

IN RE: PETITION FOR SPECIAL HEARING
 W/S Maxwell Avenue, 750' SW
 of the c/l of Williams Avenue
 (1948 Maxwell Avenue)
 12th Election District
 7th Councilmanic District
 Paul Wollschlager, et al
 Petitioners

BEFORE THE
 DEPUTY ZONING COMMISSIONER
 OF BALTIMORE COUNTY
 Case No. 92-75-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The petitioners herein request a special hearing to approve the nonconforming use of four apartments on the subject property, in accordance with Petitioner's Exhibit 1.

The Petitioners, by Wayne E. Wollschlager, Sr. and Donald W. Wollschlager, Jr., appeared, testified, and were represented by Nancy Dwyer, Esquire. There were no Protestants.

Testimony indicated that the subject property, known as 1938 Maxwell Avenue, consists of 0.13 acres zoned D.R. 5.5 and is improved with a two-story frame dwelling containing four apartments. Petitioners were advised to file the instant Petition as a result of a zoning complaint filed with the Zoning Enforcement Division of Zoning Administration and Development Management. Proffered testimony indicated that the subject property was established as a four-apartment dwelling prior to 1945 and that the property has been used continuously and without interruption as four apartments since that time. To support their testimony, the Petitioners presented signed affidavits from Sherman Cook, Joseph Gray, Robert Pittman, and Robert Wilson, all of which indicated that the subject property existed as four apartments as far back as 1943 and that there has been no interruption in such use.

ORDER RECEIVED FOR FILING
 Date 11/23/91
 By [Signature]

A. With all non-conforming use cases, the first task is to determine what lawful non-conforming use existed on the subject property prior to January 1, 1945, the effective date of the adoption of the Zoning Regulations and the controlling date for the beginning of zoning.

The second principle to be applied, as specified in Section 101.1, is whether or not there has been a change in the use of the subject property. A determination must be made as to whether or not the change is a different use, and therefore, breaks the continued nature of the non-conforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered non-conforming. See McKemy v. Baltimore County, Md., 19 Md. App. 297, 365 A.2d 96 (1978).

When the claimed non-conforming use has changed, or expanded, then the Zoning Commissioner must determine whether or not the current use represents a permissible intensification of the original use or an actual change from the prior legal use. In order to decide whether or not the current activity is within the scope of the non-conforming use, the Zoning Commissioner should consider the following factors:

"(a) To what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(b) Is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

(c) Does the current use have a substantially different effect upon the neighborhood;

(d) Is the current use a "drastic enlargement or extension" of the original non-conforming use."

McKemy v. Baltimore County, Md., Supra.

ORDER RECEIVED FOR FILING
 Date 11/23/91
 By [Signature]

After due consideration of the testimony and evidence presented, it is clear that the subject property has been used continuously and without interruption as a four-apartment dwelling unit since prior to 1945 and as such, enjoys a legal nonconforming use.

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

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 23rd day of October, 1991 that the Petition for Special Hearing to approve the nonconforming use of four apartments on the subject property, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED.

[Signature]
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

TMK:bjs

ORDER RECEIVED FOR FILING
 Date 11/23/91
 By [Signature]

Baltimore County Government
 Zoning Commissioner
 Office of Planning and Zoning

111 West Chesapeake Avenue
 Towson, MD 21204

October 23, 1991

887-3353

Nancy Dwyer, Esquire
 814 Eastern Boulevard
 Baltimore, Maryland 21221

RE: PETITION FOR SPECIAL HEARING
 W/S Maxwell Avenue, 750' SW of the c/l of Williams Avenue
 (1938 Maxwell Avenue)
 12th Election District - 7th Councilmanic District
 Paul Wollschlager, et al - Petitioners
 Case No. 92-75-SPH

Dear Ms. Dwyer:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,
 [Signature]
 TIMOTHY M. KOTROCO
 Deputy Zoning Commissioner
 for Baltimore County

TMK:bjs

cc: John B. Gontrum, Esquire
 814 Eastern Boulevard, Baltimore, Md. 21221

People's Counsel

Elie

PETITION FOR SPECIAL HEARING
 TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: **92-75-SPH**

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 for Non-Conforming Use for four apartments, D.R. 5.5.

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:	Legal Owner(s):
(Type or Print Name)	Paul Wollschlager
Signature	[Signature]
Address	Wayne Wollschlager
City and State	[Signature]
Attorney for Petitioner:	Donald Wollschlager, Legal Owner
John B. Gontrum, Esquire	Paul Wollschlager 574-1710
(Type or Print Name)	Address Phone No.
Signature	949 Homberg Avenue, Balto., MD 21221
814 Eastern Boulevard	City and State
Address	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Baltimore, Maryland 21221	Paul Wollschlager
City and State	Name
Attorney's Telephone No. 686-8274	949 Homberg Avenue 574-1710
	Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this _____ day of _____, 19____, 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 had before the Zoning Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the _____ day of _____, 19____, at _____ o'clock

Zoning Commissioner of Baltimore County.

(over)

ORDER RECEIVED FOR FILING
 Date 11/23/91
 By [Signature]

Phone: 687-6922

FRANK S. LEE
 Registered Land Surveyor

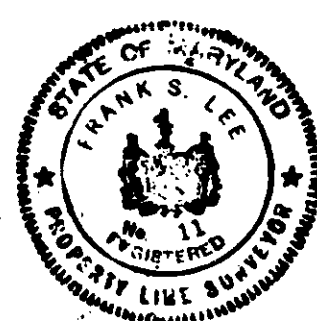
1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

May 15, 1990 **92-75-SPH**

1938 Maxwell Avenue
 12th District Baltimore County, Maryland

Beginning for the same on the west side of Maxwell Avenue at the distance of 750 feet measured southerly along the west side of Maxwell Avenue from the south side of Williams Avenue and being known as Lots 142 and 143 as laid out and shown on the plat of New Pittsburg, said plat being recorded among the land records of Baltimore County in Plat Book 3 folio 72.

Containing 5474.75 square feet of land.



CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: _____ Date of Posting: _____
 Posted for: _____
 Petitioner: _____
 Location of property: _____
 Location of Sign: _____
 Remarks: _____
 Posted by: _____ Signature _____ Date of return: _____
 Number of Signs: _____

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle

4 N. Center Place
 P.O. Box 8936
 Dundalk, Md. 21222

September 12, 1991

THIS IS TO CERTIFY, that the annexed advertisement of Baltimore County Zoning Office - Notice of Hearing - Case #92-75-SPH - P.O. #0114511 - Reg. #M54994 - 57 lines @ \$28.50 WAS INSERTED IN **The Dundalk Eagle** a weekly newspaper published in Baltimore County, Maryland, once a week for ONE successive weeks before the 13th day of SEPTEMBER 1991; that is to say, the same was inserted in the issues of September 12, 1991.

Kimbel Publication, Inc.
 per Publisher.

By [Signature]

Baltimore County Government
 Office of Zoning Administration
 and Development Management
 Office of Planning & Zoning
 111 West Chesapeake Avenue
 Towson, Maryland 21204
 887-3353

NOTICE OF HEARING
 The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
CASE NUMBER: 92-75-SPH
1938 Maxwell Avenue, 750' SW of c/l Williams Avenue, 12th Election District 7th Councilmanic District
Petitioners:
 Paul Wollschlager, et al
OCTOBER 16, 1991 at 6:30 a.m.
 Special Hearing to approve a non-conforming use for four apartments.
J. ROBERT HAINES
 Zoning Commissioner of Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD., _____, 19____

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on _____, 19____.

THE JEFFERSONIAN,

[Signature]
 Publisher

NOTICE OF HEARING
 The Zoning Commissioner of Baltimore County by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 108 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:
CASE NUMBER: 92-75-SPH
1938 Maxwell Avenue, 750' SW of c/l Williams Avenue, 12th Election District 7th Councilmanic District
Petitioners:
 Paul Wollschlager, et al
OCTOBER 16, 1991 at 6:30 a.m.
 Special Hearing to approve a non-conforming use for four apartments.
Zoning Commissioner of Baltimore County
1088 September 12

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21284

Account # 001 6150
 Number

Date

11/1/91

1192000428

DESCRIPTION	QTY	PRICE
PUBLIC HEARING FEES		
SPECIAL HEARING (OTHER)	1 X	\$175.00
TOTAL:		\$175.00

NAME OF OWNER: WOLLSCHLAGER

Please Make Checks Payable To: Baltimore County
 BA CO1127408-14-91

Baltimore County Zoning Commissioner
 County Office Building
 111 West Chesapeake Avenue
 Towson, Maryland 21284

Account # 001 6150
 Number

Date

11/1/91

Please Make Checks Payable To: Baltimore County

Baltimore County Government
 Office of Zoning Administration and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21284

887-3353

DATE: _____

Paul Wollschlager, et al
 949 Homberg Avenue
 Baltimore, MD 21221

RE:
 CASE NUMBER: 92-75-SPH
 W/S Maxwell Avenue, 750' Sly of c/l Williams
 1938 Maxwell Avenue
 12th Election District - 7th Councilmanic
 Petitioner(s): Paul Wollschlager, et al
 HEARING: WEDNESDAY, OCTOBER 16, 1991 at 9:30 a.m.

Dear Petitioner(s):

Please be advised that \$ 175.00 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE CHECK SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

John Contrum
 ZONING COMMISSIONER
 BALTIMORE COUNTY, MARYLAND

cc: John Contrum, Esq.

Baltimore County Government
 Office of Zoning Administration and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21284

887-3353

AUGUST 23, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21284 as follows:

CASE NUMBER: 92-75-SPH
 W/S Maxwell Avenue, 750' Sly of c/l Williams
 1938 Maxwell Avenue
 12th Election District - 7th Councilmanic
 Petitioner(s): Paul Wollschlager, et al
 HEARING: WEDNESDAY, OCTOBER 16, 1991 at 9:30 a.m.

Special Hearing to approve a non-conforming use for four apartments.

J. Robert Hines
 Zoning Commissioner of
 Baltimore County

cc: John Contrum, Esq.
 Wollschlager

Baltimore County Government
 Office of Zoning Administration and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21284

887-3353

October 1, 1991

John B. Gontrum, Esquire
 814 Eastern Blvd
 Baltimore, MD 21221

RE: Item No. 72, Case No. 92-75-SPH
 Petitioner: Paul Wollschlager, et al
 Petition for Special Hearing

Dear Mr. Gontrum:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. 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.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
 JAMES E. DYER
 Chairman
 Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. Paul Wollschlager
 949 Homberg Avenue
 Baltimore, MD 21221

Baltimore County Government
 Office of Zoning Administration and Development Management
 Office of Planning & Zoning

111 West Chesapeake Avenue
 Towson, MD 21284

887-3353

Your petition has been received and accepted for filing this 14th day of August, 1991.

Arnold Jablon
 ARNOLD JABLON
 DIRECTOR

Received By:
James E. Dyer
 Chairman,
 Zoning Plans Advisory Committee

Petitioner: Paul Wollschlager, et al
 Petitioner's Attorney:

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: September 13, 1991
 Zoning Administration and Development Management

FROM: Pat Keller, Deputy Director
 Office of Planning and Zoning

SUBJECT: HELBING Property, Item No. 53
 Smith Property, Item No. 64
 McClure Property, Item No. 65
 Boehmein Property, Item No. 66
 Marx Property, Item No. 68
 Buie Property, Item No. 69
 Pulaski Property, Item No. 70
 Wollschlager Property, Item No. 72
 Bray Property, Item No. 74
 Graves Property, Item No. 75
 Sylvia Property, Item No. 76
 Long Property, Item No. 78
 Pearl Property, Item No. 79
 Casey Property, Item No. 80
 Edwards Property, Item No. 81
 Tyson Property, Item No. 85
 Skidmore Property, Item No. 88
 Williams Property, Item No. 89
 Restivo Property, Item No. 90
 Didier Property, Item No. 97
 Wesolowski Property, Item No. 102
 Griffin Property, Item No. 103
 Burgwin Property, Item No. 104
 Ghent Property, Item No. 110
 Lingg Property, Item No. 111
 Bates Property, Item No. 112
 Bond Property, Item No. 115

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/rdn
 ITEM47/TXTROZ

Baltimore County Government
 Fire Department

700 East Joppa Road, Suite 901
 Towson, MD 21284 5500

(301) 887-4500

SEPTEMBER 16, 1991

Arnold Jablon
 Director
 Zoning Administration and Development Management
 Baltimore County Office Building
 Towson, MD 21204

RE: Property Owner: PAUL WOLLSCHLAGER
 Location: #1938 MAXWELL AVENUE
 Item No.: 72 Zoning Agenda: AUGUST 27, 1991

Noted and Approved
 Planning Group Fire Prevention Bureau
 Special Inspection Division

JP/KEK

BALTIMORE COUNTY, MARYLAND
 INTER-OFFICE CORRESPONDENCE
 September 27, 1991

TO: ZONING COMMISSIONER, DEPARTMENT ZONING

FROM: RICHARD F. SEIM, PLANS REVIEW CHIEF,
 DEPARTMENT OF PERMITS & LICENSES

SUBJECT: ZONING ITEM #: 72
 PROPERTY OWNER: Paul Wollschlager, et al
 LOCATION: W/S Maxwell Avenue, 750' Sly of Centerline Williams (#1938 Maxwell Avenue)
 ELECTION DISTRICT: 12th
 COUNCILMANIC DISTRICT: 7th

A REVIEW OF THE SITE PLAN FOR THE ABOVE ZONING ITEM INDICATES THE FOLLOWING:

() PROPOSED SITE PLAN DOES, DOES NOT, COMPLY TO STATE CODE OF MARYLAND REGULATION 05.02.02, MARYLAND BUILDING CODE FOR THE HANDICAPPED.

() PARKING LOCATION () RAMPS (degree slope)
 () NUMBER PARKING SPACES () CURB CUTS
 () BUILDING ACCESS () SIGNAGE

(V) PLAN DOES, DOES NOT COMPLY TO SET BACKS FOR EXTERIOR FIRE SEPARATION DISTANCE OF ARTICLE 5 AND ARTICLE 9 OF THE CURRENT BALTIMORE COUNTY BUILDING CODE.

(V) A BUILDING PERMIT IS REQUIRED BEFORE ANY CONSTRUCTION CAN BEGIN. SECTION 111.1 OF ARTICLE 1. CONSTRUCTION DRAWINGS MAY BE REQUIRED.

(V) A CHANGE OF OCCUPANCY PERMIT IS REQUIRED TO CHANGE THE EXISTING USE OF THE STRUCTURE TO THE PROPOSED USE. SEE ARTICLE THREE AND ARTICLE ONE, SECTION 103.2 ALTERATIONS MAY BE NECESSARY BY CODE TO COMPLY TO NEW USE REQUIREMENTS.

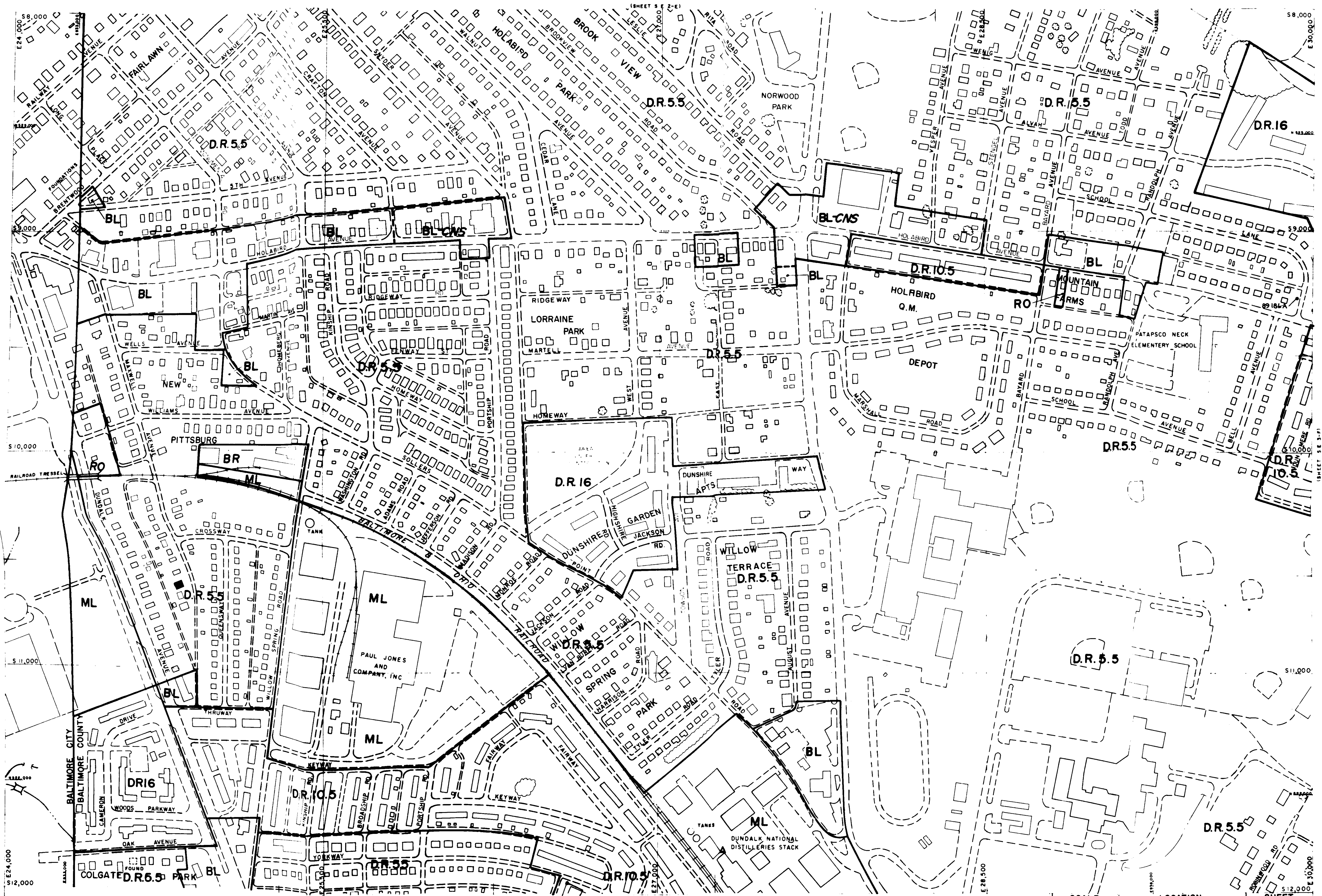
() STRUCTURE IS SUBJECT TO FLOOD PLAIN LIMITATIONS. SECTION 517.0 COUNCIL BILL #192-90 (BALTIMORE COUNTY BUILDING CODE).

() OTHER -

PERMITS MAY BE APPLIED FOR @ ROOM 100, 111 WEST CHESAPEAKE AVENUE, TOWSON, MARYLAND 21204 - PHONE - 887-3900.

THIS REVIEW COVERS ONLY MAJOR ITEMS ASSOCIATED WITH THE SITE PLAN. A FULL REVIEW MAY BE CONDUCTED WHEN THE PERMIT APPLICATION AND PLANS ARE SUBMITTED.

APPLICABLE CODE: 1990 NATIONAL BUILDING CODES AS ADOPTED BY COUNTY COUNCIL BILL #192-90 EFFECTIVE 1/13/91



F-NE E-NW
F-SE E-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
13, 1988

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE
1" = 200'
DATE OF PHOTOGRAPHY
JANUARY 1986

LOCATION
DUNDALK

SHEET
S E
3-E

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

DR. 144-08, 145-01, 146-01, 147-01, 148-01, 149-01, 150-01
Deborah...
Chairman, County Council