D.R. 5.5 classification would be extremely difficult and costly, such to require a sale price of individual homes well in excess of that which could be anticipated to be paid for such homes in this neighborhood. These facts they allege, individually and cumulatively, reflect that the County Council erroneously reclassified this parcel in 1980, and that because of this error reclassification to the requested zone is appropriate.

REAL ESTATE - #R-84-1

Amongst the witnesses produced by Protestants were representatives of the Eastfield Stanbrook Civic Association and the Presbyterian church located across the street from the subject property. These individuals, as well as subsequent witnesses, expressed concerns regarding increased traffic, additional drainage, an overabundance of commercially zoned properties in the area and disruption of the residential complexion of the neighborhood, if the property were to be developed commercially.

Additional testimony from Michael Flanigan, Assistant Traffic Engineer for Baltimore County, reflected that his office has serious reservations about the property being developed commercially due to the consequences that development would have on increase of traffic in this neighborhood.

James Hoswell, a planning expert with Baltimore County, testified that in his professional opinion not only did the zoning of the Petitioner's property provide a reasonable use, but that the best use for the property would be one that would be allowed under the present zoning. That is, construction of a convalescent home permitted by special exception for properties of this zoning classification under the Baltimore County Zoning Regulations. Mr. Hoswell also related in great detail the planning and zoning processes as they occur every four years during the comprehensive zoning process. The Petitioner questions that process used by the County Council in their comprehensive zoning process. The Board is of the opinion that all legally required steps were taken and that all County officials fulfilled their obligations in the 1980 process. The Petitioner complained that lack of notice to them of the proposed reclassification in 1980 deprived them of the opportunity to object at that time and in itself constitutes error and denial of due process. Such is not the opinion of the Board. The comprehensive zoning process is public and open, and affords all property owners and neighbors an opportunity to attend and be heard. We believe that such action by the County Council does not amount to eminent domain powers such as would take the property from the owner, but rather amount to an exercise of police powers that regulate use of the land. Case law supports the position that we take and we thus hold that lack of notice of the proposed reclassification in 1980 does not in itself indicate error.

REAL ESTATE - #R-84-1

Upon the testimony received, the Board further believes that no substantial change in the neighborhood has taken place since 1980. We are acutely mindful of the Petitioner's argument that no change had taken place prior to 1980 sufficient to warrant reclassification at that time to a residential zone. We, of course, are required to assess change only since the latest reclassification in reviewing the standard necessary to warrant reclassification. Regardless of the merit of Petitioner's argument prior to 1980, we cannot supplant our opinion in that regard for that of the County Council where there is sufficient evidence to support the finding that neither change in the neighborhood since 1980, nor error such to restrict a reasonable use, exists. For these reasons, the Board will deny the requested reclassification.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 24th day of January, 1984, by the County Board of Appeals, ORDERED that the reclassification petitioned for, 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.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Keith S. Franz, Acting Chairman  
Diana K. Vincent  
Patricia Phipps

RURAL ESTATE & IMPROVEMENT CO. BALTIMORE CITY

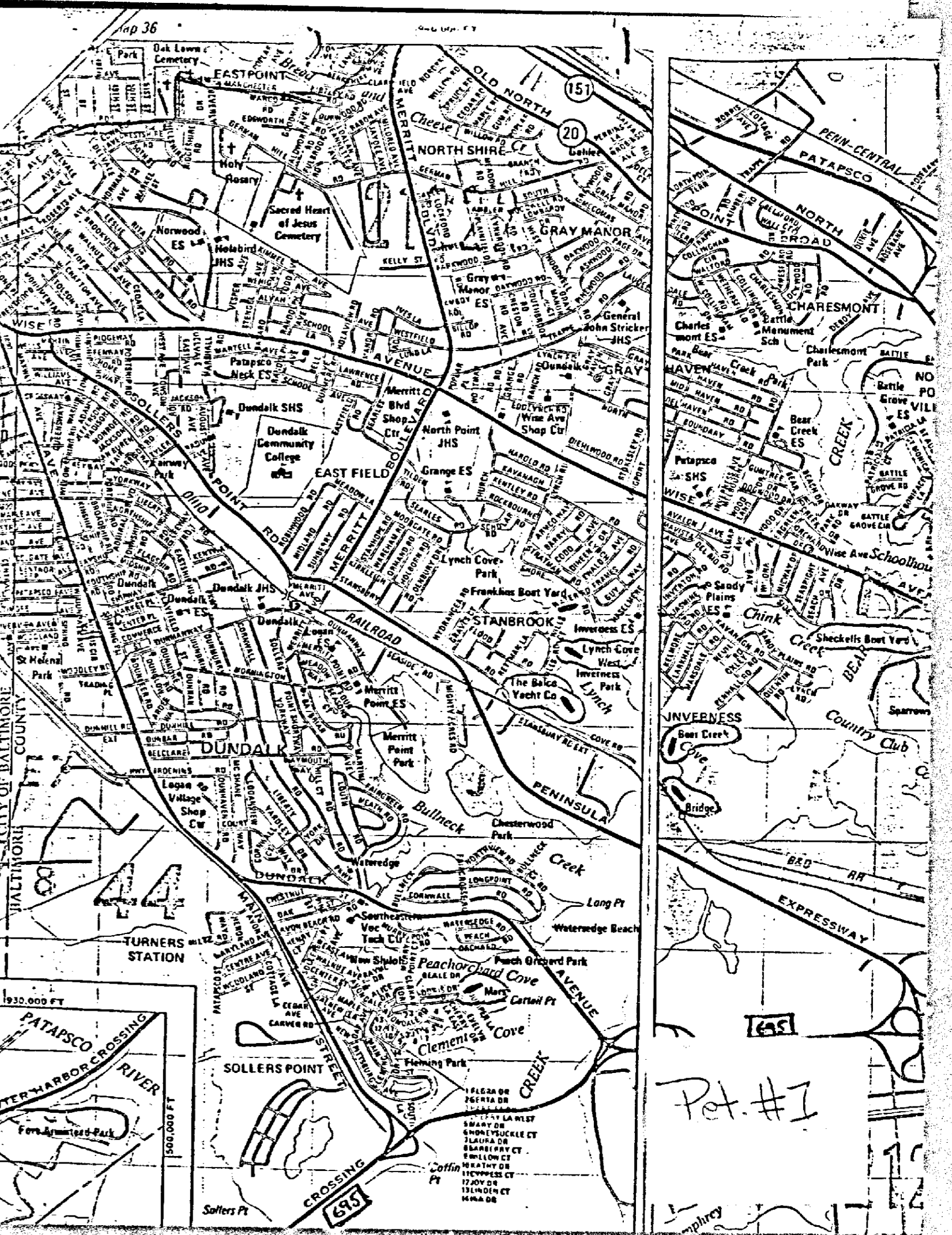
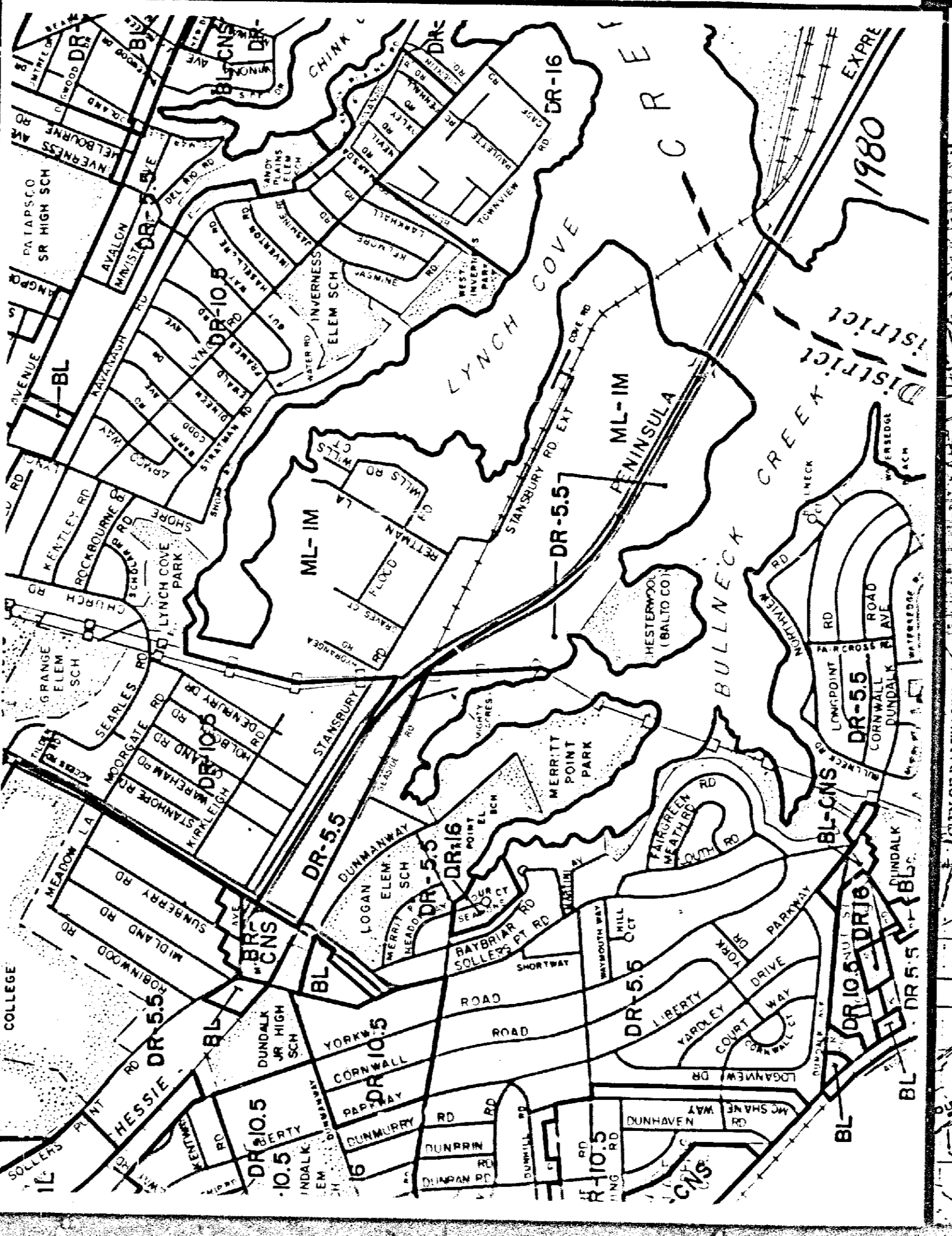
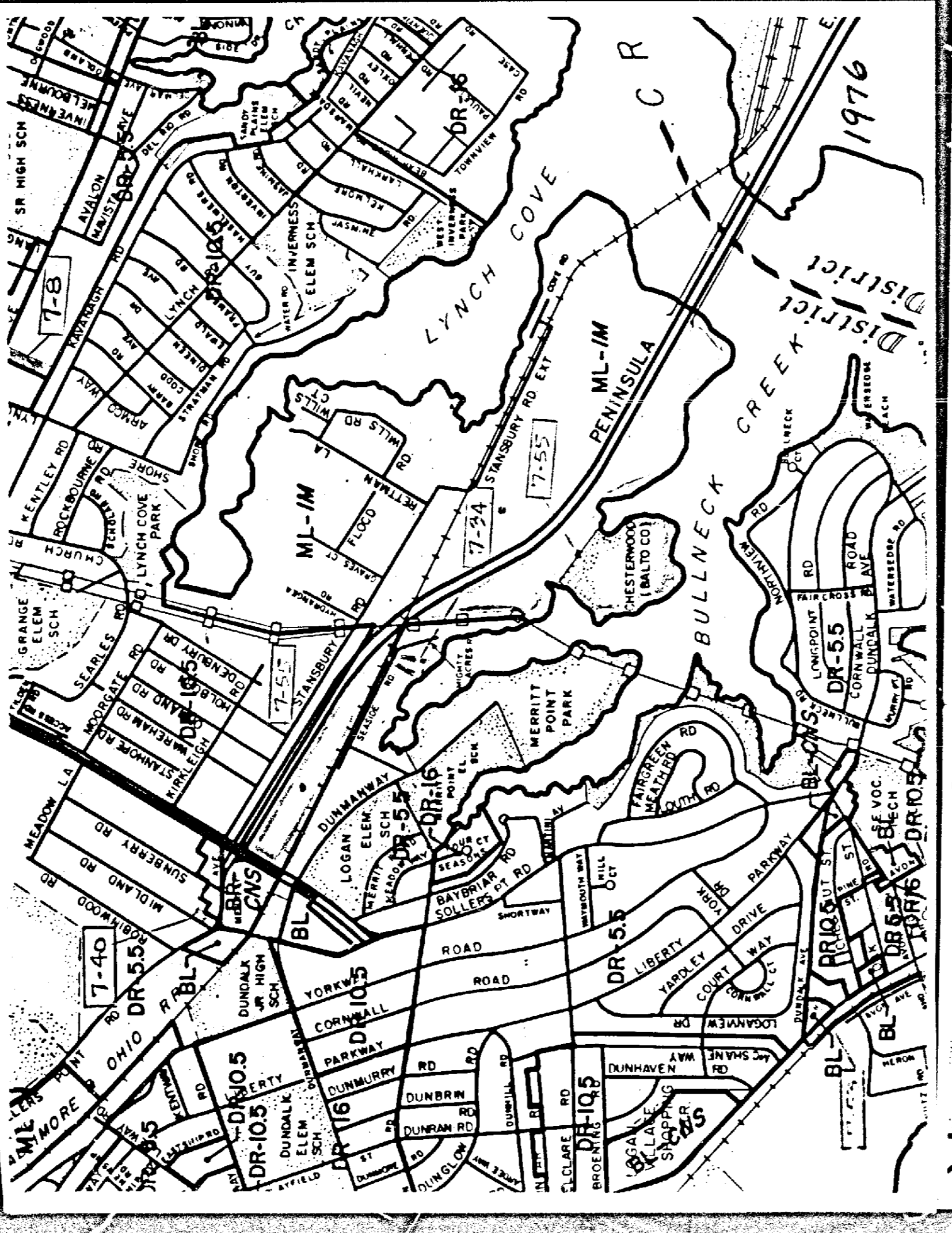
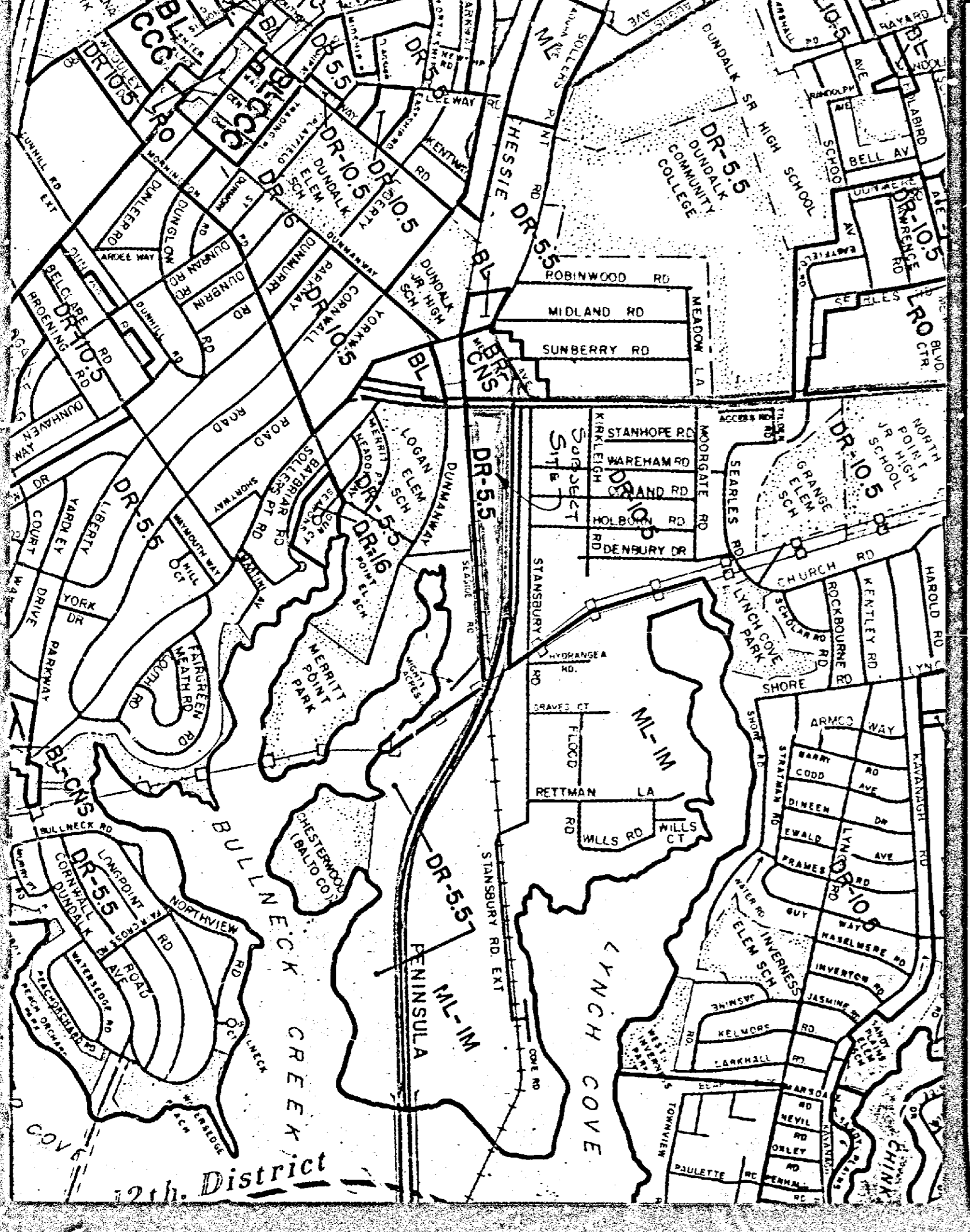
THE UNDERSIGNED, PROPER OWNERS WHO ADDRESSES IS SHOWN BELOW, APPEARS AS PARTIES PROSECUING BEFORE THE COUNTY BOARD OF APPEALS TODAY:

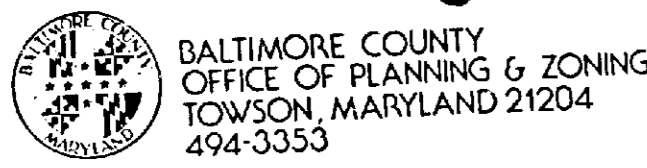
NAME	ADDRESS
Eleanor Gotthe	8 Marina Dr. Md.
Maria Calhoun	55 Vista Mobile Dr.
Louise Hallman	18 Vista Mobile Dr.
Rose Swadlow	2022 Warham Rd.
Elizabeth Wray	2030 Warham Rd.
Mary Williams	2026 Warham Road
KATH MACNEAL	2024 WARHAM RD.
John A. Butler	2029 Warham Rd.
Mary Lambert	2029 Warham Rd.
Louise Calhoun	1767 Halloran Rd.
Ruth Kelly	1902 Denbury Dr.
Catherine Morris	1963 Denbury Dr.
Mary Weller	1952 Denbury Rd.
John O. Bird	2018 Ormand Rd. 21222
Walter M. Bird	2018 Ormand Rd. 21222
Edw. Meyer	1948 Holborn Rd.
William G. MEYERS	
Betty A. Ricketts	2011 Holborn Rd. 21222
Betty L. Ricketts	2011 Holborn Rd. 21222
Angeline M. Di Blasio	1949 Warham Rd. 21222
Raymond A. Di Blasio	1949 Warham Rd. 21222
Mrs. E. Thomas	2723 KIRKHEIGH RD 21222
Ann Burgess	2031 Holborn Rd. 21222
Robin C. Ryan	2031 Holborn Rd. 21222
Clara K. Wright	2033 Holborn Rd. 21222
Virginia Jones	2033 Holborn Rd. 21222
Northy G. Williams	1717 Standhope Rd. 21222
William B. Williams	1953 Ormand Rd. 21222
Gene DeLong	43 Vista Mobile Dr. 21222
Edna Jones	57 Vista Mobile Dr. 21222

A. Heat	57 Vista Mobile Dr. Balto Md 21222
Mrs. Judy Shifflett	1940 Ormand Rd. Balto, Md. 21222
Mrs. Nell Shifflett	1934 Ormand Rd. Balto, Md. 21222
Mrs. Ethel Knight	1941 Ormand Rd Baltimore, Md
Elizabeth Vest	52 Vista Mobile Dr Balto, Md. 21222
Pauline Moll	5 Vista Mobile Dr Balto Md 21222
Doris Allen	36 Vista Mobile Dr. Balto Md 21222
Mary Naville	35 Mobile Lodge Balto Md 21222
Alb. S. Denbury	2021 Warham Rd Balto, Md. 21222
William Copeland	1942 Denbury Dr. Balto, Md. 21222
Clinton Stump	1914 Warham Rd Balto Md 21222
Charmie Stalling	1914 Warham Rd Balto, Md. 21222
Doris Reusch	2010 Warham Dr. Balto Md 21222
Earl D. Dequits	211 Denbury Dr. Balto Md 21222
Norman M. Dequits	6505 Dunhamway Dundalk 21222
Spauld & E. E. E. E.	1822 Dunham Rd. Dundalk, Md. 21222
John M. Decker	1934 Standhope Rd. Balto Md 21222
John M. Decker	2018 Warham Rd. Dundalk Md 21222
BENJAMIN Guy Kline	2032 Ormand Rd.
John Lambert	7804 Standhope Rd. Dundalk Md 21222
Arthur Edwards	2000 Ormand Rd. Dundalk Md 21222
Ellen J. Hillier	30 Vista Mobile Dr. - 21222
Nicholas T. Kitzman	32 Vista Mobile Dr. - 21222
Agnes Smith	48 Vista Mobile Dr. Dundalk 1222
James E. Smith	48 Vista Mobile Dr. 21222
JAMES MACNEAL	2024 WARHAM ROAD DUNDALK 21222
Paul Staat	2816 Warham Road Dundalk 21222
Louis DeLazzo	1818 Tyler Rd. Dundalk 21222
John Arnick	1 Center Pl. Dundalk 21222
William J. DeHaven	1948 Holborn Rd. Dundalk. 21222
Theresa K. DeHaven	1948 Holborn Rd. " 21222
Kathleen Macneal	1947 Holborn Rd. Dundalk 21222
Norman Macneal	1947 Holborn Rd. " 21222
Robert A. DeHaven	7612 Dunhamway Dundalk 21222
Tom Hayden	1953 Denbury Dr 21222
Bruce Macneal	2019 Warham Road Dundalk 21222

Ellen Von Postelna	2025 Holborn Rd 21222
Orland B. Postelna	802 Longport Rd 21222
Ron J. Heat Ball, partner and resident at	
Synthetic Presbyterian Church	1969 Merritt Blvd. 21222
J. F. Brewer	2020 Ormand Rd. 21222
Northgate	2022 Ormand Rd. 21222
Technic Brewer	2020 Ormand Rd. 21222
Ann Miller	2014 Ormand Rd. 21222
Guarima Metello	2032 Holborn Rd. 21222
Nicholas J. Metello	2032 Holborn Rd. 21222
Joseph Guzman	42 Vista Mobile Dr. 21222
Charles H. Guzman	42 Vista Mobile Dr. 21222
Dr. W. J. Jankowski	27 Mobile Lodge Rd. 21222
Howard J. Jankowski	27 Mobile Lodge Rd. 21222
Frank C. Jankowski	190 Vista Mobile Dr. 21222
Chas. M. King	37 Vista Mobile Dr 21222
Walter P. King	8100 Ballinck Rd 21222
High Hurry	57 Vista Mobile Dr 21222
Yvonne Decker	2008 Warham Rd. 21222
Yvonne Decker	2008 Warham Rd. 21222
Carlyle H. King	2032 Ormand Rd. 21222
Agnes Shifflett	2030 Ormand Rd. 21222
W. C. Rice	1922 Warham Rd. 21222
Shirley Tabara	1960 Warham Rd. 21222
Freda Street	2001 Warham Rd. 21222
Joseph S. S. S.	1954 Warham Rd. 21222
Stella Savage	1954 Warham Rd. 21222
Paul J. T. T. T.	1817 Standhope Rd. Dundalk 21222
Emma Raschke	7817 Standhope Rd. 21222
Clara E. March	1919 Warham Rd., 21222
Betty D. Decker	1953 Merritt Blvd. 21222
Charles A. Decker	1961 Standhope Rd. 21222
Margaret Aker	1955 Merritt Blvd. 21222
Shirley Decker	183 Denbury Dr. 21222

George M. Phillips	2032 Warham Rd 21222
Margaret M. Rose	57 Vista Mobile Dr 21222
Shirley D. Meyer	6 Merritt Blvd. 21222
Mrs. M. B. B. B.	1900 Warham Road 21222
James C. Humphreys	7638 Dunhamway 21222
Paul M. M. M.	7638 Dunhamway 21222
James C. Humphreys	7638 Dunhamway 21222
Melba J. P. P.	7638 Dunhamway 21222
Melba J. P. P.	7638 Dunhamway 21222
John & Vera M. M.	1952 Holborn Rd. 21222
James & Barbara S. S.	1923 Holborn Rd. 21222
Lawrence & Diana H. H.	1930 Holborn Rd. 21222
David & Pamela H. H.	1931 Holborn Rd. 21222





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

ARNOLD JABLON  
ZONING COMMISSIONER

August 30, 1983

Richard C. Keene, Esquire  
Suite 2204  
100 North Charles Street  
Baltimore, Maryland 21201

Re: Petition for Reclassification and Redistricting  
Parcel 1 - SE/cor. Merritt Blvd. & Peninsula Expressway; Parcel 2 - SW/S Peninsula Expressway, 2,400' SE of Merritt Boulevard  
Real Estate and Improvement Co. of Balto. City - Petitioner  
Case No. R-84-1 Cycle V - Item #1

Dear Mr. Keene:

This is to advise you that \$670.23 is due for advertising and posting of the above property. This fee must be paid before an Order is issued.

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

Sincerely,

*Arnold Jablon*  
ARNOLD JABLON  
Zoning Commissioner

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

No. 121511

DATE: 9/7/83 ACCOUNT: R-01-618-000

AMOUNT: \$670.83

RECEIVED FROM: CSX Resources, Inc.  
Advertising & Posting Case R-84-1  
FOR: (Real Estate Improvement Co. of Baltimore City)

6 UGS\*\*\*\*670D316 8082A

VALIDATION OR SIGNATURE OF CASHIER

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

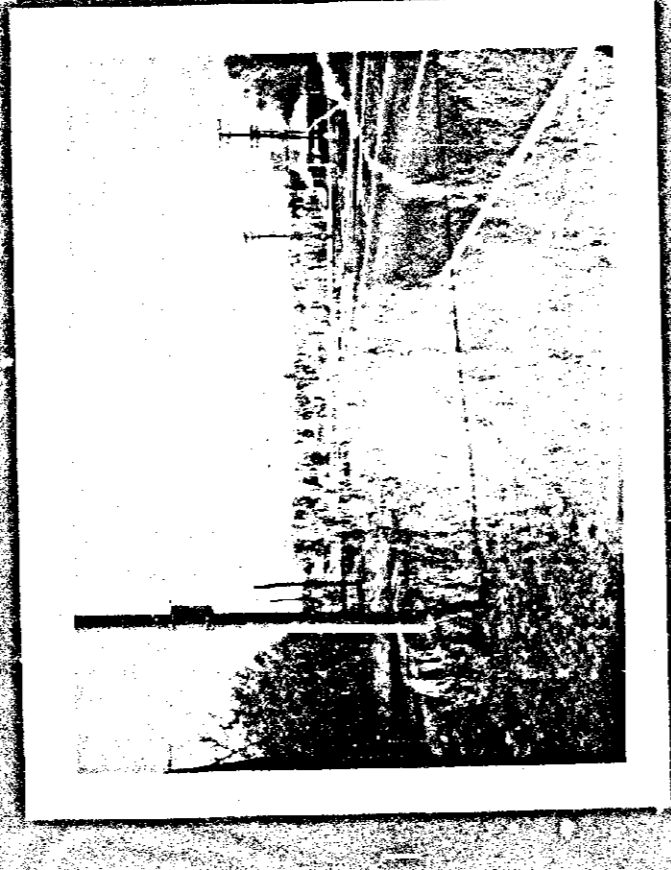
District: 12 Date of Posting: 9/15/83  
Posted for: Real Estate and Improvement Co. of Baltimore City  
Petitioner: Real Estate and Improvement Co. of Baltimore City  
Location of property: Parcel 1 - SE/cor. Merritt Blvd. & Peninsula Expressway; Parcel 2 - SW/S Peninsula Expressway, 2,400' SE of Merritt Boulevard  
Location of Signs: At the intersection of Merritt Blvd. & Peninsula Expressway, parcel 2 - factory, Expressway  
Remarks: None Date of return: 9/19/83  
Posted by: Arnold Jablon Signature  
Number of Signs: 3

No. 115091

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

DATE: 9/14/83 ACCOUNT: R-01-615-000  
AMOUNT: \$101.22  
RECEIVED FROM: Richard C. Keene  
FOR: Real Estate and Improvement Co. of Baltimore City

VALIDATION OR SIGNATURE OF CASHIER



**PETITION FOR RECLASSIFICATION AND REDISTRICTING**  
12th Election District  
ZONING: Petition for Reclassification and Redistricting

LOCATION: Parcel 1 - Southeast corner of Merritt Blvd. and Peninsula Expressway and Parcel 2 - Southwest side of Peninsula Expressway, 2,400' SE of Merritt Blvd.  
DATE AND TIME: Wednesday, September 7, 1983 at 10:00 A.M.  
PUBLIC HEARING: Room 218, Court House, Towson, Maryland  
The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing.  
Present Zoning: DR 5.5 (Parcels 1 and 2)  
Proposed Zoning: B.R.C.N.S. or M.L.M. (Parcels 1 and 2)  
All that parcel of land in the Twelfth District of Baltimore County

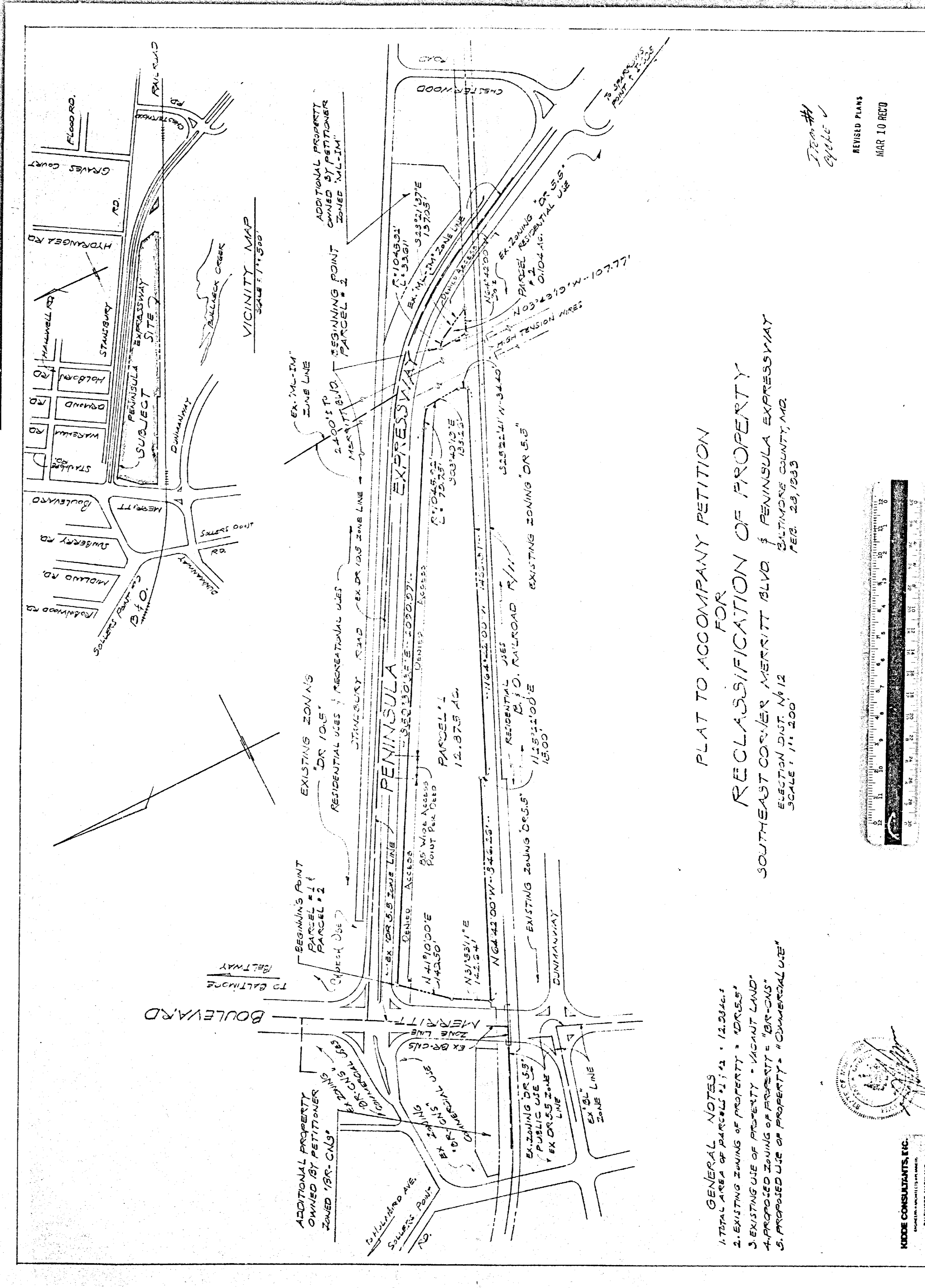
Parcel 1  
Beginning at the southeast corner of Merritt Boulevard and Peninsula Expressway and running thence bounding on the southwest side of said Peninsula Expressway, two courses: (1) S 59.30' 35" E 2090.97 feet and (2) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 73.75 feet, thence bounding on the easterly and southeasterly outlines of the land owned by the Real Estate and Improvement Company of Baltimore City, two courses: (3) S 49.19' E 138.26 feet, (4) S 75.22' 41" W 34.40 feet, (5) N 54.42' 00" W 146.31 feet, (6) N 25.02' 00" E 15.00 feet and (7) N 54.42' 00" W 846.26 feet to the southeast side of said Merritt Boulevard, thence bounding thence, three courses: (8) N 31.53' 11" E 142.64 feet, (9) N 41.10' 00" E 210.00 feet and (10) N 40.05' 00" E 49.99 feet to the place of beginning.  
Containing 12.875 acres of land.

Parcel 2  
Beginning on the southwest side of Peninsula Expressway at a point distant 2400 feet, more or less, measured southeasterly along the southwest side of said Peninsula Expressway, from the southeast side of Merritt Boulevard, running thence bounding on the southwest side of said Peninsula Expressway, two courses: (1) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 73.75 feet and (2) S 75.22' 41" W 34.40 feet, more or less, to the east side of the existing transmission right-of-way and (3) bounding thence, three courses: (4) N 31.53' 11" E 142.64 feet, (5) N 41.10' 00" E 210.00 feet and (6) N 40.05' 00" E 49.99 feet to the place of beginning.  
Containing 0.104 of an acre of land.

Being the property of Real Estate and Improvement Co. of Baltimore City, as shown on plat filed with the Zoning Department.  
Hearing Date: Wednesday, September 7, 1983 at 10:00 A.M.  
Public Hearing: Room 218, Court House, Towson, Maryland  
BY ORDER OF  
WILLIAM T. HACKETT, CHAIRMAN  
COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

Parcel 1  
Beginning at the southeast corner of Merritt Boulevard and Peninsula Expressway and running thence bounding on the southwest side of said Peninsula Expressway, two courses: (1) southeasterly, by a curve to the right with a radius of 1045.92 feet, the arc distance of 73.75 feet, thence bounding on the easterly and southeasterly outlines of the land owned by the Real Estate and Improvement Company of Baltimore City, two courses: (3) S 49.19' E 138.26 feet, (4) S 75.22' 41" W 34.40 feet, (5) N 54.42' 00" W 146.31 feet, (6) N 25.02' 00" E 15.00 feet and (7) N 54.42' 00" W 846.26 feet to the southeast side of said Merritt Boulevard, thence bounding thence, three courses: (8) N 31.53' 11" E 142.64 feet, (9) N 41.10' 00" E 210.00 feet and (10) N 40.05' 00" E 49.99 feet to the place of beginning.  
Containing 0.104 of an acre of land.

Being the property of Real Estate and Improvement Co. of Baltimore City, as shown on plat filed with the Zoning Department.  
Hearing Date: Wednesday, September 7, 1983 at 10:00 A.M.  
Public Hearing: Room 218, Court House, Towson, Maryland  
BY ORDER OF  
WILLIAM T. HACKETT, CHAIRMAN  
COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY



PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF PROPERTY  
SOUTHEAST CORNER MERRITT BLVD & PENINSULA EXPRESSWAY  
BALTIMORE COUNTY, MD.  
ELECTION DIST. #12  
SCALE: 1" = 100'  
REC. 28, 1983

- GENERAL NOTES
1. TOTAL AREA OF PARCELS 1 & 2: 13.979 ac.
  2. EXISTING ZONING OF PROPERTY: "DR 5.5"
  3. EXISTING USE OF PROPERTY: "VACANT LAND"
  4. PROPOSED ZONING OF PROPERTY: "B.R.C.N.S." OR "M.L.M."
  5. PROPOSED USE OF PROPERTY: "COMMERCIAL USE"



KOBE CONSULTANTS, ETC.  
BALTIMORE, MARYLAND