

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER 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 for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve the realignment of parcels and the transfer of density units across the road to a contiguous parcel in the same ownership, and the reduction of combined density units.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

City and State

Attorney's Telephone No.: 825-9200

Legal Owner(s):

(Type or Print Name)

Signature

Address

City and State

1140 Cold Bottom Road, 271-4625

Sparks, Maryland

305 W. Chesapeake Avenue, Suite 201

Towson, Maryland 21204

Address

Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 26th day of February, 1985, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 2nd day of April, 1985, at 10:45 o'clock.

Cell John
Zoning Commissioner of Baltimore County.

(over)

Case No. 85-281-SPH
Item No. 233
Date: June 20, 1985
NE/S and SW/S of Yeoka Road, 540'
NW of the centerline of Belfast Rd.
8th Election District
John B. Merryman, et ux, Petitioners

- ☒ 1. Copy of Petition
- ☒ 2. Copy of Description of Property
- ☒ 3. Copy of Certificate of Posting (2)
- ☒ 4. Copy of Certificates of Publication
- ☒ 5. Copy of Zoning Advisory Committee Comments
- ☒ 6. Copy of Comments from the Director of Planning
- ☒ 7. Planning Board Comments and Accompanying Map
- ☒ 8. Copy of Order to Enter Appearance
- ☒ 9. Copy of Order - Zoning/Deputy Zoning Commissioner
- ☒ 10. Copy of Plat of Property
- ☒ 11. 200' Scale Location Plan
- ☒ 12. 1000' Scale Location Plan
- ☒ 13. Memorandum in Support of Petition
- ☒ 14. Letter(s) from Protestant(s)
- ☒ 15. Letter(s) from Petitioner(s)
- ☒ 16. Protestants' Exhibits to
- ☒ 17. Petitioners' Exhibits *1 to 2
- ☒ 18. Letter of Appeal
- ☒ 19. Miscellaneous Correspondence

Lewis L. Fleury, Esquire
305 West Chesapeake Ave., Suite 201
Towson, Maryland 21204
Attorney for Petitioner

Phyllis C. Friedman, Esquire
Norman E. Gerber
James C. Howell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
People's Counsel
Request Notification
Request Notification
Request Notification
Request Notification



County Board of Appeals of Baltimore County

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

July 9, 1985

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 223, Courthouse
Towson, MD 21204

Re: Case No. 85-281-SPH
John B. Merryman, et ux

Dear Mrs. Friedman:

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

Very truly yours,

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

Enclosure

cc: Lewis L. Fleury, Esquire
John B. Merryman, et ux
Norman E. Gerber
James C. Howell
Arnold Jablon
Jean M. H. Jung
James E. Dyer

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon
TO: Zoning Commissioner

Date: March 27, 1985

Norman E. Gerber, Director
FROM: Office of Planning and Zoning

SUBJECT: Zoning Petition No. 85-281-SPH

If development is to take place, conceptually, this office would prefer to see the lots clustered on the S/W/S of Yeoka Road as proposed by the petitioner. However, this office has some question as to whether or not such a transfer of density is permitted. Furthermore, under no circumstances would this office want to see the subject petition addressed with consideration given to the entire holdings in the Merryman farm.

Norman E. Gerber, Director
Office of Planning and Zoning

NEG:JGH:alm

ORDER RECEIVED FOR FILING

DATE: 3/14/85 BY: [Signature]

THE MERRYMAN COMPANY

Commission Agents and Sales Managers In Improved Live Stock

P.O. BOX 566 • SPARKS, MARYLAND 21152

Arnold Jablon,
Zoning Commissioner
County Office Building
111 West Chesapeake Ave. Towson, Md. 21204

Dear Mr. Jablon,
I am respectfully requesting that you give me the earliest possible date that can be arranged to hear the petition that was submitted for a Special Hearing to the Zoning Dept on February 7th for the purpose of transferring lots from the agricultural and tillable part of our farm to a non-productive wooded area. reduction four

Due to the temporary farm and agriculture income, it is necessary for us to create and sell lots to reduce and meet our commitments to the bank.
It is our understanding and hope that the bank will withhold any further action until

February 28, 1985

THE MERRYMAN COMPANY

Commission Agents and Sales Managers In Improved Live Stock

P.O. BOX 566 • SPARKS, MARYLAND 21152

such time as the final location of the lots have been determined, but that a date for a hearing must be given to them immediately to preclude any legal action from the bank.

I thank you for your prompt consideration on this matter.

Yours very truly -
John B. Merryman

Upper Chesapeake Farm Credit Service

P.O. Box 648
Bel Air, Maryland 21014
Telephone: 838-4242 - 879-2550



February 14, 1985

Mr. & Mrs. John B. Merryman
P.O. Box 566
Sparks, Maryland 21152

RE: Federal Land Bank Loan #1777796-2

Dear Mr. & Mrs. Merryman:

Please be advised that the Board of Directors approved placing your loan in the hands of an attorney for collection in full unless your delinquency is received in this office on or before March 6th, 1985.

The amount due on March 6th, 1985, including default interest, will be \$55,864.31. Default interest will continue to accrue at the rate of \$21.91 per day.

In addition to the above, the Board approved taking prompt collection action, without further notice to you, if any future installments become delinquent.

Very truly yours,

UPPER CHESAPEAKE FEDERAL LAND BANK ASSOCIATION

Charles E. Smith
Charles E. Smith
Associate Manager

CES:alb

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 26, 1985

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

ooo

Nicholas B. Commodari

Chairman

MEMBERS

Bureau of Engineering

Department of Traffic Engineering

State Roads Commission

Bureau of Fire Protection

Health Department

Project Planning

Building Department

Board of Education

Zoning Administration

Industrial Development

RE: Item No. 233 - Case No. 85-281-SPH
Petitioner - John B. Merryman, et ux
Special Hearing Petition

Dear Mr. Fleury:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the propriety of the zoning action requested, but to assure that all parties are made aware of plans or problems with this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

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

Very truly yours,

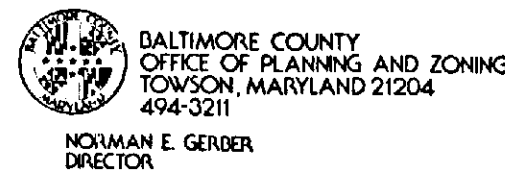
Nicholas B. Commodari
NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: E. F. Raphael
201 Courtland Avenue
Towson, Maryland 21204

APR 17 1985



Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Zoning Advisory Meeting of FEB. 19, 1985
Item # 233 JOHN B. MERRYMAN, et ux
Property Owner: NE/S Yecho Road 540' N/W from c/l Belfast Road
Location: NE/S Yecho Rd. 540' N/W from c/l Belfast Rd.

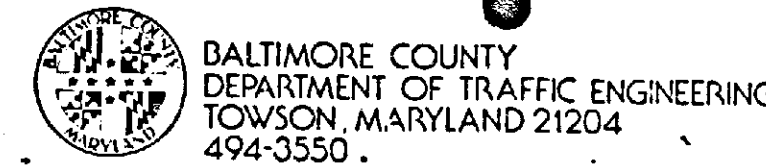
Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- () There are no site planning factors requiring comment.
- (X) A County Review Group Meeting is required.
- () A County Review Group Meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- () This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- (X) A record plat will be required and must be recorded prior to issuance of a building permit.
- () The access is not satisfactory.
- () The circulation on this site is not satisfactory.
- () The parking arrangement is not satisfactory.
- () The parking calculations must be shown on the plan.
- () This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- () Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-98 of the Development Regulations.
- () Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- () The amended Development Plan was approved by the Planning Board on [unclear].
- () Landscaping: Must comply with Baltimore County Landscape Manual.
- () The property is located in a deficient service area as defined by 8111 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is [unclear].
- () The property is located in a traffic area controlled by a "T" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The basic service areas are re-evaluated annually by the County Council.
- (X) Additional comments:
Plan should show total holdings, and clarify the 30-acre right of way.

cc: James Howell

Eugene A. Bober
Chief, Current Planning and Development



STEPHEN E. COLLINS
DIRECTOR

February 27, 1985

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Item No. 208, 227, 228, 229, 230, 231, 234, 235, 236, and 237 ZAC - Meeting of 2-10-85
Property Owner:
Location:
Existing Zoning:
Proposed Zoning:

Acres:
District:

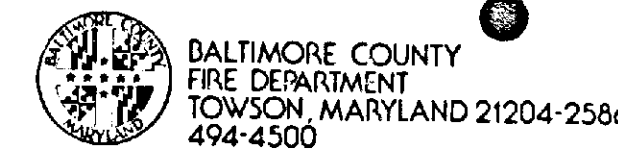
Dear Mr. Jablon:

The Department of Engineering has no comments for item numbers 208, 227, 228, 229, 230, 233, 234, 235, 236, and 237.

Michael S. Flanigan
Traffic Engineering Assoc. II

HSP/ccm

4/9
85-281-SPH



PAUL H. RENCKE
CHIEF

February 25, 1985

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: John B. Merryman, et ux

Location: NE/S Yecho Road 540' N/W from c/l Belfast Road

Item No.: 233 Zoning Agenda: Meeting of 2/19/85

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 [unclear]

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 [unclear] May 2-25-85
Planning Group
Special Inspection Division

/mb

Noted and Approved: [unclear]
Fire Prevention Bureau



March 4, 1985

TED ZALESKI, JR.
DIRECTOR
Mr. Arnold Jablon, Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

Comments on Item # 233 Zoning Advisory Committee Meeting are as follows:

Property Owner: John B. Merryman, et ux
Location: NE/S Yecho Road 540' N/W from c/l Belfast Road
Existing Zoning: R.C. 2
Proposed Zoning: Special hearing to approve the realignment of parcels and the transfer of density units across the road to a contiguous parcel in the same ownership, and the reduction of combined density units.

Acres:
District:

The items checked below are applicable:

- (X) All structures shall conform to the Baltimore County Building Code 1961/Council Bill 1-82.
- (X) A building/ & other miscellaneous structures shall be required before beginning construction.
- (X) Residential: Three sets of construction drawings are required to file a permit application. No copies permitted within 30' of lot lines. Non-reproduced seals and signatures are required on Plans and Technical Data.
- D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.
- E. An exterior wall erected within 6'0" for Commercial uses or 3'0" for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction. No copies permitted within 30' of lot lines. A fire wall is required if construction is on the lot line, see Table 401, Line 2, Section 1007 and Table 402, also Section 503.2.
- F. Requested variance appears to conflict with the Baltimore County Building Code, Section 5.
- G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require a professional seal.
- H. Before this office can comment on the above structures, please have the owner, then the services of a Registered in Maryland Architect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed comply with the height/area requirements of Table 505 and the required construction classification of Table 401.
- I. Comments

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Zoning and are not intended to be a complete review of the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesapeake Ave., Towson.

Very truly yours,

Charles E. Burman, Chief
Plans Review



Baltimore County, Maryland

PEOPLE'S COUNSEL
RM. 122, COURT HOUSE
TOWSON, MARYLAND 21204
494-2188

PHYLLIS COLE FRIEDMAN
People's Counsel

PETER MAX ZIMMERMAN
Deputy People's Counsel

April 30, 1985

B. Cole
Parkton
Maryland
21120

Dear Mr. Cole:

This is in response to your letter of April 5, 1985 regarding the Merryman petition for special hearing to realign parcels and transfer density units across the road to a contiguous parcel in the same ownership and the reduction of combined density units. According to my records, no one appeared at the hearing held by the Zoning Commissioner to protest this request. Does your letter mean that you do object and, if so, would you please let me know the basis of your objection?

The period during which an appeal may be taken from the Zoning Commissioner's Order expires on Friday, May 10, 1985.

Very truly yours,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

cc: Donald P. Hutchinson
John Merryman
Arnold Jablon

PMZ:sh

Lewis L. Fleury, Esquire
305 West Chesapeake Avenue, Suite 201
Towson, Maryland 21204

RE: Case No. 85-281-SPH
John B. Merryman, et ux,
Petitioners

Dear Mr. Fleury:

It has come to my attention that the computation of parcels and density indicated on the site plan submitted in the above-referenced matter is not correct. Therefore, I am staying my Order of April 10, 1985 and scheduling another hearing before me on May 29, 1985 at 10:00 a.m.

Sincerely,

Arnold Jablon
Zoning Commissioner

AJ/srl

cc: People's Counsel

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Zoning Commissioner Date: May 10, 1985

FROM: Phyllis Cole Friedman, People's Counsel

SUBJECT: John B. Merryman, et ux, Petitioners
Zoning Case No. 85-281-SPH (Item 233)

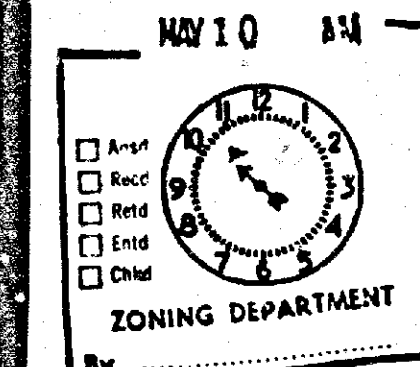
With regard to the above-referenced matter, upon review of the file and the tax maps in Baltimore County, I feel that there are two issues that need to be addressed and I am not certain that their resolution should not be a legislative decision. The issues are (1) the definition of "lot" in an R.C. 2 zone, and (2) the transfer of density units from lot to lot in an R.C. 2 zone.

With reference to the definition of "lot", since R.C. 2 zones do not have subdivision plats, it seems to me that either a tax parcel number or a deed reference number as of 1980 should define a lot for further subdivision purposes. Using this approach, a lot would thus become a parcel of land recorded in a deed. In most cases, I believe the tax map parcel number would produce the same result, but there may be situations where an owner has requested one tax bill and this has been put under one parcel number.

With regard to the transfer of densities, if we are going to permit the transfer of densities in R.C. 2 zones, somebody is going to have to be responsible for maintaining an inventory of densities that have been used and are available. While the transfer of densities may facilitate subdivision, I question whether this is really consistent with the spirit and intent of the R.C. 2 zone.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

PCF:sh



APR 17 1985

IN THE MATTER OF THE APPLICATION OF JOHN B. MERRYMAN, ET UX FOR SPECIAL HEARING FOR REALIGNMENT OF PARCELS, ETC. NE/S and SW/S OF YEOHO ROAD 540' NW OF C/L BELFAST ROAD 8th DISTRICT

BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY NO. 85-281-SPH

ORDER OF DISMISSAL

Petition of John B. Merryman, et ux for special hearing for realignment of parcels and the transfer of density units across the road to a contiguous parcel in the same ownership, and the reduction of combined density units on property located on the northeast side and the southwest side of Yeoho Road 540 feet northwest of the centerline of Belfast Road, in the Eighth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Motion to Dismiss Appeal filed July 8, 1985, a copy of which is attached hereto and made a part hereof, from the People's Counsel for Baltimore County, Appellant in the above entitled matter; and

WHEREAS, the said People's Counsel requests that the appeal filed on its behalf be dismissed as of July 8, 1985,

IT IS HEREBY ORDERED this 9th day of July, 1985, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett, Chairman

Patricia Phipps

Lawrence E. Schmidt

RE: PETITION FOR SPECIAL HEARING : BEFORE THE COUNTY BOARD OF APPEALS NE/S and SW/S Yeoho Rd., 540' NW of the Centerline of Belfast Rd., 8th District OF BALTIMORE COUNTY JOHN B. MERRYMAN, et ux, Case No. 85-281-SPH Petitioners

MOTION TO DISMISS APPEAL

People's Counsel for Baltimore County, Appellant, moves to dismiss the appeal in the above-captioned matter. Upon further review, it was decided that it would no longer be in the public interest to pursue this appeal.

WHEREFORE, Appellant prays that the appeal be dismissed.

Phyllis Cole Friedman

Phyllis Cole Friedman

People's Counsel for Baltimore County

Peter Max Zimmerman

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

I HEREBY CERTIFY that on this 8th day of July, 1985, a copy of the foregoing Motion to Dismiss Appeal was mailed to Lewis L. Fleury, Esquire, 305 W. Chesapeake Ave., Suite 201, Towson, MD 21204.

Phyllis Cole Friedman

Phyllis Cole Friedman

85-281-SPH 8th District
NE/S and SW/S of Yeoho Rd., 540' NW of c/l of Belfast Road
JOHN B. MERRYMAN, ET UX
2 SIGNS

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER NE/S and SW/S Yeoho Rd., 540' NW of the Centerline of Belfast Rd., 8th District OF BALTIMORE COUNTY JOHN B. MERRYMAN, et ux, Case No. 85-281-SPH Petitioners

NOTICE OF APPEAL

Please note an appeal from your decision in the above-captioned matter, under date of June 19, 1985, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 20th day of June, 1985, a copy of the foregoing Notice of Appeal was mailed to Lewis L. Fleury, Esquire, 305 W. Chesapeake Ave., Suite 201, Towson, MD 21204.

Phyllis Cole Friedman

Phyllis Cole Friedman

IN RE: PETITION SPECIAL HEARING : BEFORE THE NE/S and SW/S of Yeoho Road, 540' NW of the centerline of Belfast Road - 8th Election District OF BALTIMORE COUNTY John B. Merryman, et ux, Case No. 85-281-SPH Petitioners

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request to realign their parcels of land to transfer density units which will, in effect, reduce the number of lots permitted, as more particularly described on Petitioners' Exhibit 1.

The Petitioners appeared and testified and were represented by Counsel. Eugene Raphael, a registered land surveyor, testified on behalf of the Petitioners. There were no Protestants. In fact, three contiguous property owners appeared and another sent a letter, Petitioners' Exhibit 2, in support of the proposed project.

Testimony indicated that the subject property, zoned R.C.2, is composed of five parcels, totaling approximately 40 acres. Parcel A contains 2.0 acres, Parcel B contains 2.1 acres, Parcel C contains 5.2 acres, Parcel D contains 17.8 acres, and Parcel E contains 12.5 acres. Each parcel is permitted two building lots. The entire property is divided by Yeoho Road, with Parcels A through D on the northeast side and Parcel E on the southwest side. Parcel D is presently planted with alfalfa used by the Petitioners to feed their livestock. The Petitioners wish to subdivide their property but want to maintain the largest portion for agricultural purposes, i.e., the raising of alfalfa. They propose to reduce the number of lots permitted from ten to eight and to transfer two of the lots from the northeast side of Yeoho Road to the southwest side. Parcel E would be divided into four lots. Parcels A and B, which contain a tenant house

and a barn, respectively, would be combined into one lot; Parcel C would be reduced to allow only one lot; and Parcel D would allow two lots, but one would contain approximately 15 acres to permit the continued use of the parcel for agricultural purposes.

Each of the neighbors indicated that the proposed subdivision, resulting in the reduction of building lots, satisfies the rural and agricultural nature of the area.

It is the opinion of Mr. Raphael that the proposed transfer of density would satisfy the Baltimore County Zoning Regulations (BCZR) in that the parcels are owned by one property owner and that the transfer would not violate the intent of the R.C.2 regulations. He testified that the spirit and intent of the BCZR would not be violated if the subdivision were allowed and that there would be no adverse impact on the health, safety, and general welfare of the community. Indeed, even if the more stringent standards of Section 502.1, BCZR, were required to be satisfied, he believes the subject property would still be in compliance with all of the conditions precedent as delineated therein.

The Petitioners seek relief from Section 1A01.3.B.1, BCZR.

Certainly, the Petitioners' intentions are bona fide and in good faith in order to provide them with maximum utilization of their property while retaining and fostering conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban use. Section 1A01.1.B, BCZR. See Zoning Commissioner's Official RSD-7, 10. There is no intent to evade the spirit and intent of the BCZR, and there certainly will be no adverse impact on the public health, safety, and welfare of the community.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested special hearing should be granted.



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3333

ARNOLD JADON
ZONING COMMISSIONER

JEAN M. H. JUNG
DEPUTY ZONING COMMISSIONER

June 24, 1985

Lewis L. Fleury, Esquire
305 West Chesapeake Ave., Suite 201
Towson, Maryland 21204

Re: Petition for Special Hearing
NE/S and SW/S of Yeoho Rd., 540'
NW of centerline of Belfast Rd.
8th Election District
John B. Merryman, et ux,
Petitioners
Case No. 85-281-SPH

Dear Mr. Fleury:

Please be advised that an appeal has been filed by the People's Counsel of Baltimore County from the decision rendered by the Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the County Board of Appeals.

Arnold Jadon
Zoning Commissioner

AJ:bg

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 19th day of April, 1985, that the proposed realignment of the parcels contained in the subject property; the transfer of two lots across Yeoho Road to allow four lots on Parcel E; and the reduction of the total lots permitted from ten to eight, as described above and on Petitioner's Exhibit 1, be approved and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions which are conditions precedent to the relief herein granted:

1. All of the aforementioned parcels' permitted density shall be considered to be utilized, and the two lots deleted therefrom may not be transferred to any other property of record for density purposes.
2. Parcels A and B shall be combined and utilized only for a single-family residence and may not be further subdivided; Parcel C and D, also shown as Lots 2, 3, and 4 on Petitioners' Exhibit 1, shall be utilized as one building lot each and shall be only for single-family residences and may not be further subdivided and, in addition, Lot 3 shall be retained for agricultural purposes as well; and Parcel E, more specifically identified as Lots 5, 6, 7, and 8 on Petitioners' Exhibit 1, shall be utilized as one building lot each and shall be only for single-family residences and may not be further subdivided.
3. These restrictions shall be placed in all deeds conveying ownership of the lots hereinbefore described, and copies of said deeds shall must be submitted to the Zoning Commissioner.
4. The Petitioner shall prepare and record a record plat, with Restrictions 1 and 2 noted thereon, and a copy of same shall also be submitted to the Zoning Commissioner.

Lewis L. Fleury, Esquire
People's Counsel

ORDER RECEIVED FOR FILING

DATE April 19, 1985

BY [Signature]

cc: Lewis L. Fleury, Esquire
People's Counsel

APR 17 1985

IN RE: PETITION SPECIAL HEARING
NE/S and SW/S of Yeoho Road,
540' NW of the centerline of
Belfast Road - 8th Election
District
John B. Merryman, et ux,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-281-SPH

AMENDED ORDER

At the request of People's Counsel, who raised post decision questions as to the configuration of the parcels presented by the Petitioners at the original hearing, the Zoning Commissioner stayed his Order of April 10, 1985 and scheduled another hearing for May 29, 1985.

People's Counsel and Counsel for the Petitioners appeared and made legal argument on the issues presented by People's Counsel. Those issues were whether transfer of density is permitted within a R.C.2 Zone and how computation of the parcels is determined. People's Counsel argued that transfer of density is not permitted and agreed that computation is determined by the metes and bounds descriptions found in a particular deed. Counsel for the Petitioners argued that the intent of the R.C.2 legislation was to permit transfer of density.

The relief prayed for by the Petitioners will be confirmed in that it has been a consistent policy of the Zoning Commissioner and the Zoning Office that the right to divide or transfer density from one lot to another, or cluster, in a R.C.2 Zone can be allowed when there is a public hearing. See attached policy, 283D-10. The policy is self-explanatory and is of a long-standing nature. Transfer of density in a R.C.2 Zone has been granted prior to this decision, but only after a hearing in which the public has been made aware of the proposal and the Petitioner has been provided with a public forum in which to justify his request and conform to the legislative intent defined in Section 1A01.1.A and B, Baltimore County Zoning Regulations (BCZR).

Section 1A00.1, BCZR, explains the Baltimore County Council's (Council) intent in creating the R.C. classifications. The concern was evident that agricultural land was being converted by development without sound planning considerations, i.e., that development was creating "urban sprawl" and undesirable land use patterns. The Council wanted to protect prime agricultural land, critical watershed areas, mineral extractive sites, as well as other important natural resource areas. To achieve this result, the R.C. classifications would (1) discourage present land use patterns of development and create a framework for planned or orderly development, (2) provide sufficient and adequate areas for rural-suburban and related development in selected and suitable areas, (3) protect both natural and man-made resources from compromising effects of specific forms and densities of development, and (4) protect areas desirable for more intensive future development by regulating undesirable forms of development within these areas until such time as intensive development commences. Section 1A00.2, BCZR. Specifically, the R.C.2 Zone was established to encourage continued agricultural use of productive agricultural areas by preventing incompatible forms and degrees of urban uses. Section 1A01.1.B.

While it is true that the transfer of density is not specifically mentioned in the R.C.2 regulations, it is clear that the legislative intent was to permit such, provided the findings and purposes delineated by the Council, as described above, are satisfied. This is not easily accomplished. For such to occur, the burden is on the Petitioner to prove that the proposed transfer would, in fact, encourage continued agricultural use and that the transfer would not be incompatible to such. If permitted at all, such transfer of density should be accomplished only after a full scrutiny of the proposal, subsequent to the public hearing. Although not specifically permitted, transfer of density is not specifically prohibited in the R.C.2 Zone.

- 2 -

There is a strong presumption of the correctness of original zones and of comprehensive zoning. Howard County v. Dorsey, 438 A.2d 1339 (1982). There is a presumption of validity that must be accepted. Johnson & Wales College v. DiPietro, 448 A.2d 1271 (R.I., 1982). When interpreting the zoning regulations, the restrictive language contained must be strictly construed so as to allow the landowner the least restrictive use of his property. Mayor of Balto. v. Byrd, 62 A.2d 588 (1948); Lake Adventure, Inc. v. Zoning Hearing Bd. of Dingham Town-ship, 440 A.2d 1284 (Pa. Cmwlth., 1982). When the language of a zoning regulation is clear and certain, there is nothing left for interpretation and the ordinance must be interpreted literally. Mongony v. Bevilacqua, 432 A.2d 661 (R.I., 1981). Section 413.2, BCZR, is clear and unambiguous.

The meaning of the plainest words in a statute may be controlled by the context. A statute should be so construed that all its parts harmonize with each other and render them consistent with its general object and scope. Pittman v. Housing Authority, 25 A.2d 466.

The basic principles of statutory construction were comprehensively set out by the Court of Appeals in State v. Fabritz, 276 Md. 416 (1975), cert. denied, 425 U.S. 942 (1976):

The cardinal rule in the construction of statutes is to effectuate the real and actual intention of the Legislature. Purifoy v. Merc. Safe Dep. & Trust, 273 Md. 58, 327 A.2d 483 (1974); Scoville Serv., Inc. v. Comptroller, 269 Md. 390, 306 A.2d 534 (1973); Height v. State, 225 Md. 251, 170 A.2d 212 (1961). Equally well settled is the principle that statutes are to be construed reasonably with reference to the purpose to be accomplished. Walker v. Montgomery County, 244 Md. 98, 223 A.2d 181 (1966), and in light of the evils or mischief sought to be remedied, Mitchell v. State, 115 Md. 360, 80 A.2d 1020 (1911); in other words, every statutory enactment must be "considered in its entirety, and in the context of the purpose underlying [its] enactment," Clant of Md. v. State's Attorney, 267 Md. 501 at 509, 298 A.2d 427, at 432 (1973). Of course, a statute should be construed according to the ordinary and natural import of its language, since it is the language of the statute which

constitutes the primary source for determining the legislative intent. Grosvenor v. Supervisor of Assess., 271 Md. 232, 315 A.2d 758 (1974); Height v. State, supra. Where there is no ambiguity or obscurity in the language of a statute, there is usually no need to look elsewhere to ascertain the intention of the Legislature. Purifoy v. Merc. Safe Deposit & Trust, supra. Thus, where statutory language is plain and free from ambiguity and expresses a definite and sensible meaning, courts are not at liberty to disregard the natural import of words with a view towards making the statute express an intention which is different from its plain meaning. Gatewood v. State, 244 Md. 609, 224 A.2d 677 (1966). On the other hand, "as stated in Maguire v. State, 192 Md. 615, 623, 65 A.2d 299, 302 (1949), "[a]dherence to the meaning of words does not require or permit isolation of words from their context."***[since] the meaning of the plainest words in a statute may be controlled by the context In construing statutes, therefore, results that are unreasonable, illogical or inconsistent with common sense should be avoided whenever possible consistent with the statutory language, with the real legislative intention prevailing over the intention indicated by the literal meaning. B. F. Saul Co. v. West End Park, 250 Md. 707, 246 A.2d 591 (1968); Sanza v. Md. Board of Censors, 245 Md. 319, 226 A.2d 317 (1967); Height v. State, supra.

In applying these principles to the BCZR, particularly Section 1A01.1.B, the conclusion is inescapable that under the plain meaning of the statutes, the policy is correct.

The intent of the BCZR must be determined as being construed as a whole. See Smith v. Miller, 249 Md. 390. Thus, the specific language delineating the findings and purposes of Section 1A01, "BCZR, must be construed in light of all of the provisions contained therein so that the several parts of those regulations are given their intended effect. Moreover, the relationship between those various provisions must be reconciled as a whole. See Smith, supra; Bowie Vol. Fire Depart. & Rescue Squad, Inc. v. Bd. of County Commissioners, 255 Md. 381; Anderson, American Law of Zoning, Section 16.08.

Zoning regulations are in derogation of common law rights and they cannot be construed to include or to exclude by implication that which is not clearly within their express terms." Yokely, Zoning Law & Practice, Sections 1-4 and

25-B; Aspen Hill Venture v. Montgomery County, 265 Md. 303 (1972). Landay v. MacWilliams, 173 Md. 460 (1938) a/k/a Landay v. Bd. of Zoning Appeals. Zoning regulations must be strictly construed and cannot be extended by implication to prohibit uses not clearly within their scope. Gino's of Maryland, Inc. v. Baltimore, 250 Md. 621 (1968); McQuillin, Municipal Corp., Section 25.72.

An ordinance should be construed "so that no word, clause, sentence, or phrase shall be rendered surplusage, superfluous, meaningless or nugatory." Supervisor v. Southgate Harbor, 279 Md. 586 (1977). If Section 1A01.1, 2, and 3, BCZR, were read together, it would be clear that transfer of density would be permitted under the narrow conditions described above.

Here, the Petitioners proposal meets and satisfies those conditions. The plan presented reduced the permissible development and maintains the spirit and intent of the BCZR. The Findings of Fact and Conclusions of Law, as set out in the April 10, 1985 decision, are fully incorporated and adopted here by reference and no more need be said.

For the above reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 19th day of June, 1985, that the relief prayed for in this matter is hereby DENIED, as more specifically described in the April 10, 1985 decision.

The appeal period shall begin to run from May 29, 1985.

IN RE: PETITION SPECIAL HEARING
NE/S and SW/S of Yeoho Road,
540' NW of the centerline of
Belfast Road - 8th Election
District
John B. Merryman, et ux,
Petitioners

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 85-281-SPH

AMENDED ORDER

It is hereby ORDERED by the Zoning Commissioner of Baltimore County, this 26th day of June, 1985, that Paragraph 3, Page 5 of the Order dated June 19, 1985 shall be AMENDED to read as follows:

For the above reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 26th day of June, 1985, that upon reconsideration of the decision rendered in this matter, dated April 10, 1985, the relief prayed for by the Petitioner is hereby GRANTED.

[Signature]
Zoning Commissioner of
Baltimore County

AJ/srl

cc: Lewis L. Fleury, Esquire

People's Counsel

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

ARNOLD JABLON
ZONING COMMISSIONER

March 28, 1985

Lewis L. Fleury, Esquire
305 West Chesapeake Avenue
Suite 201
Towson, MD 21204

RE: Petition for Special Hearing
NE/S & SW/S Yeoho Rd., 540' NW of
the c/l of Belfast Rd.
John B. Merryman, et ux - Petitioner
Case No. 85-281-SPH

Dear Mr. Fleury:

This is to advise you that \$61.15 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,

[Signature]
ARNOLD JABLON
Zoning Commissioner

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

DATE 6/17/85 ACCOUNT 9-01-615-000

AMOUNT \$ 61.15

RECEIVED FROM John B. Merryman

FOR Advertising and notice Case 85-281-SPH

6121*****61515 22448

VALIDATION OR SIGNATURE OF CASHIER

March 6, 1985

Lewis L. Fleury, Esquire
305 West Chesapeake Avenue
Suite 201
Towson, Maryland 21204

NOTICE OF HEARING

RE: Petition for Special Hearing
NE/S & SW/S Yeoho Rd., 540' NW of the
c/l of Belfast Road
John B. Merryman, et ux - Petitioners
Case No. 85-281-SPH

TIME: 10:45 a.m.

DATE: Wednesday, April 3, 1985

PLACE: Room 106, County Office Building, 111 West Chesapeake
Avenue, Towson, Maryland

[Signature]
Zoning Commissioner
of Baltimore County

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

DATE 6/17/85 ACCOUNT 9-01-615-000

AMOUNT \$ 61.15

RECEIVED FROM John B. Merryman

FOR Advertising and notice Case 85-281-SPH

6121*****61515 22448

VALIDATION OR SIGNATURE OF CASHIER

APR 17 1985

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8th Date of Posting 3-15-85
Posted for: Special Hearing
Petitioner: John B. Merryman, et ux
Location of property: N.E. & S.W. of Yecko Rd. 540' N.W. of the
C.R. of Belfast Rd.
Location of Signs: 1 sign NE side of Yecko Rd. and 1 sign SW side
of Yecko Rd. at the corner approx 1.5 mi. N.W. of Belfast Rd.
Remarks:
Posted by: M. J. Austin Date of return: 3-22-85
Number of Signs: 2

To Whom It May Concern:

We support Mr. John B. Merryman's
petition for transference of lots from the
east side of Yecko Road to the west side.

Sincerely,
John Marshall Smith
Linell E. Smith

**PETITIONER'S
EXHIBIT** 2

CERTIFICATE OF PUBLICATION

TOWSON, MD., March 14, 1985
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., appearing on
March 14, 1985.

THE JEFFERSONIAN,

18 Kentauk

Publisher

85-281-SPH

Cost of Advertising

22.00

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

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

Your petition has been received and accepted for filing this
26th day of February, 1985.

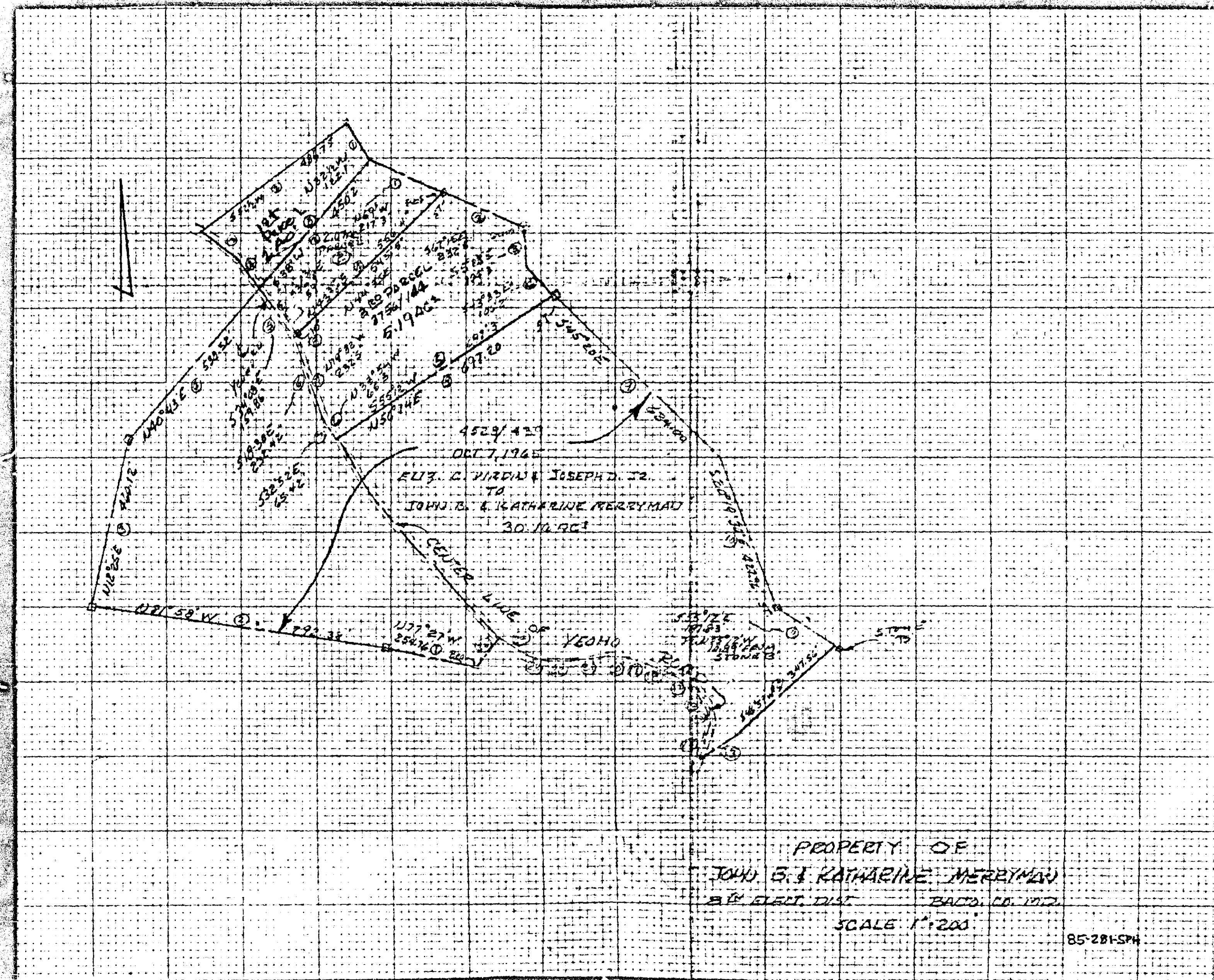
Arnold Jablon
Arnold Jablon
Zoning Commissioner

Petitioner John B. Merryman, et ux
Petitioner's
Attorney

Received by: Nicholas B. Commodari
Nicholas B. Commodari
Chairman, Zoning Plans
Advisory Committee

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 8th Date of Posting July 1-85
Posted for: Appeal
Petitioner: John B. Merryman, et ux
Location of property: N.E. & S.W. of Yecko Road,
540' N.W. of the C.R. of Belfast Road
Location of Signs: 1 sign NE side of Yecko Road and 1 sign
SW side of Yecko Road, approx. 1.5 mi. N.W. of the C.R. of
Belfast Road
Remarks:
Posted by: M. J. Austin Date of return: July 5, 1985
Number of Signs: 2

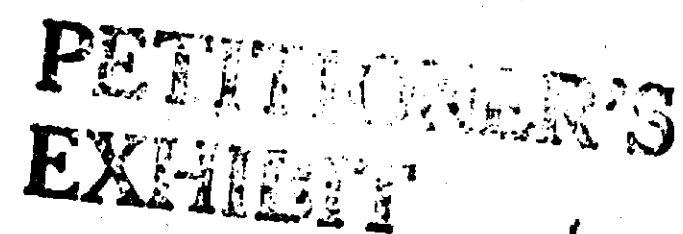


CERTIFICATE OF PUBLICATION

Towson, Md. 4/3 1985
THIS IS TO CERTIFY, that the annexed advertisement was
published in the TOWSON TIMES, a weekly news-
paper distributed in Towson, Baltimore County, Md.,
once a week for 1 consecutive weeks, the
first publication appearing on the 13th day of
March 1985.

The TOWSON TIMES

Cost of Advertisement: \$29.15



MAP. 25
OW 24-0
 ELECTION
 DISTRICTS 8
 DATE 2/13
 TIME
 NAME SPH
JB
 BY

4233

NOTE: OUTLINE SHOWN HEREON
WAS PLOTTED BY DEEDS, PLATS &
OTHER SOURCES & IS NOT A
FIELD SURVEY