

IN THE MATTER OF
THE APPLICATION OF
CLOVERLAND FARMS DAIRY, INC.
FOR A ZONING RECLASSIFICATION FROM
B.R. TO B.R.-A.S. ON PROPERTY
LOCATED ON THE NORTHEAST SIDE BACK
RIVER NECK ROAD, CORNER S/S
MIDDLEBOROUGH ROAD
(1601 MIDDLEBOROUGH ROAD)
15TH ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. R-96-200
* (Out of Cycle)
*

* * * * *

O P I N I O N

This case comes before the Board as an out-of-cycle Petition for Zoning Reclassification from B.R. to B.R.-A.S. of a .14 acre of property located at the southeast corner of Middleborough Road and Back River Neck Road in the Fifth Councilmanic District of Baltimore County.

In 1967, the site was the subject of a Reclassification Petition which requested the overlaying of the existing B.R. zoning with a C.N.S. district. The Board of Appeals in Case No. 66-123-X granted the requested application, but at that time the zoning line was incorrectly drawn by the Zoning Office. This error has been perpetrated on each successive Comprehensive Zoning Map ever since through 1992, and the subject property's zoning has not corresponded to the Board of Appeals Order of June 15, 1968.

In 1993, Bill No. 172 consolidated the C.N.S. district into the A.S. (automotive service) district, created due to the increase of fuel service stations with convenience store operations.

Jeffrey Long, of the Baltimore County Office of Planning, testified before this Board as to his involvement in all cases of zoning reclassification, and his familiarity with the subject property since 1971. The first Comprehensive Zoning Map was adopted in 1971, and the mistake made was carried over to the 1971

MICROFILMED

map and each successive map. Compounding the error further, the zoning line drawn did not correspond precisely to what was presented, and the C.N.S. (A.S.) district line falls in the middle of a building constructed as an auto repair facility.

Counsel for the Petitioner, Cloverland Farms Dairy, proposes the A.S. district application in order to facilitate a complete renovation of the subject property, which is part of a larger parcel of land owned by the applicant. With the approval, the Petitioner plans to improve the site with a Royal Farm Store in combination with fuel pumps.

Thomas Woolfolk, Landscape Architect, researched the County Board of Appeals Order 66-123-X and determined that the area under consideration today, with the remainder of the property, matches the County Board of Appeals Order.

Protestants in this case were Eugenia Colvin and her son, Thomas Colvin. The Colvins testified regarding the serious water run-off from the Farm Store property to their neighboring residential property. Photographs of the flooding of their property (People's Counsel Exhibits 1A, 1B and 1C) give evidence of a serious storm water drainage problem. Past contacts with Cloverland Farms to address the difficulty have resulted in denials that they are responsible. The Colvins also objected to trash coming from the store facility. The Board feels that this is an existing site difficulty which should be addressed as an engineering consideration at such time as Petitioner files for a Special Exception for the proposed use, and which Permits & Development Management should address.

MICROFILM

In addressing this matter, the Board must consider Section 2-356(j) of the Baltimore County Code. The projected reclassification is warranted, as recommended by the Office of Planning, to correct a drafting error, and that the requested classification is consistent with uses which are already in place or used in the past.

The issues concerning population trends, adequacy and availability of public utilities, transportation, schools and recreational facilities under the prospective B.R.-A.S. classification, with the character of the surrounding area, have been met. Therefore, the Board finds that the Petitioner has met the burden under Code sections for reclassification.

O R D E R

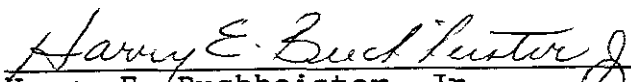
ACCORDINGLY, IT IS this 24th day of January, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification from B.R. to B.R.-A.S. be and is hereby GRANTED.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY


Robert O. Schuetz, Chairman


Harry E. Buchheister, Jr.


S. Diane Levero



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

January 24, 1996

Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204

RE: Case No. R-96-200
Cloverland Farms Dairy, Inc.

Dear Mr. Hoffman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Riddlye for
Kathleen C. Bianco
Administrative Assistant

Enclosure

cc: Cloverland Farms Dairy, Inc.
on behalf of Royal Farm Stores
G.W. Stephens & Associates, Inc.
James Earl Kraft
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
W. Carl Richards /PDM
Docket Clerk /PDM
Arnold Jablon, Director /PDM



R-96-200
#189



Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at Southeast Corner of Middleborough &
Back River Neck Roads

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the

Zoning Law of Baltimore County, from an BR zone to an BR-AS zone, for the reasons given in the attached statement; and (2) for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Regulations of Baltimore County:

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

I, or we, agree to pay expenses of above Special Exception 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/Lessee.

(Type or Print Name)

Signature

Address

City

State

Zipcode

Attorney for Petitioner.

Robert A. Hoffman

(Type or Print Name)

Signature Venable, Baetjer and Howard, LLP

210 Allegheny Avenue 494-6200
Address Phone No.

Towson MD 21204
City State Zipcode

Legal Owner(s).

Cloverland Farms Dairy, Inc.

(Type or Print Name)

By:

Signature John M. Kemp, Vice President

(Type or Print Name)

Signature

2200 N. Monroe Street

Address

Phone No.

Baltimore, MD 21217

City

State

Zipcode

Name, Address and phone number of legal owner, contract purchaser or representative to be contacted.

Robert A. Hoffman

Venable, Baetjer and Howard, LLP

Name

210 Allegheny Avenue

Towson, MD 21204 494-6200
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: CAM DATE 11-1-95

MICROFILMED

Cloverland Farms Dairy

Description to Accompany Zoning Petition

October 19, 1995

Description of area to be reclassified at the Cloverland Farms property near the southeastern corner of Middleborough Road and Back River Neck Road to accompany request for Zoning Reclassification.

BEGINNING at a point on the southerly right-of-way line of Middleborough Road, said point of beginning being also located the following courses and distances from the intersection of the centerlines of Back River Neck Road and Middleborough Road;

1. South 58° 47' 05" East 55.00 feet ,
 2. North 31° 12' 55" East 7.68 feet,
 3. South 58° 18' 45" East 96.66 feet,
 4. South 69° 50' 18" East 78.07 feet, and
 5. North 85° 56' 27" East 7.99 feet, thence leaving said point of beginning, and leaving the southerly right-of-way of Middleborough Road and running the following courses and distances;
1. South 33° 10' 35" West 176.38 feet; to the northerly right-of-way line of Back River Neck Road; thence binding on said northerly right-of-way line;
 2. North 38° 56' 29" West 44.00 feet; thence leaving the northerly right-of-way line of Back River Neck Road; and running the following course and distance;
 3. North 34° 00' 00" East 135.50 feet to the the southerly right-of-way line of Middleborough Road, thence binding on said southerly right-of-way line, and running the following course and distance;
 4. North 85° 56' 27" East 48.00 feet to the to the point of beginning.

Containing 0.14 acres of land, more or less.

NOTE: The above description is for zoning purposes only and is not to be used for any conveyances or agreements.



unrecorded

CERTIFICATE OF POSTING

P-96-200

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 15th

Date of Posting 11/18/95

Posted for: Rockwell Eco 703

Petitioner: Chorland Farms Dairy Inc

Location of property: 1601 Middleborough Rd

Location of Signer: Farming road way on property being zoned

Remarks:

Posted by [Signature]
Signature

Date of return: 11/24/95

Number of Signs: 1

UNRECORDED

**NOTICE OF HEARING
PETITION FOR
RECLASSIFICATION**

Case #R-95-200 (Item 189)
NE's Back River Neck Road,
corner S/S Middleborough
Road
1607 Middleborough Road
15th Election District
6th Councilmanic
Lepid Quarry(s)
Cleveland Farms Dairy, Inc.
Petition to change zoning clas-
sification from B.R. to
B.R.-A.S.
HEARING: THURSDAY, DE-
CEMBER 7, 1995 AT 1:00
P.M. BEFORE THE COUNTY
BOARD OF APPEALS, ROOM
48, OLD COURTHOUSE, 400
WASHINGTON AVENUE,
TOWSON, MD.
ROBERT O. SCHULTZ,
CHAIRMAN
COUNTY BOARD OF AP-
PEALS
11/23/95 Nov. 16, C17915

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

March 1, 1995

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 1 successive weeks, the first publication appearing on *March 16, 1995*

THE JEFFERSONIAN,

LEGAL AD. - TOWSON

A. Henrich

*Received 12/07/95
@ 1:00 p.m.*

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

No. 154327

ITEM ~~154327~~
CASE #R-96-200

DATE 11/1/95

ACCOUNT 001-6150

AMOUNT \$ 535.00 (CAM)

RECEIVED
FROM:

Venable, Baetjer & Howard

OUT-OF-CYCLE RECLASSIFICATION PETITION

SEC Middleborough & Back River Neck Roads

FOR: Cloverland Farms Dairy, Inc.

#072 (\$500) + #080 (\$35)

Reclass: 801:AD Sign

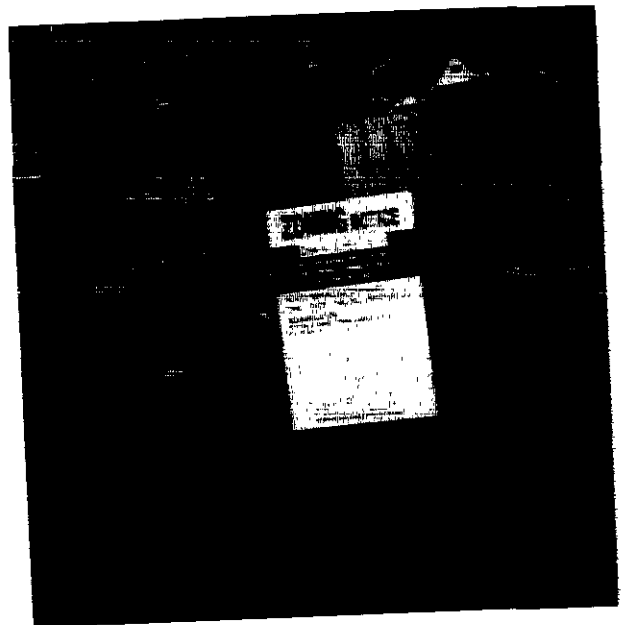
VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER

PINK - AGENCY

YELLOW - CUSTOMER

BOA has
1 original
Petition
Hgha



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

No. 154327

ITEM #189
CASE #R-96-200

DATE 11/1/95

ACCOUNT

001-6150

AMOUNT \$ 535.00 (C.A.M.)

RECEIVED FROM:

Venable, Baetjer & Howard

FOR:

OUT-OF-CYCLE RECLASSIFICATION PETITION

SEC Middleborough & Back River Neck Roads

Cloverland Farms Dairy, Inc.

#072 (\$500) + #080 (\$35)

Rec'd \$140116MSTBMC

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER
PINK - AGENCY
YELLOW - CUSTOMER

To: Patuxent Publishing
For: 11/16/95 Issue of Jeffersonian

Please forward billing to:

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard LLP
210 Allegheny Avenue
Towson, MD 21204
494-6200

NOTICE OF HEARING
PETITION FOR RECLASSIFICATION

CASE NUMBER: R-96-200 (Item 189)
NE/S Back River Neck Road, corner S/S Middleborough Road
1601 Middleborough Road
15th Election District - 5th Councilmanic
Legal Owner: Cloverland Farms Dairy, Inc.

Petition to change zoning classification from B.R. to B.R.-A.S.

HEARING: THURSDAY, DECEMBER 7, 1995 AT 1:00 P.M. BEFORE THE COUNTY BOARD OF
APPEALS, ROOM 49, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON MD.

ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

Post-it™ Fax Note	7671	Date 11-13	# of pages 1
To JEFF		From GWEN	
Co./Dept. LEGAL		Co. ZONING	
Phone #		Phone # 887-3371	
Fax # 296-2707		Fax # 887-5703	

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

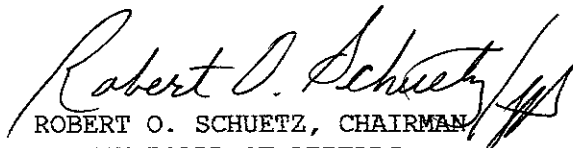
NOVEMBER 13, 1995

NOTICE OF HEARING
PETITION FOR RECLASSIFICATION

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NE/S Back River Neck Road, corner S/S Middleborough Road
1601 Middleborough Road
15th Election District - 5th Councilmanic
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ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

ROS:ggs

cc: Cloverland Farms Dairy, Inc.
Robert A. Hoffman, Esq.

Copy to People's Counsel 11/14/95

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

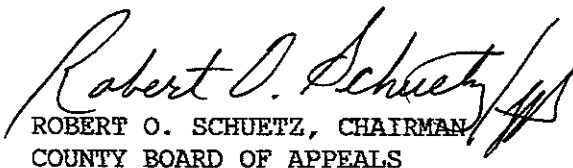
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PETITION FOR RECLASSIFICATION

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NE/S Back River Neck Road, corner S/S Middleborough Road
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APPEALS, ROOM 49, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON MD.


ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

ROS:ggs

cc: Cloverland Farms Dairy, Inc.
Robert A. Hoffman, Esq.

12/07/95 -Hearing concluded. Deliberation immediately following close of hearing;
Petition for Reclassification to be GRANTED; written Opinion/Order to be
issued. Appellate period to run from date of that written Order. (R.B.M.)

RECEIVED
DEC 10 1995



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 1, 1995

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: Item No.: 189
Case No.: R-96-200
Petitioner: Cloverland Farms

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 1, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

W. Carl Richards

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 11/08/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: CLOVERLAND FARMS DAIRY, INC.

LOCATION: NE/S BACK RIVER NECK RD., CORNER S/S MIDDLEBOROUGH RD.
(1601 MIDDLEBOROUGH RD.)

Item No.: 189

Zoning Agenda: SPECIAL HEARING

Gentlemen:

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

7. The Fire Marshal's Office has no comments at this time.

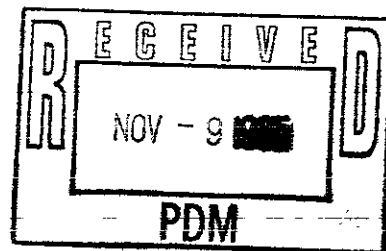
REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Printed on Recycled Paper

MICROFILMED





**Maryland Department of Transportation
State Highway Administration**

David L. Winstead
Secretary
Hal Kassoff
Administrator

11-6-95

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 189
CASE NO. # R-96-200

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for *Bob Small*
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

MICROFILMED

Green - file

BALTIMORE COUNTY, MARYLAND
Interoffice Correspondence

TO: W. Carl Richards, Jr. DATE: November 9, 1995
Zoning Supervisor

FROM: *Pub* Robert W. Bowling, P.E., Chief
Development Plans Review Division

SUBJECT: Out-of-Cycle Open Zoning Reclassification Petition
Case No. R-96-200 (No. 189)
Cloverland Farms Dairy, Inc.
District 15C5

Permits for this development are subject to compliance
with the Landscape Manual.

RWB:sw

R. 96-200
#189

5111-95
10/18/95
J

B A L T I M O R E C O U N T Y , M A R Y L A N D

Inter-Office Correspondence

TO: W. Carl Richards, PDM

DATE: October 18, 1995

FROM: Kathleen C. Weidenhammer
County Board of Appeals

SUBJECT: Out-of-Cycle Exemption-
Request for Reclassification /Southeast Corner of
Middleborough Road and Back River Neck Road filed by
Cloverland Dairies, Inc., on behalf of Royal Farm Stores
Fifth Councilmanic District
Approval by County Council October 16, 1995
Date for Hearing before the Board 12/07/95 @ 1:00 p.m.

Carl:

Pursuant to Section 2-356(i), the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Thursday, December 7, 1995 at 1:00 p.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its October 16, 1995 meeting (a copy of Resolution 62-95 is attached for your information and file).

I have copied Gwen on this memorandum so that the necessary advertising and posting can be accomplished by your office and notices sent to the appropriate parties reflecting the hearing date of December 7, 1995.

Should you have any questions, please call me at extension 3180.

cc: Gwen Stephens
Jeffrey Long /Planning
Office of People's Counsel
Arnold Jablon, Director /PDM

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BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

file copy

TO: W. Carl Richards, PDM

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SUBJECT: Out-of-Cycle Exemption-
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Should you have any questions, please call me at extension 3180.

cc: Gwen Stephens
Jeffrey Long /Planning
Office of People's Counsel
Arnold Jablon, Director /PDM

see note!
Gwen: Please call me with the case number for this out-of-cycle so I can complete my docket entry. Also, please send me a copy of the notice sent to the parties regarding this hearing date.

Thanks
Kathi

MICROFILMED

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman DATE: November 30, 1995
 Board of Appeals

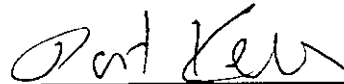
FROM: Arnold F. "Pat" Keller, III, Director
 Office of Planning

SUBJECT: Case No. R-96-200/Middleborough and Back River/
 Cloverland Farms Dairy, Inc.

At its regularly scheduled monthly meeting on September 21, 1995, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code to certify to the County Council that early action upon the Petition for zoning reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on October 16, 1995.

Enclosed herewith is a copy of the report of the Office of Planning.



Arnold F. "Pat" Keller, III

AFK:JL:lw
PKR96.200/PZONE/TXTLLF

Enclosure

NOV 30 1995

MICROFILMED

CASE NO. R-96-20C

PETITIONER:

Cloverland Farms Dairy, Inc.

REQUESTED ACTION:

Reclassification to B.R.-A.S.

LOCATION:

Southeast corner of Middleborough Road and Back River Neck Road

AREA OF SITE:

.14 acre

SITE DESCRIPTION:

The site is currently improved with a portion of a poorly maintained service garage.

PROPERTIES IN THE VICINITY:

The subject property is bounded to the west by the remaining part of the aforementioned service garage operation, and associated unscreened storage area which suffers to a degree from deferred maintenance. The Middleborough Apartment complex is located to the south, detached single-family dwellings are situated to the north and a restaurant is located immediately to the east.

WATER AND SEWERAGE:

The area is served by public water and sewer, and is designated as W-1, S-1 (existing service area) according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS:

The site has direct access to Back River Neck Road, which is Back River Neck Peninsula's only arterial running north and south with access to MD 702 and Eastern Avenue.

ZONING HISTORY:

In 1967, the site was the subject of a Reclassification Petition which requested the overlaying of the existing B.R. zoning with a C.N.S. (now A.S.) district. The Board of Appeals granted the requested district application. Unfortunately, at that time,

the zoning line was incorrectly drawn by the Zoning Office and this error has been perpetuated on each successive Comprehensive Zoning Map. through 1992. Therefore, since 1968 the subject property's zoning has not corresponded to the Board of Appeals Order (see Case No. 66-123X).

MASTER PLAN:

The Growth Management Area Map indicates the applicant's site is located within a Community Conservation Area. The Baltimore County Growth Management Program Guidelines for the 1992 Comprehensive Zoning Process, which were adopted by the Baltimore County Planning Board and approved by the Baltimore County Council on January 23, 1992, state the following:

- The viability of existing commercial nodes and corridors in Community Conservation Areas is best enhanced by maximizing the use of existing commercial zoning. Granting additional business zoning, especially along major roadways, can drain existing business areas. Intrusions of nonresidential zoning can destabilize existing neighborhoods and set up a domino effect of encouraging adjacent property owners to seek additional business zoning.

PROPOSED VS. EXISTING ZONING:

Regulations governing the B.R. zone may be found in Section 236.1 of the Baltimore County Zoning Regulations. The B.R. zone allows a wide range of uses in addition to those uses permitted in the B.M. zone. Density is regulated by a floor area ratio of 2.0; however, density is realistically limited by parking requirement and economic constraints. Building height is limited by height tent regulations, and setbacks include front yards not less than 25 feet from the centerline of any street (see Section 303.2 for front yard average). Side and rear yard setbacks for buildings are 30 feet, and all parking must be set back eight (8) feet from residential zones.

Bill No. 172, 1993 consolidated the C.S.A., C.N.S., C.S.1 and C.S.2 districts into the A.S (Automotive Service) district. The A.S. district was created due to the rise of self-service stations. The number of businesses that "service" motor-vehicles by providing repair facilities has been steadily declining, while the number of stations with convenience stores or car wash operations has been increasing.

It is the intent of Section 405 of the Baltimore County Zoning Regulations that fuel service stations be permitted provided that such uses are designated and located in accordance with the goals of the Master Plan and duly adopted community plans.

RECOMMENDATION:

The applicant proposes the district application in order to facilitate a complete renovation of the subject property which is part of a larger parcel of land. If approved, the Petitioner would have the ability to improve the site with a Royal Farm Store in combination with fuel pumps.

As previously stated, the property was subject of a Reclassification Petition which was granted by the Board of Appeals in 1968. A review of the file in that case revealed an approved, undated development plan. Signed approval dates indicated that the Office of Planning and Zoning and Bureau of Traffic Engineering approved the plan on April 30, 1968 and April 26, 1968, respectively. It should be noted that the subject property's zoning is indicated as B.R-C.N.S. on the plan.

It is important to note that no plat accompanying the Reclassification Petition could be found in the file, however, a metes and bounds description was provided, and when the request was granted, the Board of Appeals must have approved the application of the C.N.S. district based on the plan that later became the development plan, or on the metes and bounds description. Based upon the development plan and/or the metes and bounds description, it appears clear that the Board of Appeals intended to include the subject property within the C.N.S. district. As a result of a drafting error, however, the zoning request, as indicated on the plan and the metes and bounds description, was not accurately identified on the 1955 Zoning Map, which was the official map at that time. In 1971, the first Comprehensive Zoning Map was adopted, and the mistake made on the 1955 map was carried over to the 1971 map and has been perpetuated on each successive map.

Based upon a review of the information provided and analysis conducted, it is clear that an error predating the first Comprehensive Zoning Map Process occurred in 1967. Obviously, it was never the intent of the County Council to remove the district application on the subject property. Therefore, staff recommends that the applicant's request be granted.

R96200/PZONE/TXTJWL

MICROFILMED



Baltimore County
Planning Board

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3495
Fax: (410) 887-5862

September 26, 1995

Hon. Vincent J. Gardina
Chairman, Baltimore County Council
County Courthouse
Towson, Maryland 21204

Re: Certification on Reclassification
Petition - Middleborough and Back
River Neck Roads

Dear Councilman Gardina:

At its regular monthly meeting on September 21, 1995, the Baltimore County Planning Board voted, in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the petition for zoning reclassification of the property at the intersection of Middleborough and Back River Neck Roads is manifestly required.

Enclosed is the report on this matter by the Office of Planning, as accepted by the Planning Board. The planning staff will be pleased to assist the Council in the consideration of this matter.

Sincerely,

Pat Keller
Secretary

PK/TD/rlh

Enclosure

cc: Members, Baltimore County Council
Merreen E. Kelly, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe
Robert O. Schuetz, Chairman, Board of Appeals
Arnold Jablon, Director, PDM
Peter Max Zimmerman, People's Counsel
Robert A. Hoffman, Petitioner's attorney

PETITION.RH/PZONE/TXTRLH

95SEP 28 11:11:39

UNRECORDED

Res. 62-95

11/15 -> 1/14

11/01 -> 12/31 if on

Holding 11/02/95 10:00 am

10/16

11/02 Council Agenda





Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3211
Fax: (410) 887-5862

TO: Baltimore County Planning Board DATE: September 7, 1995

FROM: Arnold F. "Pat" Keller, III
Director
Office of Planning

SUBJECT: REQUEST FOR CERTIFICATION - SOUTHEAST CORNER OF
MIDDLEBOROUGH ROAD AND BACK RIVER NECK ROAD

The attached letter from Robert A. Hoffman, Esquire, on behalf of Royal Farm Stores which, through its parent company, Cloverland Dairies, Inc., requests certification by the Planning Board for out of cycle action on a zoning petition for reclassification of the subject property from BR to BR-AS.

Section 2-356(i) of the Baltimore County Code authorizes the Planning Board to certify to the County Council that expedited scheduling of a reclassification hearing by the Board of Appeals "is manifestly required in the public interest or because of emergency." Neither the certification by the Planning Board nor a concurrence by the County Council would constitute an opinion on the merits of the petition; the effect is simply to take the petition out of the normal cycle zoning schedule for an earlier hearing.

The subject request for certification has been reviewed by planning staff and without taking a position on the merits of the case, we recommend to the Board that certification for early action upon this zoning classification petition is required.

A handwritten signature in cursive script that reads "Pat Keller".

Arnold F. "Pat" Keller

AFK:JL:lw
JLMIDB.KRV/PZONE/TXTLLF

Attachment



**BALTIMORE COUNTY COUNCIL AGENDA
LEGISLATIVE SESSION 1995, LEGISLATIVE DAY NO. 20
OCTOBER 16, 1995 7:30 P.M.**

95 OCT 18 PM 2:11

**A. MOMENT OF SILENT MEDITATION
PLEDGE OF ALLEGIANCE TO THE FLAG**

B. APPROVAL OF JOURNAL - Meeting of October 2, 1995

**C. ENROLLMENT OF BILLS - 147-95, 148-95, 149-95, 150-95, 151-95, 152-95, 153-95, 154-95, 155-95,
157-95, 158-95, 159-95, 160-95 & 161-95**

D. INTRODUCTION OF BILLS

BILL 182-95 - Mr. Gardina(By Req.) - CEB - Family Investment Center
BILL 183-95 - Mr. Gardina(By Req.) - CEB - MTA Central Light Rail Line Agreement
BILL 184-95 - Mr. Gardina(By Req.) - CEB - SARA Title III
BILL 185-95 - Cnclmbrs. Moxley & Riley - Zoning Regs. - Breweries
BILL 186-95 - Mr. Gardina(By Req.) - CEB - Videotape Pilot Project
BILL 187-95 - Mr. Gardina(By Req.) - Capital Budget - Community Colleges - Catonsville Community College

E. CALL OF BILLS FOR FINAL READING AND VOTE

BILL 162-95 - Mr. Gardina(By Req.) - CEB - Fire Dept. - Local Emergency Planning Committee
BILL 163-95 - Mr. Gardina(By Req.) - CEB - Fire Dept.-HAZ-MAT Team
BILL 164-95 - Mr. Gardina(By Req.) - CEB - Home Investment Partnerships Program
BILL 165-95 - Mr. Gardina(By Req.) - CEB - Public Health Dentistry
BILL 166-95 - Mr. Gardina(By Req.) - CEB - Baltimore City Office of Employment Development
BILL 167-95 - Mr. Gardina(By Req.) - CEB - Nursing Services

~~W/DRAWN BILL 168-95 - Mr. Moxley - Zoning Regs. - Elderly Housing Facilities~~

F. APPROVAL OF FISCAL MATTERS

1. Contract of Sale - Rahmat Rasson & Saced Mounessa - Riverwood Plaza
2. Contract of Sale - John T. Ross - Red Run Boulevard Project
3. Contract of Sale - Frederick N. & Sharon Ann Koenig - Red Run Boulevard
4. Contract of Sale - Lucille E. Whittingham - Red Run Boulevard
5. Contract - Greenhorne & O'Mara, Inc. - Water Transmission Main - Bethlehem Steel
6. BAT - Public Works - Vermont Avenue
7. BAT 96-3C - Board of Education - Wabash Ave. Bus Storage Facility
8. Contract - Fox Lawson & Associates - Gainsharing Program
9. Contract - Gaudreau, Inc. - Professional Services - County Courts Building
10. BAT 96-2C - Catonsville Community College - Technical Arts Building
11. Contract - Greenhorne and O'Mara, Inc. - Cub Hill Elevated Tank Project

G. MISCELLANEOUS BUSINESS

1. Correspondence
2. Res. 61-95 - Mr. Gardina(By Req.) - Economic Development Revenue Bond - 660 Associates
3. Res. 62-95 - Mr. Gardina - Out of Cycle Zoning Reclassification - Royal Farm Stores - Back River Neck Road
4. Res. 63-95 - Mr. Gardina(By Req.) - North Point Blvd. & Kelso Drive Areas/State Enterprise Zones
5. Res. 64-95 - Mr. Gardina - Public Reservation - Portion of Owens Glen - Gunview Road
6. Res. 65-95 - Mr. DePazzo - NBDP Application - North Point Village Shopping Center
7. Res. 66-95 - Mr. Gardina - Planning Bd. - Registration of Rental Properties

10/16/95 CC

12/07/95 /hrng
1:00 p.m.

Cloverland Dairies, Inc.
for Royal Farm Stores
SE/cor Middleborough
Road and Back River Rd

Reclass: from
BR to BR-AS
5th Councilmanic
District

(Hoffman
8/18/95

MICROFILMED

95 OCT 17 PM 3:03



County Council of Baltimore County

Court House, Towson, Maryland 21204

(410) 887-3196

Fax (410) 887-5791

Stephen G. Samuel Moxley
FIRST DISTRICT

Kevin Kamenetz
SECOND DISTRICT

T. Bryan McIntire
THIRD DISTRICT

Douglas B. Riley
FOURTH DISTRICT

Vincent J. Gardina
FIFTH DISTRICT

Joseph Bartenfelder
SIXTH DISTRICT

Louis L. DePazzo
SEVENTH DISTRICT

Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

October 17, 1995

Robert O. Schuetz, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Schuetz:

Attached please find a copy of Resolution 62-95 which the County Council passed unanimously at its October 16, 1995 meeting.

Resolution 62-95 approves the Planning Board's certification that the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, for the property located at Back River Neck and Middleborough Roads and situated in the Fifth Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

This Resolution is being forwarded to you for appropriate action.

Sincerely,

A handwritten signature in cursive script, reading "Thomas J. Peddicord, Jr.", is written over a horizontal line.

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:dp
Enclosure
RO6295.TRN

RECORDED

R-96-200
#189

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1995, LEGISLATIVE DAY NO. 20

RESOLUTION NO. 62-95

MR. VINCENT J. GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 16, 1995

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, for the property located at Back River Neck and Middleborough Roads and situated in the Fifth Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated September 21, 1995, has certified that early action on the Petition for Zoning Reclassification filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, requesting a reclassification of the above described property, is manifestly required in the public interest or because of emergency; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-356(i), may approve said certification and exempt the Petition for Zoning Reclassification from the regular procedures of Section 2-356.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

ZONING ADVISORY COMMITTEE
MEETING OF NOVEMBER 6, 1995

Case Number: R-96-200
Item Number: 189
Legal Owner: Cloverland Farms Dairy, Inc.
Contract Purchaser: N/A
Location: NE/S Back River Neck Road, corner S/S
Middleborough Road (#1601 Middleborough Road)
Existing Zoning: B.R.
Proposed Zoning: B.R.-A.S.
Area: 0.14 (+/-) acres
District: 15th Election District
5th Councilmanic District

RECEIVED

ZONING ADVISORY COMMITTEE AGENDA
ROOM 301, COUNTY OFFICE BUILDING
DISTRIBUTION MEETING OF NOVEMBER 6, 1995

\$ Distributed at Meeting
* Agenda Only
+ Agenda and Petition
& Agenda and Plat
Agenda, Petition and Plat

Distribution:

* Zoning Commissioner's Office (Lawrence Schmidt); MS #2112
PDM, Zoning Review H.O. Hearing File (Gwendolyn Stephens)
PDM, Zoning Review Work File (Joyce Watson)
\$* PDM, Project Management (David Flowers)
\$* PDM, Project Management (Kurt Kugelberg)
* PDM, Code Enforcement (Helene Kehring)
\$* PDM, Zoning Review (John Alexander)
\$+ PDM, Development Plans Review (Dennis A. Kennedy)
\$* Planning Office Director (Pat Keller)
Planning Office (Jeffrey Long)
* Recreation and Parks (Ronald Schaeffer); MS #52
DEPRM (Larry Pilson) - 2 plats
* DEPRM, Air Quality Management (Dave Filbert); MS #3404
& State Highway Administration, Access Permits Division (David N. Ramsey)
& PDM, Building Plans Review (Lt. Robert Sauerwald); MS #1102F
* PDM, Building Plans Review (Dick Seim)
* Economic Development Commission, Business Develop. (Susan Brennan); MS #2M07
* Highways (Richard Cox); MS #1003
* Community Development (Amy Johanson); MS #1102M
+ People's Counsel (Peter Zimmerman); MS #2010
IF CRITICAL AREA, Maryland Office of Planning (Bill Carroll)
IF ELDERLY HOUSING, Community Development; MS #1102M

NOV 7 1995
11:00 AM

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with your office or department's code, standards or regulations. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" before the hearing date. If no written response is received by the committee before this hearing date, it is assumed that your agency has "no comment". All written comments must reference the ZAC item number. All comments received will be compiled and included in the zoning/development file for review and consideration by the hearing officer during the course of the upcoming zoning/development hearing.

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Joyce Watson. If you have any questions regarding these zoning petitions, please contact either Sophia Jennings or Carl Richards at 887-3391 (FAX - 887-5708).

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: November 2, 1995

TO: Baltimore County Zoning Plans Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Supervisor (887-3391)

SUBJECT: Out-of-Cycle Open Zoning Reclassification Petition
Case Number R-96-200
Legal Owner: Cloverland Farms Dairy, Inc.
Contract Purchaser: N/A
Address: 1601 Middleborough Road
Description: NE/S Back River Neck Rd., cor. S/S Middleborough Rd.
15th Election District; 5th Councilmanic District

THE ABOVE REFERENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON SEPTEMBER 21, 1995 AND BY RESOLUTION OF THE BALTIMORE COUNTY COUNCIL DATED OCTOBER 16, 1995 (ATTACHED). PURSUANT TO SECTION 2-356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE OF DECEMBER 7, 1995. YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS TO THIS OFFICE UNDER THE ABOVE REFERENCE PRIOR TO THE HEARING DATE. IF YOU SHOULD NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY, OR MYSELF IMMEDIATELY.

WCR:scj

Revised 11/1/95

11/1/95

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: CLOVERLAND FARMS DAIRY, INC. /ROYAL FARM STORES
Case No. R-96-200

DATE : December 7, 1995 /at conclusion of hearing

BOARD /PANEL : Robert O. Schuetz, Chairman (ROS)
S. Diane Levero (SDL)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Administrative Assistant

Those present included Robert A. Hoffman, Esquire, on behalf of Petitioner; and Carole S. Demilio, Deputy People's Counsel.

ROS: As indicated prior to the closing of the evidentiary portion of the proceeding, we are here now to deliberate the matter before the Board, and that being the out of cycle reclassification for the property at Middleborough Road and Back River Neck Road. Issue is whether the Petitioner has met the burden of Section 2-356. It's my opinion that the classification which was assigned to the property as a result of the Board's Case No. 66-123-X was not sufficiently applied by the Office of Zoning when the map was drawn; that the zoning classification in 1971 was in error; and that the error was perpetuated every comprehensive zoning map process hence; and, therefore, the comprehensive zoning map drafted in 1992 assigned the improper zoning classification, which is the matter before the Board today.

Therefore, I believe that the Petitioner has met the first requirement of Section 2-356(j), and that the second requirement, that the projected reclassification is warranted, has also been met in that the classification which is proposed is consistent with uses which are already in place; that we have evidence from the Protestants in this matter that an automotive filling station was used in the past. Issues concerning population trends, availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area -- all have been met.

An issue brought by People's Counsel and the Protestants concerning current on-site stormwater sewerage, which I consider to be an existing site difficulty, is an issue which

RECEIVED

Minutes of Deliberation /Cloverland Farm Dairy, Inc. R-96-200

is required to be addressed as an engineering consideration for any proposed use pursuant to any order which would grant -
- when considering order when Petitioner files a Petition for Special Exception for the proposed use - and is something which Permits and Development Management would have to address in comments.

Therefore, I would find that the Petitioner has met the burden under Code sections for reclassification.

SDL: I would concur with the Chairman; would grant the Petition for zoning reclassification. Jeff Long's testimony regarding the drafting error is undisputed. Would grant request.

HEB: The testimony of Mr. Long is most persuasive in this area. I concur with the remarks that the Chairman has made; that the reclassification from B.R. to B.R.-A.S. should be granted.

ROS closing: That concludes this matter. Look for a written Opinion and Order. If anyone wishes to file a petition for judicial review, it should be from the date of that Order and not from today's date.

Respectfully submitted,


Kathleen C. Bianco
Administrative Assistant

Rec +
Rev 27

BALTIMORE COUNTY BOARD OF APPEALS
GUIDE FOR PREPARATION OF RECLASSIFICATION PETITIONS

R-96-200
#189

Each petition request should include:

1. ^{ok} Three completed typewritten petition forms, indicating the existing and requested zoning; the special exception use, if applicable; and if applicable, the section number of the Baltimore County Zoning Regulations from which a variance is requested, as well as the nature and extent of the variance requested. All forms must be signed (original signature and title, if applicable; xerox copies are unacceptable) by the petitioner or his legally authorized representative. For persons signing in place of the legal owner, an authorization letter or copy of the power of attorney is required at the time of petition filing.
2. Four copies of the property description (saving and excepting all adjacent areas of public right-of-ways) FOR THE AREA OF RECLASSIFICATION ONLY, prepared and sealed by a surveyor or civil engineer. (See #4 of the reclassification checklist for sites where additional hearings are requested.)
3. Four copies ^{only 3} of a brief or an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the county authorities required to review the petition of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail and as further required by Section 2-356.(j) of the Baltimore County Code. If the petition filed is not a documented conditional use request, then this brief cannot document a proposed use without filing a complete documented petition.
4. Four ^{only 3} xerox copies each of that part of the appropriate official 1" = 200' and 1" = 1,000' scale zoning maps, with the outline of the property to be reclassified indicated thereon.
5. The appropriate filing fee and posting fee should accompany the petition request. However, the advertising should be paid as soon after billing as possible. Opinions may not be issued until all such costs are paid.
6. Twelve copies of a site plan (14 copies if in the critical area), the boundaries and location of which have been certified (sealed) by a registered surveyor or professional (civil) engineer. Said site plan shall include all applicable items on the attached checklist for reclassification petitions.

MICROFILMED

BALTIMORE COUNTY BOARD OF APPEALS
GUIDE FOR PREPARATION OF RECLASSIFICATION PETITIONS
PAGE 2

7. DOCUMENTED -- If said petition includes a "documentation" which identifies a proposed use and development of the property, that documentation must include the following information:
- a. Three copies of an environmental impact statement (5 copies if in critical area), as defined in Section 101 of the Baltimore County Zoning Regulations, that concerns the proposed use of the property under petition and that has been completely prepared and certified (sealed) by a professional engineer or planner of appropriate qualifications.
 - b. All information (items 1-22) on the following checklist.
 - c. If a precise building envelope is used in lieu of the exact positioning of the building(s) on the site plan, the proposed buildings' floor plan and elevation, including character and exterior materials, must be shown elsewhere on the site plan or on attached plans together with other documentation required in the aforementioned checklist. Said envelope may be larger than the actual proposed building, but must be precise enough in size and location to allow for a complete functional site layout, including but not limited to: entrances, driveways, parking and loading facilities, paved areas, proposed landscaping, screening, and major vegetation to be retained, etc. If an envelope is used, the envelope must meet all bulk and parking requirements or variances must be included in the petition.
 - d. No such petition may be accepted for filing unless it complies with these rules of practice and procedure, and all other pertinent zoning laws and regulations. These include the informational requirements of the current zoning public hearing checklists, which are required for determination of zoning compliance.
8. OPEN -- The petitioner may choose to submit "open" plans that do not show any proposed use of the property under petition, regardless of any requirement in these rules to the contrary. If an intended use is not indicated, the site plans must indicate only the first eight items on the following checklist. (Also, no existing buildings or uses can be shown on this "open" plan.)

CHECKLIST FOR INFORMATION TO BE SHOWN ON SITE PLANS
FOR RECLASSIFICATION PETITIONS

*Open Plan - No Use Indicated

- *1. North arrow (indicating the direction of north). Scale of drawing (engineer's scale).
- *2. Title plan: "Undocumented" or "Documented" (whichever applies) *Not in title* "Plan To Accompany Reclassification Petition". Include name, address, telephone number, and signed certification seal of engineer or surveyor preparing the plan. *Land scape architect*
- *3. Election district, councilmanic district, and whether or not the property is located in the Chesapeake Bay Critical Area (CBCA). Note on the plan that the site is or is not in a 100 year floodplain. Note on the plan if the site is within a moratorium area or in an area where failure of the basic services maps currently exists per Section 4A02 (BCZR). Identify the nature of the moratorium area or basic service failure. Any zoning variance requests from a failed basic services map is a "special variance" requiring additional fees and information. If this is to be requested, contact Zoning Administration (887-3391) for additional information before filing the petition.
- *4. Dimensions of property TO BE RECLASSIFIED (including bearings). Parcel under petition should be in bold outline. If separate areas within the area of reclassification require individual zoning hearings, these must be shown with all separate bearings and distances and individually described as required on guide sheet (#2).
- *5. Relation of tract in question to additional property owned and ownership of all adjacent properties, including the adjacent public roads.
- *6. Area of property to be reclassified (acres or square feet). If separate areas in reclassification require zoning hearings, these areas must be shown also.
- *7. Distance from property line (corner) to nearest intersecting street or county road and a scale vicinity sketch, clearly outlining the area of the petition request.
- *8. *Not clear* Existing and proposed zoning of property under petition and adjoining properties. *Not clear*
9. Use, locations, coverage, floor areas, heights (including engineered scaled and dimensioned elevation drawings), dimensions, character and exterior materials of all proposed and existing structures to be retained. Also, all existing structures to be removed must be indicated.
10. Location, use and orientation of all principal building(s) within a distance of 200 feet from each joint side property line. Distance from said buildings to centerline of street must be shown in order to determine street setback line of proposed building(s) on subject site.
11. Hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, and light and heat). In cases where method of operation is not obvious, an explanation of same must be provided (i.e. proposed nursery school should include days and hours of operation, maximum number of teachers and students, method of transportation, etc.).
12. Existing and proposed public and quasi-public facilities on and adjacent to the site, including storm drain systems, water lines, sewerage, streets and drives, and railroad sidings. In the event public water and/or sewer do not exist, location of the private system must be indicated.

CHECKLIST FOR RECLASSIFICATION PETITIONS

PAGE 2

13. Existing ponds, streams, natural drainage courses and other bodies of water, watercourses, 100-year flood plains, major vegetation, unusual natural formation, and proposed changes with respect to any of these must be indicated.
14. Dimensions of existing and proposed right-of-ways and types of paving of any street adjacent to site.
15. Location and width of proposed ingress and egress, and all directional arrows indicating interior circulation of traffic.
16. Parking and loading facilities in accordance with Section 409 (BCZR).
17. Screening and landscaping must be indicated as required in the Baltimore County Landscape Manual and the BCZR.
18. Existing topography and proposed major changes in grade.
19. Location, dimension height, square footage, single/double-face, illumination, and content of all signs visible outdoors. Must comply with BCZR or variance must be included in the reclassification petition.
20. Buildings must meet building code, as well as fire code, requirements with regard to type of construction, windows, etc.
21. Location of all existing and proposed fire hydrants.
22. A sealed location plan, inserted on the site plan, must accurately reflect the outline of the parcel(s) for zoning action.
23. All site plans must be folded to an approximate size of 8-1/2 inches by 11 inches, with clear distinct lettering.

In order to alleviate any future delays, prior to preparing the required plan, the petitioner or his engineer should contact ZADM, Development Control (Zoning Office) and the following agencies and/or State agency, if located on a state road, for pertinent information that may be required:

Department of Environmental Protection	887-3980
and Resource Management (DEPRM)	
Public Works, Development Plan	
Review and Traffic	887-3751
Zoning Administration and Development	887-3391
Management (ZADM), Development Control	
Office of Planning and Zoning	
(Planning Only)	887-3211
State Highway Administration	333-1350
Recreation and Parks	887-3823
Assessments (Real Estate Division,	
Office of Law)	887-3284
Fire Department	887-3998
Solid Waste Management	887-3185
Real Estate Division, Office of Law	887-3255
House Numbers and Street Names	887-3710

RE: PETITION FOR RECLASSIFICATION
1601 Middleborough Road, NE/S Back River
Neck Road, corner S/S Middleborough Rd
15th Election District
5th Councilmanic

Cloverland Farms Dairy, Inc.
Petitioner

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* Case No. R-96-200

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

87 NOV 27 11 29 AM '95

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 1995, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

RECEIVED

RE: PETITION FOR SPECIAL EXCEPTION	:	BEFORE
for a Gasoline Service Station, and	:	
C.N.S. (commercial, neighborhood	:	COUNTY BOARD OF APPEALS
shopping District	:	
NE/S Back River Neck Road and	:	OF
Middleborough Road,	:	
15th District	:	BALTIMORE COUNTY
John Crowley, et al	:	
Petitioners	:	No. 66-123-X

Ref. Cloverland/Royal Farm
R-96-200

OPINION

Heard: 12/07/95

The petitioner in this case seeks a special exception to erect a gasoline service station on a .486 acre parcel of ground zoned B.R. situated at the intersection of Back River Neck Road and Middleborough Road in the Fifteenth Election District of Baltimore County. The petitioner also requests that the Board grant him a C.N.S. (commercial, neighborhood shopping) District on the subject parcel to permit the construction of a gasoline service station.

The property is presently improved by an old, extremely dilapidated, general store. Immediately to the south of the subject parcel is a small shopping area improved with a Royal Farms store. It is proposed that there will be an interconnection between the gasoline service station and the Royal Farms store parking lot.

Testimony produced by the petitioner indicated that the only feasible use of the subject property is for the development of some type of automobile oriented use, and that a gasoline station would not create any traffic congestion or problems, and would indeed open up the corner. Other witnesses for the petitioner testified that the service station would not be detrimental to the general health, safety, or welfare of the community, nor depreciate surrounding properties.

Without going into detail as to the testimony of each witness, the Board finds that the construction of a gasoline service station here would not violate any requirements of Section 502.1 of the Zoning Regulations, nor Section 405.3 of Bill #40, enacted by the County Council on May 1, 1967.

Re: John Crowley, et al - #66-123-X

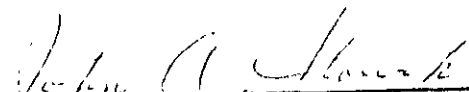
ORDER

For the reasons set forth in the foregoing Opinion, it is this 6th day of February, 1968 by the County Board of Appeals, ORDERED that the special exception for a gasoline service station petitioned for, be and the same is hereby GRANTED; also the C.N.S. (commercial, neighborhood shopping) District petitioned for, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Baldwin, Chairman


John A. Slowik


John A. Miller

VLE, BAETJER AND HOWARD, LLP
Incorporating professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

VENABLE
ATTORNEYS AT LAW

R-96-200

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

#189

Robert A. Hoffman
(410) 494-6262

RECEIVED

August 18, 1995

AUG 19 1995

OFFICE OF
PLANNING & ZONING

Mr. Arnold F. "Pat" Keller, III,
Mr. Jeffrey W. Long
Office of Planning and Zoning
County Courts Building - 4th Floor
401 Bosley Avenue
Towson, Maryland 21204

Re: Proposed Rezoning under Section 2-356(i), Baltimore County Code

Dear Pat and Jeff:

As we discussed in our previous meeting, our client, Royal Farm Stores is purchasing a piece of property at Back River Neck and Middleborough Roads. In preparing a site plan for a Royal Farm Store with fuel pumps, it became apparent that the 1992 comprehensive zoning map contained a drafting error (i.e. the CNS district line bisects the service station building).

By way of background, the property was rezoned to a BR-CNS (now BR-AS) classification in 1967 and also received a special exception for a fuel service station in case number 67-235-X. Our engineer has placed the description filed in the 1967 case on the attached 1992 Comprehensive Zoning Map to indicate the area that was redistricted to CNS at that time.

Unfortunately, the zoning line was incorrectly drawn by the Office of Zoning and, it is our understanding that this was presented to the Baltimore County Council for adoption on the 1971 comprehensive zoning map. (See attached 1955 Zoning Map with 1967 case shown and the 1971 Comprehensive Map). This error has been perpetuated on each successive map through 1992. Compounding the error further, the zone line adopted in 1971 does not correspond precisely to what was presented at that time.

MICROFILMED

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

VENABLE
ATTORNEYS AT LAW

10/15/95
To: Gwenn
FYI on 11/7/95
OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

Robert A. Hoffman
(410) 494-6262

October 23, 1995

Robert O. Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Petition for Reclassification of Property located at the Southwest
Corner of the Intersection of Broad Street and Padonia Road
Zoning Case No. CR-93-305-SPH

Dear Mr. Schuetz:

On February 23, 1994, on behalf of Baker Land Company, et al., legal owners, and Harrison & Grass Partnership, contract purchaser, a Petition for Reclassification was filed with the County Board of Appeals of Baltimore County for 6.57 acres located on the southwest corner of Padonia Road and Broad Avenue. In this interim or "cycle" rezoning petition, which was filed in accordance with Section 2.356 of the Baltimore County Code, the Petitioners requested B.M. (Business Major) zoning, in lieu of the present zoning combination of M.L.R. (Manufacturing Light Restricted), O-1 (Office Building), and D.R. 3.5 (Density Residential).

On February 24, 1994, the Board of Appeals granted the requested reclassification for this property. The Board's decision was then appealed to the Circuit Court for Baltimore County. Upon remand to the Board of Appeals for further legal and factual findings in support of its decision, this case was then appealed to the Court of Special Appeals.

Since this cycle reclassification request has become a Comprehensive Map issue, to be decided by the Baltimore County Council in October of 1996, and because the Petitioners cannot get the requested relief prior to the adoption of the 1996

MICROFILMED

Robert O. Schuetz, Chairman
October 23, 1995
Page 2

Comprehensive Zoning Map, by way of this letter, the Petitioners are hereby withdrawing their original Petition for Reclassification from further consideration.

Very truly yours,

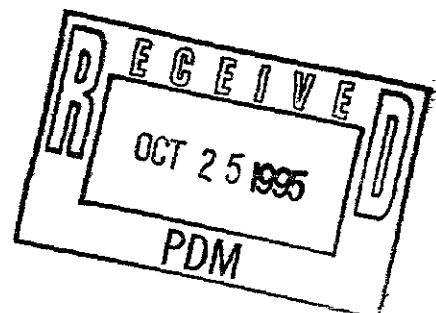


Robert A. Hoffman

RAH:pvb

cc: Peter Max Zimmerman, Esquire
Patrick D. Hanley, Esquire
Mr. John M. Bearer
Arnold Jablon, Director, Permits and Development Management
Mr. Timothy C. Harrison
Mr. Theodore C. Julio
Isaac M. Neuberger, Esquire

TO1DOCS1/RAH01/0013481.01



5279-95
VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Writer's Direct Number:
(410) 494-6201

#189
R.96.200

October 26, 1995

Via Hand Delivery

Mr. Carl Richards
Department of Permits
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Out-of-Cycle Zoning Reclassification Petition
Legal Owner: Cloverland Farms Dairy, Inc.
Southeast corner of Middleborough and Back River Neck Roads

Dear Carl:

Enclosed please find the filing package with regard to the above-referenced
Petition for Reclassification.:

Yours truly,



Robert A. Hoffman

BWO:pmp
Enclosures

cc: John M. Kemp

RECEIVED

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations

210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

OFFICES IN

MARYLAND
WASHINGTON, D.C.
VIRGINIA

VENABLE
ATTORNEYS AT LAW

Writer's Direct Number:
(410) 494-6201

October 26, 1995

#189
R-96-200

Via Hand Delivery

Robert O. Schuetz, Chairman
Board of Appeals for Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Out-of-Cycle Zoning Reclassification Petition
Legal Owner: Cloverland Farms Dairy, Inc.
Southeast Corner of Middleborough and Back River Neck Roads

Dear Mr. Schuetz:

Enclosed please find the following documents with regard to the above-referenced Petition for Reclassification:

1. Three Petitions for Zoning Reclassification;
2. Twelve site plans;
3. Nine legal descriptions; *only 7*
4. Three 1992 200' scale zoning maps;
5. Three 1992 1000' scale zoning maps;
6. Three 1971 200' scale zoning maps;
7. Three 1055 200' scale zoning maps;
8. Three copies of County Council Resolution No. 62-95 approved on October 16, 1995;

Robert O. Schuetz, Chairman

October 26, 1995

Page 2

9. ^{3 copies} Justification for the classification error currently existing on the subject site set out in my letter dated August 18, 1995 to Arnold F. Keller, III, and Jeffrey W. Long of the Office of Planning and Zoning;
10. Check made payable to Baltimore County, Maryland in the amount of \$535.00, posting fee included.

Sincerely,



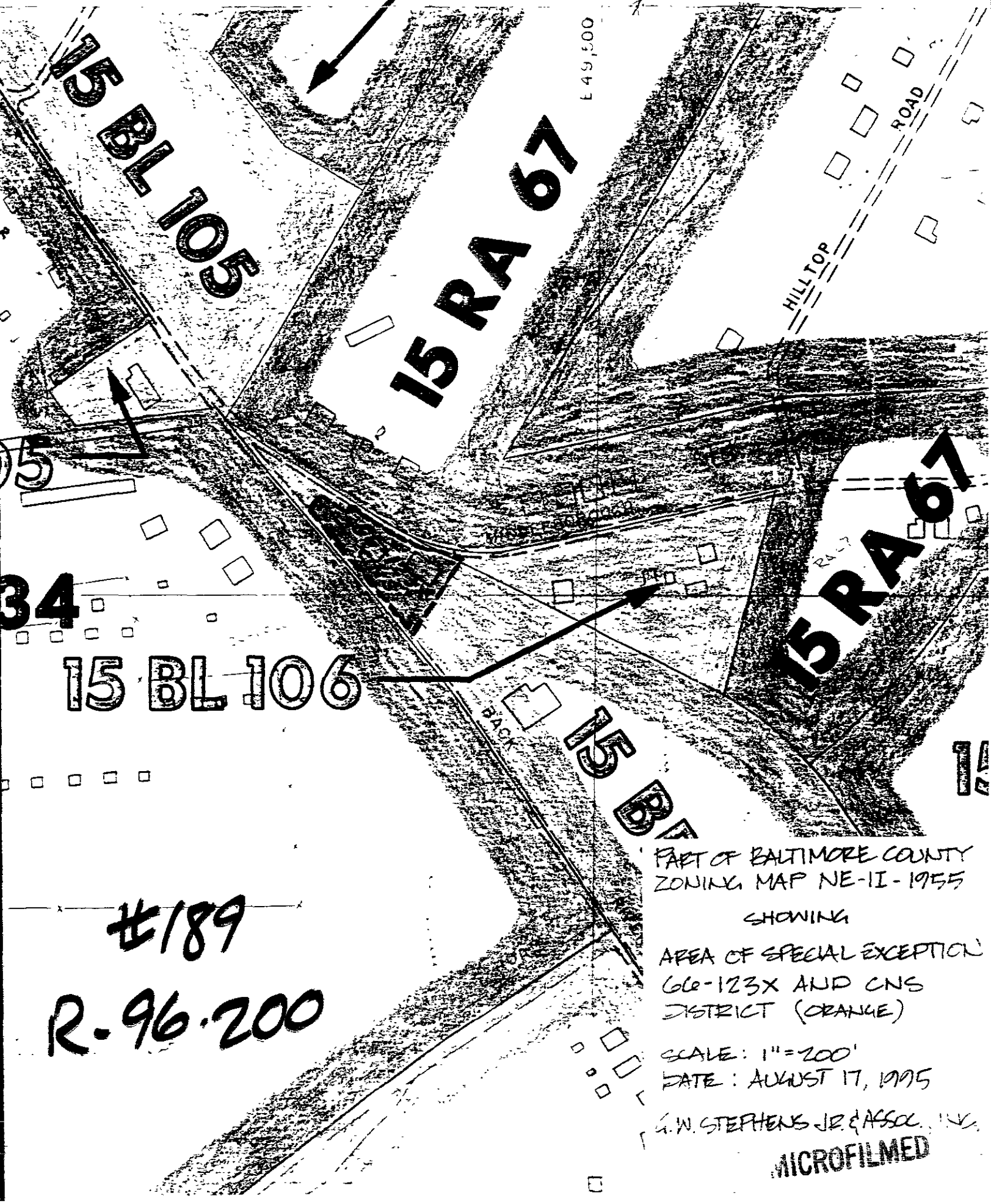
Robert A. Hoffman

RAH:pmp
Enclosures

cc: John M. Kemp

TO:DOCS1/BAW01/0014501.01

15 RG 8



149,500

HILL TOP
ROAD

34

15 BL 106

15 RA 67

15 RA 67

BACK

#189

R-96-200

PART OF BALTIMORE COUNTY
ZONING MAP NE-II-1955

SHOWING

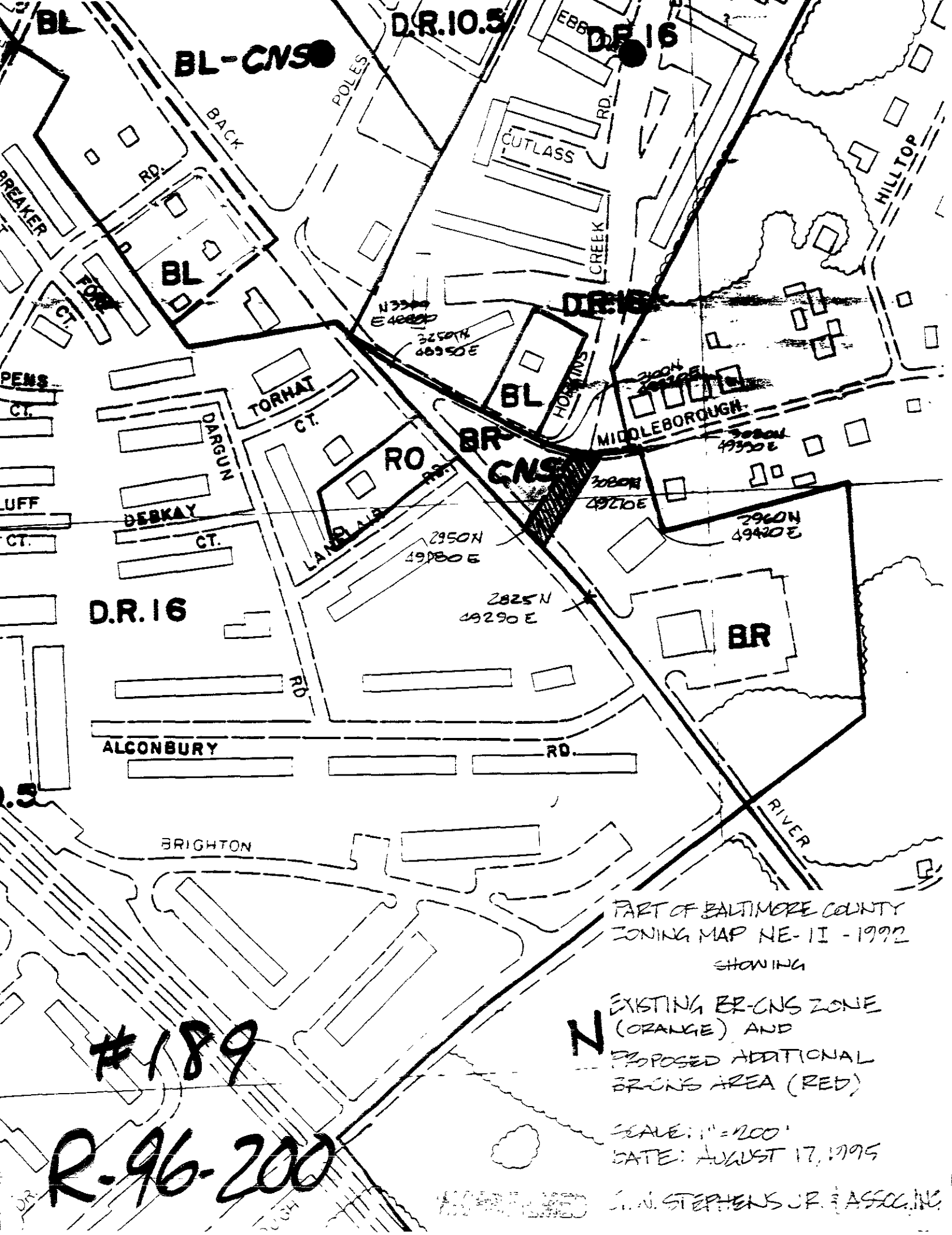
AREA OF SPECIAL EXCEPTION
66-123X AND CNS
DISTRICT (ORANGE)

SCALE: 1"=200'

DATE: AUGUST 17, 1975

G.W. STEPHENS JR. & ASSOC., INC.

MICROFILMED



#189
R-96-200

PART OF BALTIMORE COUNTY
ZONING MAP NE-11-1992
SHOWING

N
EXISTING BR-CNS ZONE
(ORANGE) AND
PROPOSED ADDITIONAL
BR-CNS AREA (RED)

SCALE: 1" = 200'
DATE: AUGUST 17, 1995

J. N. STEPHENS JR. & ASSOC., INC.



#189

R-96-200

PART OF BALTIMORE COUNTY
ZONING MAP F-3 - 1992.
SHOWING

EXISTING BR-CNS ZONE
(GREEN) and
PROPOSED ADDITIONAL BR-CNS
AREA (RED.)

SCALE: 1" = 1000'

NOV 10.19.95

G.W. STEPHENS.

MICROFILMED

Pet. Ex. 6

B A L T I M O R E C O U N T Y , M A R Y L A N D

INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman DATE: November 30, 1995
 Board of Appeals

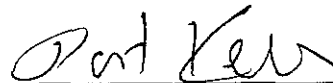
FROM: Arnold F. "Pat" Keller, III, Director
 Office of Planning

SUBJECT: Case No. R-96-200/Middleborough and Back River/
 Cloverland Farms Dairy, Inc.

At its regularly scheduled monthly meeting on September 21, 1995, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code to certify to the County Council that early action upon the Petition for zoning reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on October 16, 1995.

Enclosed herewith is a copy of the report of the Office of Planning.



Arnold F. "Pat" Keller, III

AFK:JL:lw
PKR96.200/PZONE/TXTLLF

Enclosure

85-1-1-01796

MICROFILMED

CASE NO. R-96-200

PETITIONER:

Cloverland Farms Dairy, Inc.

REQUESTED ACTION:

Reclassification to B.R.-A.S.

LOCATION:

Southeast corner of Middleborough Road and Back River Neck Road

AREA OF SITE:

.14 acre

SITE DESCRIPTION:

The site is currently improved with a portion of a poorly maintained service garage.

PROPERTIES IN THE VICINITY:

The subject property is bounded to the west by the remaining part of the aforementioned service garage operation, and associated unscreened storage area which suffers to a degree from deferred maintenance. The Middleborough Apartment complex is located to the south, detached single-family dwellings are situated to the north and a restaurant is located immediately to the east.

WATER AND SEWERAGE:

The area is served by public water and sewer, and is designated as W-1, S-1 (existing service area) according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS:

The site has direct access to Back River Neck Road, which is Back River Neck Peninsula's only arterial running north and south with access to MD 702 and Eastern Avenue.

ZONING HISTORY:

In 1967, the site was the subject of a Reclassification Petition which requested the overlaying of the existing B.R. zoning with a C.N.S. (now A.S.) district. The Board of Appeals granted the requested district application. Unfortunately, at that time,

the zoning line was incorrectly drawn by the Zoning Office and this error has been perpetuated on each successive Comprehensive Zoning Map. through 1992. Therefore, since 1968 the subject property's zoning has not corresponded to the Board of Appeals Order (see Case No. 66-123X).

MASTER PLAN:

The Growth Management Area Map indicates the applicant's site is located within a Community Conservation Area. The Baltimore County Growth Management Program Guidelines for the 1992 Comprehensive Zoning Process, which were adopted by the Baltimore County Planning Board and approved by the Baltimore County Council on January 23, 1992, state the following:

- The viability of existing commercial nodes and corridors in Community Conservation Areas is best enhanced by maximizing the use of existing commercial zoning. Granting additional business zoning, especially along major roadways, can drain existing business areas. Intrusions of nonresidential zoning can destabilize existing neighborhoods and set up a domino effect of encouraging adjacent property owners to seek additional business zoning.

PROPOSED VS. EXISTING ZONING:

Regulations governing the B.R. zone may be found in Section 236.1 of the Baltimore County Zoning Regulations. The B.R. zone allows a wide range of uses in addition to those uses permitted in the B.M. zone. Density is regulated by a floor area ratio of 2.0; however, density is realistically limited by parking requirement and economic constraints. Building height is limited by height tent regulations, and setbacks include front yards not less than 25 feet from the centerline of any street (see Section 303.2 for front yard average). Side and rear yard setbacks for buildings are 30 feet, and all parking must be set back eight (8) feet from residential zones.

Bill No. 172, 1993 consolidated the C.S.A., C.N.S., C.S.1 and C.S.2 districts into the A.S (Automotive Service) district. The A.S. district was created due to the rise of self-service stations. The number of businesses that "service" motor-vehicles by providing repair facilities has been steadily declining, while the number of stations with convenience stores or car wash operations has been increasing.

It is the intent of Section 405 of the Baltimore County Zoning Regulations that fuel service stations be permitted provided that such uses are designated and located in accordance with the goals of the Master Plan and duly adopted community plans.

RECOMMENDATION:

The applicant proposes the district application in order to facilitate a complete renovation of the subject property which is part of a larger parcel of land. If approved, the Petitioner would have the ability to improve the site with a Royal Farm Store in combination with fuel pumps.

As previously stated, the property was subject of a Reclassification Petition which was granted by the Board of Appeals in 1968. A review of the file in that case revealed an approved, undated development plan. Signed approval dates indicated that the Office of Planning and Zoning and Bureau of Traffic Engineering approved the plan on April 30, 1968 and April 26, 1968, respectively. It should be noted that the subject property's zoning is indicated as B.R-C.N.S. on the plan.

It is important to note that no plat accompanying the Reclassification Petition could be found in the file, however, a metes and bounds description was provided, and when the request was granted, the Board of Appeals must have approved the application of the C.N.S. district based on the plan that later became the development plan, or on the metes and bounds description. Based upon the development plan and/or the metes and bounds description, it appears clear that the Board of Appeals intended to include the subject property within the C.N.S. district. As a result of a drafting error, however, the zoning request, as indicated on the plan and the metes and bounds description, was not accurately identified on the 1955 Zoning Map, which was the official map at that time. In 1971, the first Comprehensive Zoning Map was adopted, and the mistake made on the 1955 map was carried over to the 1971 map and has been perpetuated on each successive map.

Based upon a review of the information provided and analysis conducted, it is clear that an error predating the first Comprehensive Zoning Map Process occurred in 1967. Obviously, it was never the intent of the County Council to remove the district application on the subject property. Therefore, staff recommends that the applicant's request be granted.

R96200/PZONE/TXTJWL



CLOVERLAND DAIRIES, INC. -PETITIONER
/ROYAL FARM STORES
SE/corner of Middleborough Road and
Back River Neck Road

R-96-200
(Out-of-Cycle)

Election District
5th Councilmanic Distri

BR to BR-AS

September 21, 1995 Planning Board Meeting and recommendation for
early action.

October 16 Approved by County Council.

Petition for Reclassification from BR to BR-AS
(formerly BR-CNS) filed by Robert A. Hoffman
Esquire, on behalf of Petitioner.

Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204

Counsel for Petitioner

Cloverland Dairies, Inc. on
behalf of Royal Farm Stores

Petitioner

G.W. Stephens & Assoc., Inc.

James Earl Kraft
Baltimore County Board of Education

Peter Max Zimmerman

People's Counsel for Baltimore
County

Pat Keller

Jeffrey Long

Lawrence E. Schmidt

W. Carl Richards, Jr.

Docket Clerk /PDM

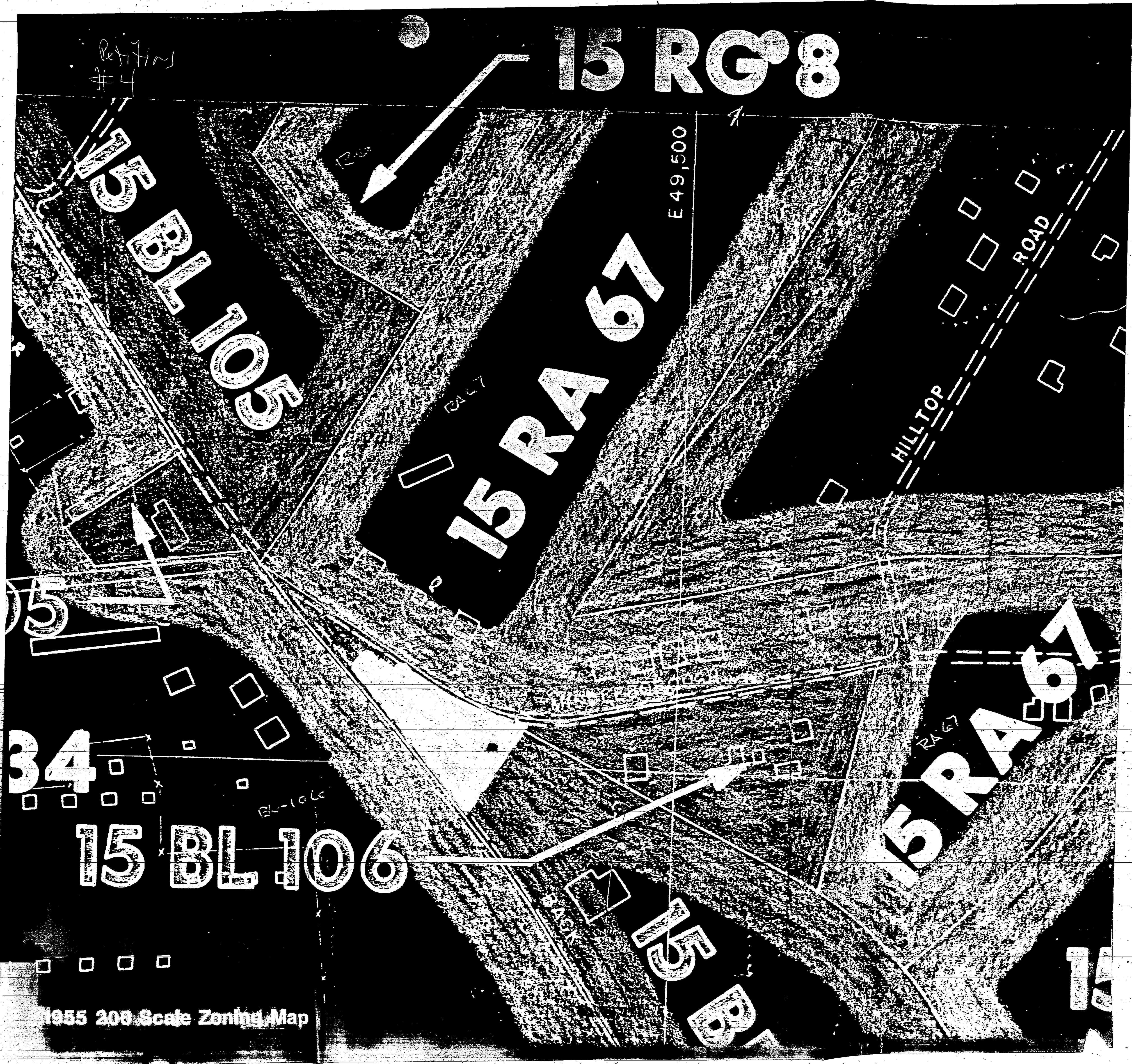
Arnold Jablon, Director /PDM

10

Please note:

Advertising bill will be
handled directly between
newspaper and attorney.
The County will lay out no
funds.

Gwen
11-13-95



15 RG 8

15 RA 67

15 BL 106

15 RA 67

15 BL 105

34

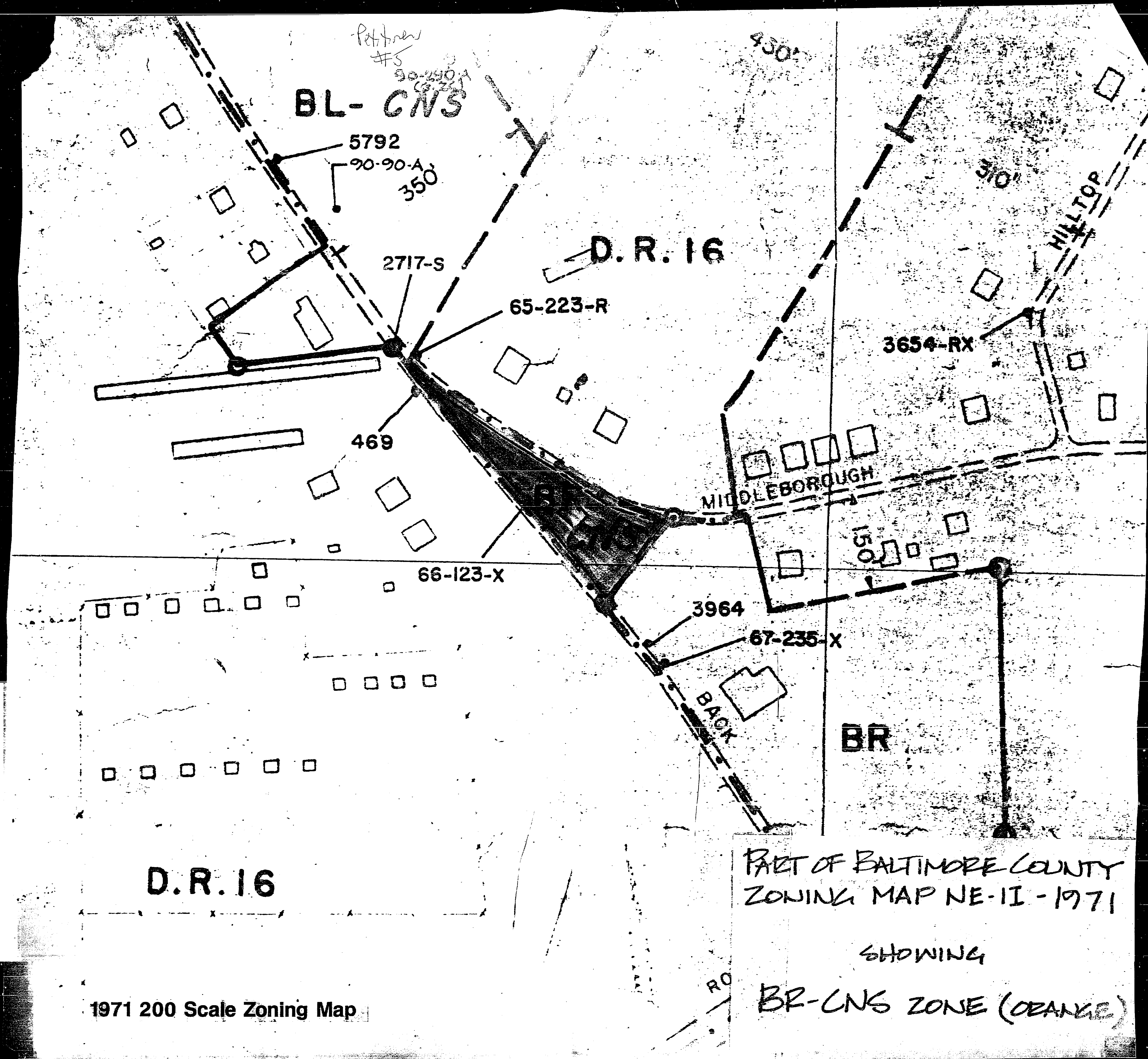
1955 200 Scale Zoning Map

Petition #4

E-1066

E 49,500

HILLTOP ROAD



To: Patuxent Publishing
For: 11/16/95 Issue of Jeffersonian

Please forward billing to:

Robert A. Hoffman, Esq.
Venable, Baetjer and Howard LLP
210 Allegheny Avenue
Towson, MD 21204
494-6200

NOTICE OF HEARING
PETITION FOR RECLASSIFICATION

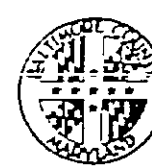
CASE NUMBER: R-96-200 (Item 189)
NE/S Back River Neck Road, corner S/S Middleborough Road
1601 Middleborough Road
15th Election District - 5th Councilmanic
Legal Owner: Cloverland Farms Dairy, Inc.

Petition to change zoning classification from B.R. to B.R.-A.S.

HEARING: THURSDAY, DECEMBER 7, 1995 AT 1:00 P.M. BEFORE THE COUNTY BOARD OF APPEALS, ROOM 49, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON MD.

ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

Post-It Fax Note	7671	Date 11-13	Page 1
To	JEFF	From	GWE
Co/Dpt	LEGAL	Co.	201113
Phone #		Phone #	887-3371
Fax #	296-2707	Fax #	887-3371



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

NOVEMBER 13, 1995

NOTICE OF HEARING
PETITION FOR RECLASSIFICATION

CASE NUMBER: R-96-200 (Item 189)
NE/S Back River Neck Road, corner S/S Middleborough Road
1601 Middleborough Road
15th Election District - 5th Councilmanic
Legal Owner: Cloverland Farms Dairy, Inc.

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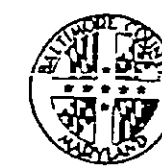
HEARING: THURSDAY, DECEMBER 7, 1995 AT 1:00 P.M. BEFORE THE COUNTY BOARD OF APPEALS, ROOM 49, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON MD.

Robert O. Schuetz, Chairman
COUNTY BOARD OF APPEALS

ROS:ggs

cc: Cloverland Farms Dairy, Inc.
Robert A. Hoffman, Esq.

Copy to People's Counsel 11/14/95



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

NOVEMBER 13, 1995

NOTICE OF HEARING
PETITION FOR RECLASSIFICATION

CASE NUMBER: R-96-200 (Item 189)
NE/S Back River Neck Road, corner S/S Middleborough Road
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Robert O. Schuetz, Chairman
COUNTY BOARD OF APPEALS

ROS:ggs

cc: Cloverland Farms Dairy, Inc.
Robert A. Hoffman, Esq.

12/07/95 -Hearing concluded. Deliberation immediately following close of hearing;
Petition for Reclassification to be GRANTED; written Opinion/Order to be issued. Appellate period to run from date of that written Order. (R.B.M.)



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

December 1, 1995

Robert A. Hoffman, Esquire
Venable, Baetjer and Howard, LLP
210 Allegheny Avenue
Towson, Maryland 21204

RE: Item No.: 189
Case No.: R-96-200
Petitioner: Cloverland Farms

Dear Mr. Hoffman:

The Zoning Advisory Committee (ZAC), which consists of representatives from Baltimore County approval agencies, has reviewed the plans submitted with the above referenced petition, which was accepted for processing by Permits and Development Management (PDM), Zoning Review, on November 1, 1995.

Any comments submitted thus far from the members of ZAC that offer or request information on your petition are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. Only those comments that are informative will be forwarded to you; those that are not informative will be placed in the permanent case file.

If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Joyce Watson in the zoning office (887-3391).

Sincerely,

W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

Printed with Soybean Ink
on Recycled Paper

Baltimore County Government
Fire Department



700 East Joppa Road Suite 901
Towson, MD 21286-5500

(410) 887-4500

DATE: 11/08/95

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: CLOVERLAND FARMS DAIRY, INC.

LOCATION: NE/S BACK RIVER NECK RD., CORNER S/S MIDDLEBOROUGH RD.
(1601 MIDDLEBOROUGH RD.)

Item No.: 189 Zoning Agenda: SPECIAL HEARING

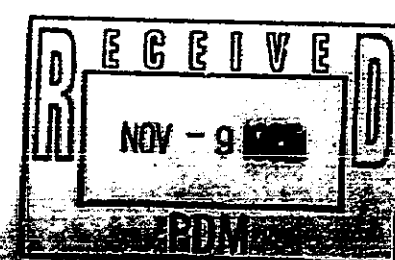
Gentlemen:

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

7. The Fire Marshal's Office has no comments at this time.

REVIEWER: LT. ROBERT P. SAUERWALD
Fire Marshal Office, PHONE 887-4881, MS-1102F

cc: File



Maryland Department of Transportation
State Highway Administration

David L. Winstead
Secretary
Hal Kassoff
Administrator

Ms. Joyce Watson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 105
Towson, Maryland 21204

RE: Baltimore County
Item No. 189
CASE NO. R-96-200

Dear Ms. Watson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

for Bob Small
Ronald Burns, Chief
Engineering Access Permits
Division

BS/es

My telephone number is

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free
Mailing Address: P.O. Box 717, Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street, Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
Interoffice Correspondence

TO: W. Carl Richards, Jr.
Zoning Supervisor

DATE: November 9, 1995

FROM: Robert W. Bowling, P.E., Chief
Development Plans Review Division

SUBJECT: Out-of-Cycle Open Zoning Reclassification Petition
Case No. R-96-200 (No. 189)
Cloverland Farms Dairy, Inc.
District 15C5

Permits for this development are subject to compliance with the Landscape Manual.

RWB:ew

Gwen - file

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: W. Carl Richards, PDM

DATE: October 18, 1995

FROM: Kathleen C. Weidenhammer
County Board of Appeals

SUBJECT: Out-of-Cycle Exemption-
Request for Reclassification /Southeast Corner of
Middleborough Road and Back River Neck Road filed by
Cloverland Farms, Inc., on behalf of Royal Farm Stores
Fifth Councilmanic District
Approval by County Council October 16, 1995
Date for Hearing before the Board 12/07/95 @ 1:00 p.m.

Carl:

Pursuant to Section 2-356(i), the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Thursday, December 7, 1995 at 1:00 p.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its October 16, 1995 meeting (a copy of Resolution 62-95 is attached for your information and file).

I have copied Gwen on this memorandum so that the necessary advertising and posting can be accomplished by your office and notices sent to the appropriate parties reflecting the hearing date of December 7, 1995.

Should you have any questions, please call me at extension 3180.

cc: Gwen Stephens
Jeffrey Long /Planning
Office of People's Counsel
Arnold Jablon, Director /PDM

R-96-200 5/11-95
#189 10/18/95

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: W. Carl Richards, PDM
 FROM: Kathleen C. Weidenhammer
 County Board of Appeals

DATE: October 18, 1995

SUBJECT: Out-of-Cycle Exemption-
 Request for Reclassification /Southeast Corner of
 Middleborough Road and Back River Neck Road filed by
 Cloverland Dairies, Inc., on behalf of Royal Farm Stores
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 subject out-of-cycle reclassification petition for hearing on
 Thursday, December 7, 1995 at 1:00 p.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing
 out of cycle by the County Council at its October 16, 1995 meeting
 (a copy of Resolution 62-95 is attached for your information and
 file).

I have copied Gwen on this memorandum so that the necessary
 advertising and posting can be accomplished by your office and
 notices sent to the appropriate parties reflecting the hearing date
 of December 7, 1995.

Should you have any questions, please call me at extension
 3180.

cc: Gwen Stephens
 Jeffrey Long /Planning
 Office of People's Counsel
 Arnold Jablon, Director /PDM

Gwen: Please call me with the case number for this out-of-cycle so
 I can complete my docket entry. Also, please send me a copy of the
 notice sent to the parties regarding this hearing date.

Thanks

3180
 10/18/95
 10/18/95

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman
 Board of Appeals

DATE: November 30, 1995

FROM: Arnold F. "Pat" Keller, III, Director
 Office of Planning

SUBJECT: Case No. R-96-200/Middleborough and Back River/
 Cloverland Farms Dairy, Inc.

At its regularly scheduled monthly meeting on September 21, 1995,
 the Baltimore County Planning Board voted in accordance with
 Section 2-356(i) of the County Code to certify to the County
 Council that early action upon the Petition for zoning
 reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the
 Planning Board's certification on October 16, 1995.

Enclosed herewith is a copy of the report of the Office of Planning.

AFK:JL:lw
 PKR96.200/PZONE/TXTJLW

Enclosure

Pat Keller
 Arnold F. "Pat" Keller, III

CASE NO. R-96-200

PETITIONER:

Cloverland Farms Dairy, Inc.

REQUESTED ACTION:

Reclassification to B.R.-A.S.

LOCATION:

Southeast corner of Middleborough Road and Back River Neck Road

AREA OF SITE:

.14 acre

SITE DESCRIPTION:

The site is currently improved with a portion of a poorly
 maintained service garage.

PROPERTIES IN THE VICINITY:

The subject property is bounded to the west by the remaining
 part of the aforementioned service garage operation, and
 associated unscreened storage area which suffers to a degree
 from deferred maintenance. The Middleborough Apartment complex
 is located to the south, detached single-family dwellings are
 situated to the north and a restaurant is located immediately to
 the east.

WATER AND SEWERAGE:

The area is served by public water and sewer, and is designated
 as W-1, S-1 (existing service area) according to the Master
 Water and Sewer Plan.

TRAFFIC AND ROADS:

The site has direct access to Back River Neck Road, which is
 Back River Neck Peninsula's only arterial running north and
 south with access to MD 702 and Eastern Avenue.

ZONING HISTORY:

In 1967, the site was the subject of a Reclassification Petition
 which requested the overlaying of the existing B.R. zoning with
 a C.N.S. (now A.S.) district. The Board of Appeals granted the
 requested district application. Unfortunately, at that time,

the zoning line was incorrectly drawn by the Zoning Office and
 this error has been perpetuated on each successive Comprehensive
 Zoning Map, through 1992. Therefore, since 1968 the subject
 property's zoning has not corresponded to the Board of Appeals
 Order (see Case No. 66-123X).

MASTER PLAN:

The Growth Management Area Map indicates the applicant's site is
 located within a Community Conservation Area. The Baltimore
 County Growth Management Program Guidelines for the 1992
 Comprehensive Zoning Process, which were adopted by the
 Baltimore County Planning Board and approved by the Baltimore
 County Council on January 23, 1992, state the following:

- The viability of existing commercial nodes and corridors in
 Community Conservation Areas is best enhanced by maximizing the
 use of existing commercial zoning. Granting additional business
 zoning, especially along major roadways, can drain existing
 business areas. Intrusions of nonresidential zoning can
 destabilize existing neighborhoods and set up a domino effect of
 encouraging adjacent property owners to seek additional business
 zoning.

PROPOSED VS. EXISTING ZONING:

Regulations governing the B.R. zone may be found in Section
 236.1 of the Baltimore County Zoning Regulations. The B.R. zone
 allows a wide range of uses in addition to those uses permitted
 in the B.M. zone. Density is regulated by a floor area ratio of
 2.0; however, density is realistically limited by parking
 requirement and economic constraints. Building height is
 limited by height tent regulations, and setbacks include front
 yards not less than 25 feet from the centerline of any street
 (see Section 303.2 for front yard average). Side and rear yard
 setbacks for buildings are 30 feet, and all parking must be set
 back eight (8) feet from residential zones.

Bill No. 172, 1993 consolidated the C.S.A., C.N.S., C.S.1 and
 C.S.2 districts into the A.S. (Automotive Service) district. The
 A.S. district was created due to the rise of self-service
 stations. The number of businesses that "service"
 motor-vehicles by providing repair facilities has been steadily
 declining, while the number of stations with convenience stores
 or car wash operations has been increasing.

It is the intent of Section 405 of the Baltimore County Zoning
 Regulations that fuel service stations be permitted provided
 that such uses are designated and located in accordance with the
 goals of the Master Plan and duly adopted community plans.

R96200/PZONE/TXTJWL

Pg. 2

RECOMMENDATION:

The applicant proposes the district application in order to
 facilitate a complete renovation of the subject property which
 is part of a larger parcel of land. If approved, the Petitioner
 would have the ability to improve the site with a Royal Farm
 Store in combination with fuel pumps.

As previously stated, the property was subject of a
 Reclassification Petition which was granted by the Board of
 Appeals in 1968. A review of the file in that case revealed an
 approved, undated development plan. Signed approval dates
 indicated that the Office of Planning and Zoning and Bureau of
 Traffic Engineering approved the plan on April 30, 1968 and
 April 26, 1968, respectively. It should be noted that the
 subject property's zoning is indicated as B.R.-C.N.S. on the plan.

It is important to note that no plat accompanying the
 Reclassification Petition could be found in the file, however, a
 metes and bounds description was provided, and when the request
 was granted, the Board of Appeals must have approved the
 application of the C.N.S. district based on the plan that later
 became the development plan, or on the metes and bounds
 description. Based upon the development plan and/or the metes
 and bounds description, it appears clear that the Board of
 Appeals intended to include the subject property within the
 C.N.S. district. As a result of a drafting error, however, the
 zoning request, as indicated on the plan and the metes and
 bounds description, was not accurately identified on the 1955
 Zoning Map, which was the official map at that time. In 1971,
 the first Comprehensive Zoning Map was adopted, and the mistake
 made on the 1955 map was carried over to the 1971 map and has
 been perpetuated on each successive map.

Based upon a review of the information provided and analysis
 conducted, it is clear that an error predating the first
 Comprehensive Zoning Map Process occurred in 1967. Obviously,
 it was never the intent of the County Council to remove the
 district application on the subject property. Therefore, staff
 recommends that the applicant's request be granted.

R96200/PZONE/TXTJWL



Baltimore County
 Planning Board

401 Bosley Avenue
 Towson, Maryland 21204
 (410) 887-3495
 Fax: (410) 887-5862

September 26, 1995

Hon. Vincent J. Gardina
 Chairman, Baltimore County Council
 County Courthouse
 Towson, Maryland 21204

Re: Certification on Reclassification
 Petition - Middleborough and Back
 River Neck Roads

Dear Councilman Gardina:

At its regular monthly meeting on September 21, 1995, the Baltimore
 County Planning Board voted, in accordance with Section 2-356(i) of
 the County Code, to certify to the County Council that early action
 upon the petition for zoning reclassification of the property at the
 intersection of Middleborough and Back River Neck Roads is manifestly
 required.

Enclosed is the report on this matter by the Office of Planning, as
 accepted by the Planning Board. The planning staff will be pleased
 to assist the Council in the consideration of this matter.

Sincerely,

Pat Keller

Secretary

PK/TD/rjh

Enclosure

cc: Members, Baltimore County Council
 Mervyn E. Kelly, Administrative Officer
 Thomas Peddicord, Legislative Counsel/Secretary
 Brian Rowe
 Robert O. Schuetz, Chairman, Board of Appeals
 Arnold Jablon, Director, PDM
 Peter Max Zimmerman, People's Counsel
 Robert A. Hoffman, Petitioner's attorney

PETITION, RE/PZONE/TXTJWL



R96 62-95

11/5-5/14

11/1-3/14

Holding 4/14/95 10:00 AM

11/1-3/14

11/1-3/14



Baltimore County
 Office of Planning

401 Bosley Avenue
 Towson, Maryland 21204
 (410) 887-3211
 Fax: (410) 887-5862

TO: Baltimore County Planning Board
 DATE: September 7, 1995

FROM: Arnold F. "Pat" Keller, III
 Director
 Office of Planning

SUBJECT: REQUEST FOR CERTIFICATION - SOUTHEAST CORNER OF
 MIDDLEBOROUGH ROAD AND BACK RIVER NECK ROAD

The attached letter from Robert A. Hoffman, Esquire, on behalf of
 Royal Farm Stores which, through its parent company, Cloverland
 Dairies, Inc., requests certification by the Planning Board for out
 of cycle action on a zoning petition for reclassification of the
 subject property from BR to BR-AS.

Section 2-356(i) of the Baltimore County Code authorizes the
 Planning Board to certify to the County Council that expedited
 scheduling of a reclassification hearing by the Board of Appeals
 "is manifestly required in the public interest or because of
 emergency." Neither the certification by the Planning Board nor a
 concurrence by the County Council would constitute an opinion on
 the merits of the petition; the effect is simply to take the
 petition out of the normal cycle zoning schedule for an earlier
 hearing.

The subject request for certification has been reviewed by planning
 staff and without taking a position on the merits of the case, we
 recommend to the Board that certification for early action upon
 this zoning classification petition is required.

Pat Keller
 Arnold F. "Pat" Keller

AFK:JL:lw
 JIMDIS.KRV/PZONE/TXTJLW

Attachment



ITEM #6

BALTIMORE COUNTY COUNCIL AGENDA
 LEGISLATIVE SESSION 1995, LEGISLATIVE DAY NO. 20
 OCTOBER 16, 1995 7:30 P.M.

- A. MOMENT OF SILENT MEDITATION
 PLEDGE OF ALLEGIANCE TO THE FLAG
- B. APPROVAL OF JOURNAL - Meeting of October 2, 1995
- C. ENROLLMENT OF BILLS - 147-95, 148-95, 149-95, 150-95, 151-95, 152-95, 153-95, 154-95, 155-95,
 157-95, 158-95, 159-95, 160-95 & 161-95
- D. INTRODUCTION OF BILLS
 BILL 182-95 - Mr. Gardina (By Req.) - CEB - Family Investment Center
 BILL 181-95 - Mr. Gardina (By Req.) - CEB - MTA Central Light Rail Line Agreement
 BILL 184-95 - Mr. Gardina (By Req.) - CEB - SARA Title III
 BILL 185-95 - Celenbrey, Mosley & Riley - Zoning Regs. - Breweries
 BILL 186-95 - Mr. Gardina (By Req.) - CEB - Videotape Pilot Project
 BILL 187-95 - Mr. Gardina (By Req.) - Capital Budget - Community Colleges - Catonsville Community College
- E. CALL OF BILLS FOR FINAL READING AND VOTE
 BILL 162-95 - Mr. Gardina (By Req.) - CEB - Fire Dept. - Local Emergency Planning Committee
 BILL 163-95 - Mr. Gardina (By Req.) - CEB - Fire Dept. - HAZ-MAT Team
 BILL 164-95 - Mr. Gardina (By Req.) - CEB - Home Investment Partnership Program
 BILL 165-95 - Mr. Gardina (By Req.) - CEB - Public Health Dentistry
 BILL 166-95 - Mr. Gardina (By Req.) - CEB - Baltimore City Office of Employment Development
 BILL 167-95 - Mr. Gardina (By Req.) - CEB - Nursing Services
 W/DRAWN BILL 168-95 - Mr. Mosley - Zoning Regs. - Elderly Housing Facilities
- F. APPROVAL OF FISCAL MATTERS
 1. Contract of Sale - Rahmat Ranson & Saced Moua-ssa - Riverwood Plaza
 2. Contract of Sale - John T. Ross - Red Run Boulevard Project
 3. Contract of Sale - Frederick N. & Sharon Ann Koenig - Red Run Boulevard
 4. Contract of Sale - Lucille E. Whittingham - Red Run Boulevard
 5. Contract - Greenhome & O'Mara, Inc. - Water Transmission Main - Bethlehem Steel
 6. BAT - Public Works - Vermont Avenue
 7. BAT 96-3C - Board of Education - Wabash Ave. Bus Storage Facility
 8. Contract - Fox Lawson & Associates - Gainsborough Program
 9. Contract - Gaudreau, Inc. - Professional Services - County Courts Building
 10. BAT 96-2C - Catonsville Community College - Technical Arts Building
 11. Contract - Greenhome and O'Mara, Inc. - Cub Hill Elevated Tank Project
- G. MISCELLANEOUS BUSINESS
 1. Correspondence
 2. Res. 61-95 - Mr. Gardina (By Req.) - Economic Development Revenue Bond - 660 Associates
 3. Res. 62-95 - Mr. Gardina - Out of Cycle Zoning Reclassification - Royal Farm Stores - Back River Neck Road
 4. Res. 63-95 - Mr. Gardina (By Req.) - North Point Blvd. & Kato Drive Area/State Enterprise Zones
 5. Res. 64-95 - Mr. Gardina - Public Reservation - Portion of Owens Glen - Cumby Road
 6. Res. 65-95 - Mr. DePazzo - NBDP Application - North Point Village Shopping Center
 7. Res. 66-95 - Mr. Gardina - Planning Bd. - Registration of Rental Properties

R96200/PZONE/TXTJWL

10/16/95 CC Cloverland Dairies, Inc. Reclass: from Hoffman
for Royal Farm Stores BR to BR-AS 8/18/95
12/07/95 /hrng SE/cor Middleborough 5th Councilmanic
1:00 p.m. Road and Back River Rd District

55 OCT 17 1995



County Council of Baltimore County

Court House, Towson, Maryland 21204
(410) 887-3196
Fax (410) 887-5791

Stephen G. Samuel Moxley
FIRST DISTRICT
Kevin Kamenetz
SECOND DISTRICT
T. Bryan McIntire
THIRD DISTRICT
Douglas B. Riley
FOURTH DISTRICT

Vincent J. Gardina
FIFTH DISTRICT
Joseph Barenfelder
SIXTH DISTRICT
Louis L. DePaize
SEVENTH DISTRICT
Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

October 17, 1995

Robert O. Schuetz, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Schuetz:

Attached please find a copy of Resolution 62-95 which the County Council passed unanimously at its October 16, 1995 meeting.

Resolution 62-95 approves the Planning Board's certification that the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, for the property located at Back River Neck and Middleborough Roads and situated in the Fifth Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

This Resolution is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:dp
Enclosure
R06295.TRN

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1995, LEGISLATIVE DAY NO. 20

RESOLUTION NO. 62-95

MR. VINCENT J. GARDINA, COUNCILMAN

BY THE COUNTY COUNCIL, OCTOBER 16, 1995

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, for the property located at Back River Neck and Middleborough Roads and situated in the Fifth Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated September 21, 1995, has certified that early action on the Petition for Zoning Reclassification filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores, requesting a reclassification of the above described property, is manifestly required in the public interest or because of emergency; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-356(i), may approve said certification and exempt the Petition for Zoning Reclassification from the regular procedures of Section 2-356.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Cloverland Dairies, Inc. on behalf of Royal Farm Stores be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

R06295

ZONING ADVISORY COMMITTEE MEETING OF NOVEMBER 6, 1995

Case Number: R-96-200
Item Number: 189
Legal Owner: Cloverland Farms Dairy, Inc.
Contract Purchaser: N/A
Location: NE/S Back River Neck Road, corner S/S
Middleborough Road (#1601 Middleborough Road)
Existing Zoning: B.R.
Proposed Zoning: B.R.-A.S.
Area: 0.14 (+/-) acres
District: 15th Election District
5th Councilmanic District

ZONING ADVISORY COMMITTEE AGENDA ROOM 301, COUNTY OFFICE BUILDING DISTRIBUTION MEETING OF NOVEMBER 6, 1995

\$ Distributed at Meeting
* Agenda Only
+ Agenda and Petition
& Agenda and Plat
Agenda, Petition and Plat

Distribution:

- * Zoning Commissioner's Office (Lawrence Schmidt); MS #2112
- # PDM, Zoning Review H.O. Hearing File (Gwendolyn Stephens)
- # PDM, Zoning Review Work File (Joyce Watson)
- \$* PDM, Project Management (David Flowers)
- \$* PDM, Project Management (Kurt Kugelberg)
- * PDM, Code Enforcement (Helene Kehring)
- \$* PDM, Zoning Review (John Alexander)
- \$+ PDM, Development Plans Review (Dennis A. Kennedy)
- \$* Planning Office Director (Pat Keller)
- # Planning Office (Jeffrey Long)
- * Recreation and Parks (Ronald Schaeffer); MS #52
- * DEPRM (Larry Pilsen) - 2 plats
- * DEPRM, Air Quality Management (Dave Filbert); MS #3404
- & State Highway Administration, Access Permits Division (David N. Ramsey)
- & PDM, Building Plans Review (Lt. Robert Sauerwald); MS #1102F
- * PDM, Building Plans Review (Dick Seim)
- * Economic Development Commission, Business Develop. (Susan Brennan); MS #2M07
- * Highways (Richard Cox); MS #1003
- * Community Development (Amy Johanson); MS #1102M
- * People's Counsel (Peter Zimmerman); MS #2010
- + IF CRITICAL AREA, Maryland Office of Planning (Bill Carroll)
- # IF ELDERLY HOUSING, Community Development; MS #1102M

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with your office or department's code, standards or regulations. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" before the hearing date. If no written response is received by the committee before the hearing date, it is assumed that your agency has "no comment". All written comments must reference the ZAC item number. All comments received will be compiled and included in the zoning/development file for review and consideration by the hearing officer during the course of the upcoming zoning/development hearing.

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Joyce Watson. If you have any questions regarding these zoning petitions, please contact either Sophia Jennings or Carl Richards at 887-3391 (FAX - 887-5708).

Revised 11/1/95

BALTIMORE COUNTY, MARYLAND Inter-Office Memorandum

DATE: November 2, 1995

TO: Baltimore County Zoning Plans Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Supervisor (887-3391)

SUBJECT: Out-of-Cycle Open Zoning Reclassification Petition
Case Number R-96-200
Legal Owner: Cloverland Farms Dairy, Inc.
Contract Purchaser: N/A
Address: 1601 Middleborough Road
Description: NE/S Back River Neck Rd., cor. S/S Middleborough Rd.
15th Election District; 5th Councilmanic District

THE ABOVE REFERENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON SEPTEMBER 21, 1995 AND BY RESOLUTION OF THE BALTIMORE COUNTY COUNCIL DATED OCTOBER 16, 1995 (ATTACHED). PURSUANT TO SECTION 2-356(i) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE OF DECEMBER 7, 1995. YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS TO THIS OFFICE UNDER THE ABOVE REFERENCE PRIOR TO THE HEARING DATE. IF YOU SHOULD NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY, OR MYSELF IMMEDIATELY.

WCR:scj

Revised 11/1/95

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: CLOVERLAND FARMS DAIRY, INC. /ROYAL FARM STORES
Case No. R-96-200

DATE: December 7, 1995 /at conclusion of hearing

BOARD /PANEL: Robert O. Schuetz, Chairman (ROS)
S. Diane Levero (SDL)
Harry E. Buchheister, Jr. (HEB)

SECRETARY: Kathleen C. Bianco
Administrative Assistant

Those present included Robert A. Hoffman, Esquire, on behalf of Petitioner; and Carole S. Demilio, Deputy People's Counsel.

ROS: As indicated prior to the closing of the evidentiary portion of the proceeding, we are here now to deliberate the matter before the Board, and that being the out of cycle reclassification for the property at Middleborough Road and Back River Neck Road. Issue is whether the Petitioner has met the burden of Section 2-356. It's my opinion that the classification which was assigned to the property as a result of the Board's Case No. 66-123-X was not sufficiently applied by the Office of Zoning when the map was drawn; that the zoning classification in 1971 was in error; and that the error was perpetuated every comprehensive zoning map process hence; and, therefore, the comprehensive zoning map drafted in 1992 assigned the improper zoning classification, which is the matter before the Board today.

Therefore, I believe that the Petitioner has met the first requirement of Section 2-356(i), and that the second requirement, that the projected reclassification is warranted, has also been met in that the classification which is proposed is consistent with uses which are already in place; that we have evidence from the Protestants in this matter that an automotive filling station was used in the past. Issues concerning population trends, availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid waste disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area -- all have been met.

An issue brought by People's Counsel and the Protestants concerning current on-site stormwater sewerage, which I consider to be an existing site difficulty, is an issue which

Minutes of Deliberation /Cloverland Farm Dairy, Inc. R-96-200

is required to be addressed as an engineering consideration for any proposed use pursuant to any order which would grant - when considering order when Petitioner files a Petition for Special Exception for the proposed use - and is something which Permits and Development Management would have to address in comments.

Therefore, I would find that the Petitioner has met the burden under Code sections for reclassification.

SDL: I would concur with the Chairman; would grant the Petition for zoning reclassification. Jeff Long's testimony regarding the drafting error is undisputed. Would grant request.

HEB: The testimony of Mr. Long is most persuasive in this area. I concur with the remarks that the Chairman has made; that the reclassification from B.R. to B.R.-A.S. should be granted.

ROS closing: That concludes this matter. Look for a written Opinion and Order. If anyone wishes to file a petition for judicial review, it should be from the date of that Order and not from today's date.

Respectfully submitted,

Kathleen C. Bianco
Administrative Assistant

BALTIMORE COUNTY BOARD OF APPEALS
GUIDE FOR PREPARATION OF RECLASSIFICATION PETITIONS

Each petition request should include:

- Three completed typewritten petition forms, indicating the existing and requested zoning; the special exception use, if applicable; and if applicable, the section number of the Baltimore County Zoning Regulations from which a variance is requested, as well as the nature and extent of the variance requested. All forms must be signed (original signature and title, if applicable; xerox copies are unacceptable) by the petitioner or his legally authorized representative. For persons signing in place of the legal owner, an authorization letter or copy of the power of attorney is required at the time of petition filing.
- Four copies of the property description (saving and excepting all adjacent areas of public right-of-ways) FOR THE AREA OF RECLASSIFICATION ONLY, prepared and sealed by a surveyor or civil engineer. (See #4 of the reclassification checklist for sites where additional hearings are requested.)
- Four copies of a brief or an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the county authorities required to review the petition of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail and as further required by Section 2-356(j) of the Baltimore County Code. If the petition filed is not a documented conditional use request, then this brief cannot document a proposed use without filing a complete documented petition.
- Four xerox copies each of that part of the appropriate official 1" = 200' and 1" = 1,000' scale zoning maps, with the outline of the property to be reclassified indicated thereon.
- The appropriate filing fee and posting fee should accompany the petition request. However, the advertising should be paid as soon after billing as possible. Opinions may not be issued until all such costs are paid.
- Twelve copies of a site plan (14 copies if in the critical area), the boundaries and location of which have been certified (sealed) by a registered surveyor or professional (civil) engineer. Said site plan shall include all applicable items on the attached checklist for reclassification petitions.

RE: PETITION FOR RECLASSIFICATION
1601 Middleborough Road, NE/S Back River
Neck Road, corner S/S Middleborough Rd
15th Election District
5th Councilmanic
Cloverland Farms Dairy, Inc.
Petitioner
* * * * *
BEFORE THE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
Case No. R-96-200

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County
Charles S. Lemilio
CAROLE S. LEMILIO
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of November, 1995, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, LLP, 210 Allegheny Avenue, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN

RE: PETITION FOR SPECIAL EXCEPTION
for a Gasoline Service Station, and
C.N.S. (commercial, neighborhood
shopping District
NE/S Back River Neck Road and
Middleborough Road,
15th District
John Crowley, et al
Petitioners
* * * * *
BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 66-123-X

OPINION

Ref. Cloverland/Royal Farm
R-96-200
Held: 12/01/95
The petitioner in this case seeks a special exception to erect a gasoline service station on a .486 acre parcel of ground zoned B.R. situated at the intersection of Back River Neck Road and Middleborough Road in the Fifteenth Election District of Baltimore County. The petitioner also requests that the Board grant him a C.N.S. (commercial, neighborhood shopping) District on the subject parcel to permit the construction of a gasoline service station.

The property is presently improved by an old, extremely dilapidated, general store. Immediately to the south of the subject parcel is a small shopping area improved with a Royal Farms store. It is proposed that there will be an interconnection between the gasoline service station and the Royal Farms store parking lot.

Testimony produced by the petitioner indicated that the only feasible use of the subject property is for the development of some type of automobile oriented use, and that a gasoline station would not create any traffic congestion or problems, and would indeed open up the corner. Other witnesses for the petitioner testified that the service station would not be detrimental to the general health, safety, or welfare of the community, nor depreciate surrounding properties.

Without going into detail as to the testimony of each witness, the Board finds that the construction of a gasoline service station here would not violate any requirements of Section 502.1 of the Zoning Regulations, nor Section 405.3 of Bill #40, enacted by the County Council on May 1, 1967.

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations
210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

R-96-200
#189
RECEIVED
AUG 18 1995
OFFICE OF
PLANNING & ZONING

Mr. Arnold E. "Pat" Keller, III,
Mr. Jeffrey W. Long
Office of Planning and Zoning
County Courts Building - 4th Floor
401 Bosley Avenue
Towson, Maryland 21204

Re: Proposed Rezoning under Section 2-356(i), Baltimore County Code

Dear Pat and Jeff:

As we discussed in our previous meeting, our client, Royal Farm Stores is purchasing a piece of property at Back River Neck and Middleborough Roads. In preparing a site plan for a Royal Farm Store with fuel pumps, it became apparent that the 1992 comprehensive zoning map contained a drafting error (i.e. the CNS district line bisects the service station building).

By way of background, the property was rezoned to a BR-CNS (now BR-AS) classification in 1967 and also received a special exception for a fuel service station in case number 67-235-X. Our engineer has placed the description filed in the 1967 case on the attached 1992 Comprehensive Zoning Map to indicate the area that was restricted to CNS at that time.

Unfortunately, the zoning line was incorrectly drawn by the Office of Zoning and, it is our understanding that this was presented to the Baltimore County Council for adoption on the 1971 comprehensive zoning map. (See attached 1955 Zoning Map with 1967 case shown and the 1971 Comprehensive Map). This error has been perpetuated on each successive map through 1992. Compounding the error further, the zone line adopted in 1971 does not correspond precisely to what was presented at that time.

CLOVERLAND DAIRIES, INC. - PETITIONER
/ROYAL FARM STORES
SE/corner of Middleborough Road and
Back River Neck Road

R-96-200
(Out-of-Cycle)
Election District
5th Councilmanic District

BR to BR-AS

September 21, 1995 Planning Board Meeting and recommendation for early action.

October 16 Approved by County Council.

Petition for Reclassification from BR to BR-AS (formerly BR-CNS) filed by Robert A. Hoffman, Esquire, on behalf of Petitioner.

*Robert A. Hoffman, Esquire
VENABLE, BAETJER & HOWARD, LLP
210 Allegheny Avenue
Towson, MD 21204
Counsel for Petitioner
Cloverland Dairies, Inc. on
behalf of Royal Farm Stores
Petitioner

G.W. Stephens & Assoc., Inc.

James Earl Kraft
Baltimore County Board of Education

Peter Max Zimmerman

People's Counsel for Baltimore
County

Pat Keller
Jeffrey Long
Lawrence E. Schmidt
W. Carl Richards, Jr.
Docket Clerk /PDM
Arnold Jablon, Director /PDM

Please Note:

Advertising bill will be
handled directly between
newspaper and attorney.
The County will lay out 20
funds.
Gwen
11-15-95

VENABLE
ATTORNEYS AT LAW

VENABLE, BAETJER AND HOWARD, LLP
Including professional corporations
210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

OFFICES IN
MARYLAND
WASHINGTON, D.C.
VIRGINIA

Robert A. Hoffman
(410) 494-6262

October 23, 1995

Robert O. Schuetz, Chairman
County Board of Appeals of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: Petition for Reclassification of Property located at the Southwest
Corner of the Intersection of Broad Street and Padonia Road
Zoning Case No. CR-93-305-SPH

Dear Mr. Schuetz:

On February 23, 1994, on behalf of Baker Land Company, et al., legal owners, and Harrison & Grass Partnership, contract purchaser, a Petition for Reclassification was filed with the County Board of Appeals of Baltimore County for 6.57 acres located on the southwest corner of Padonia Road and Broad Avenue. In this interim or "cycle" rezoning petition, which was filed in accordance with Section 2.356 of the Baltimore County Code, the Petitioners requested B.M. (Business Major) zoning, in lieu of the present zoning combination of M.L.R. (Manufacturing Light Restricted), 0-1 (Office Building), and D.R. 3.5 (Density Residential).

On February 24, 1994, the Board of Appeals granted the requested reclassification for this property. The Board's decision was then appealed to the Circuit Court for Baltimore County. Upon remand to the Board of Appeals for further legal and factual findings in support of its decision, this case was then appealed to the Court of Special Appeals.

Since this cycle reclassification request has become a Comprehensive Map issue, to be decided by the Baltimore County Council in October of 1996, and because the Petitioners cannot get the requested relief prior to the adoption of the 1996

VENABLE
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Including professional corporations
210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

OFFICES IN
MARYLAND
WASHINGTON, D.C.
VIRGINIA

Writer's Direct Number:
(410) 494-6201

October 26, 1995

Via Hand Delivery

Mr. Carl Richards
Department of Permits
and Development Management
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Out-of-Cycle Zoning Reclassification Petition
Legal Owner: Cloverland Farms Dairy, Inc.
Southeast corner of Middleborough and Back River Neck Roads

Dear Carl:

Enclosed please find the filing package with regard to the above-referenced Petition for Reclassification.

Yours truly,

Robert A. Hoffman
Robert A. Hoffman

BWO:mpm
Enclosures

cc: John M. Kemp

VENABLE
ATTORNEYS AT LAW

VENABLE, BAETJER AND HOWARD, LLP
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210 Allegheny Avenue
Post Office Box 5517
Towson, Maryland 21285-5517
(410) 494-6200, Fax (410) 821-0147

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VIRGINIA

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October 26, 1995

Via Hand Delivery

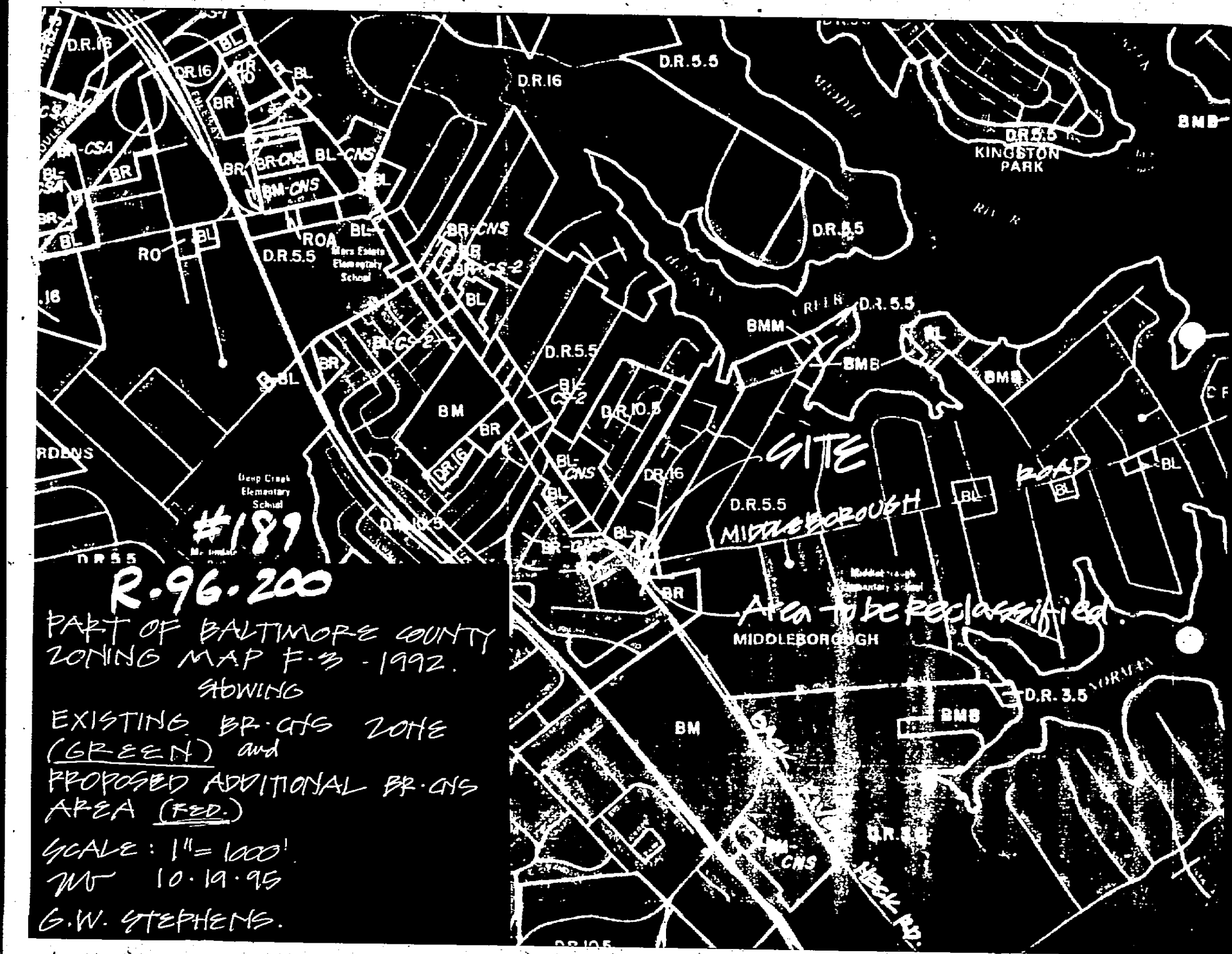
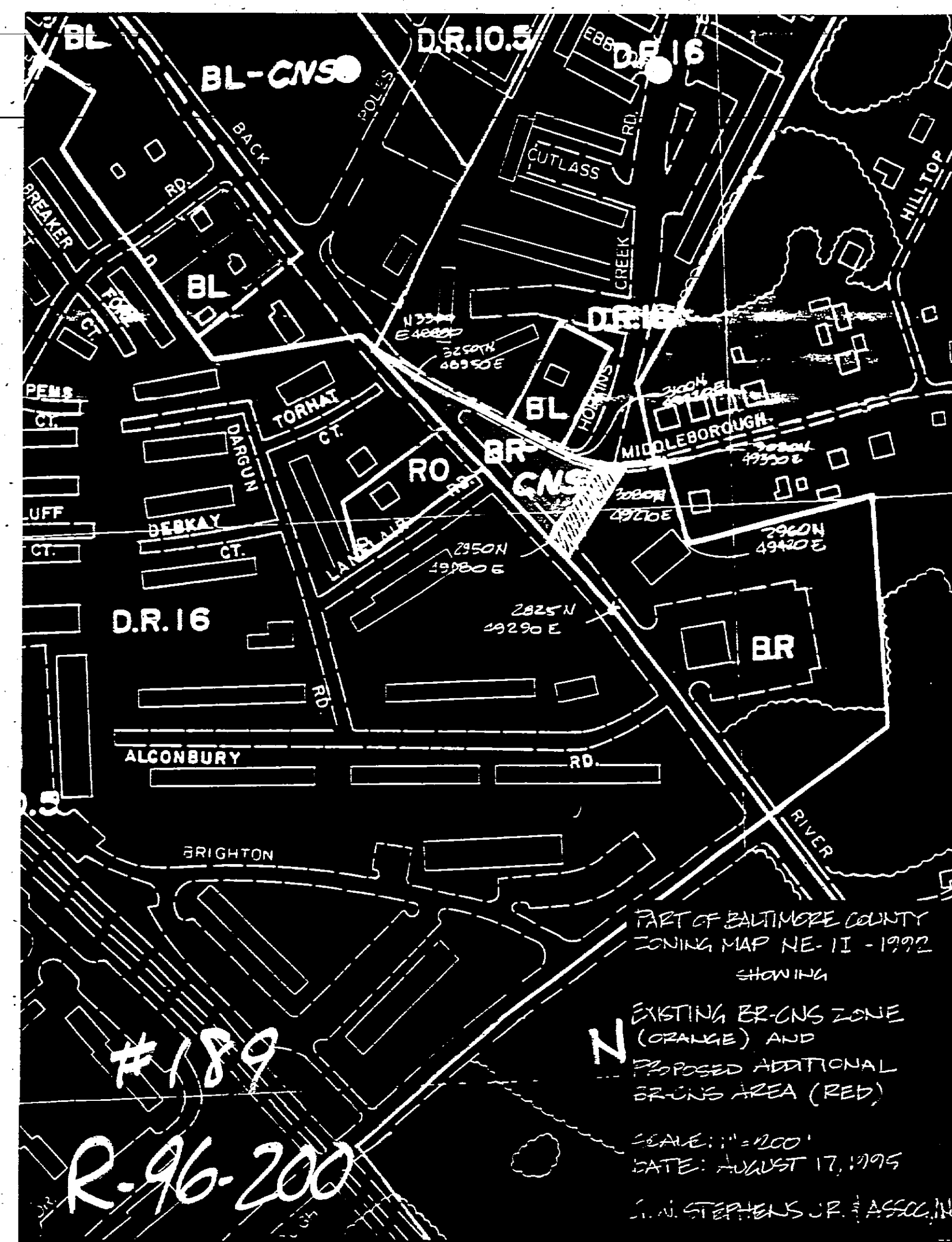
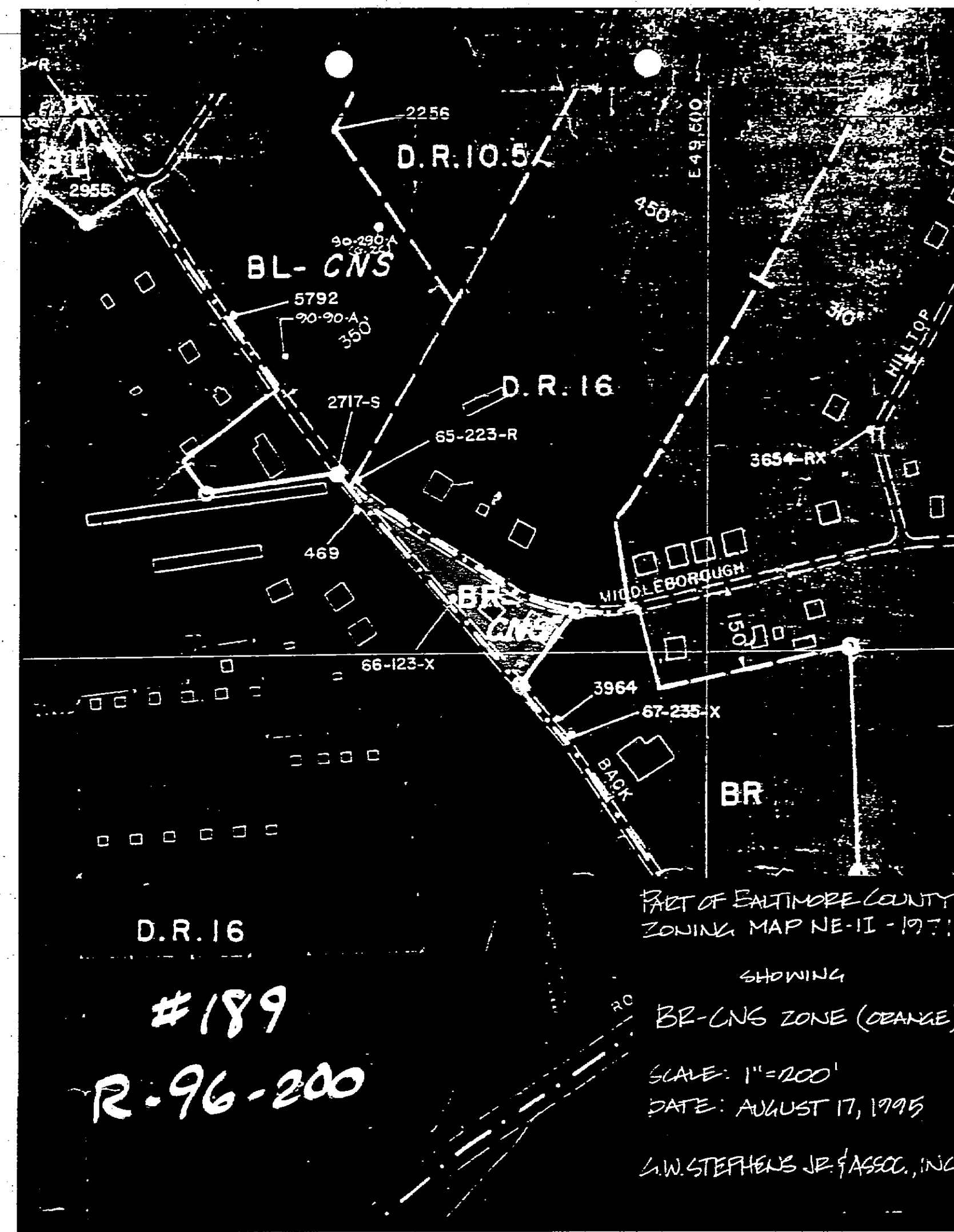
Robert O. Schuetz, Chairman
Board of Appeals for Baltimore County
Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Out-of-Cycle Zoning Reclassification Petition
Legal Owner: Cloverland Farms Dairy, Inc.
Southeast Corner of Middleborough and Back River Neck Roads

Dear Mr. Schuetz:

Enclosed please find the following documents with regard to the above-referenced Petition for Reclassification:

- Three Petitions for Zoning Reclassification;
- Twelve site plans;
- Nine legal descriptions; only 9
- Three 1992 200' scale zoning maps;
- Three 1992 1000' scale zoning maps;
- Three 1971 200' scale zoning maps;
- Three 1055 200' scale zoning maps;
- Three copies of County Council Resolution No. 62-95 approved on October 16, 1995;



Pet. Ex. 6

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman DATE: November 30, 1995
Board of Appeals

FROM: Arnold F. "Pat" Keller, III, Director
Office of Planning

SUBJECT: Case No. R-96-200/Middleborough and Back River/
Cloverland Farms Dairy, Inc.

At its regularly scheduled monthly meeting on September 21, 1995, the Baltimore County Planning Board voted in accordance with Section 2-256(1) of the County Code to certify to the County Council that early action upon the Petition for zoning reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on October 16, 1995.

Enclosed herewith is a copy of the report of the Office of Planning.

Pat Keller
Arnold F. "Pat" Keller, III

AFK:JL:lw
PRR96.200/PZONE/TEXTILE
Enclosure

45-2 195-33066

