

IN RE: PETITION FOR SPECIAL HEARING
(No Specific Location)

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 96-251-SPH

Hofmann Bus Company, Inc.
Petitioner

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing which identifies no specific site as the subject of the requested relief. The Petition was filed by the Hofmann Bus Company, Inc., seeking an interpretation of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioner seeks a determination as to whether the maintenance, repair, and storage of common carrier vehicles (buses) in an M.L. zone is permitted as of right under the definition of a "Transit Storage and Repair Yard" as found in Section 101 of the B.C.Z.R.

Following the filing of this Petition, the case was scheduled for a public hearing on January 30, 1996, and public notice of same was provided by way of an advertisement in the Jeffersonian newspaper.

Appearing at the hearing were Wilbur A. Delano, Sr., Randy Delano, and Dennis Bayer, all representatives of the Hofmann Bus Company, Inc. Also present were James E. Matis, a land use consultant, and Robert A. Hoffman, Esquire. Marie Q. Simoes, appeared as a Protestant in the matter. Moreover, correspondence was received from the Office of People's Counsel of Baltimore County, dated January 25, 1996, which raised certain objections to the proceedings which will be discussed hereinafter.

As noted above, the subject matter is in somewhat of an unusual posture, in that no specific property is identified as the subject of the

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Petition. In fact, the Office of People's Counsel and Ms. Simoes both object to the Petition as improper in that no specific site is identified.

A review of Section 500.7 of the B.C.Z.R. clearly indicates that an objection on this basis is without merit. That Section empowers the Zoning Commissioner to conduct "such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations..." Further on, that Section states "If the Petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least fifteen (15) days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the County." (emphasis added).

A fair reading of that language is dispositive on this issue. The regulation clearly provides that the Zoning Commissioner has broad discretion to conduct hearings to interpret the regulations, and that such hearing may involve a specific property, or may not. Particularly, the notice requirement provides direction for when a specific property is involved and when one is not so designated.

People's Counsel complains that it is patently unreasonable and unfair to expect the citizens of the County to comb all of the newspapers with County circulation to determine if they may be affected by a proposed zoning Petition. Although this may or may not be the case, the language of the Statute and the intent of the County Council is clear. The Zoning Commissioner enjoys the discretion to consider such cases as may be necessary to interpret the zoning regulations and such cases are not limited to only those Petitions which identify a specific property.

Turning to the merits of this case, testimony was received from Wilbur Delano, Sr., a principal in the Hofmann Bus Company, Inc. Mr. Delano testified that he acquired the business approximately 30 years ago and now operates same with his son and son-in-law. He testified that when he acquired the business many years ago, the company then owned five buses and had several contracts involving the operation of that small fleet. The business has grown over the years and the company now owns approximately 90 buses. Testimony revealed that Hofmann Bus Company has a series of contracts with the government (Baltimore County and Baltimore City), as well as public and private agencies. Mr. Delano testified that his company contracts, without discrimination, to those in need of transportation services. He stated that his company has a long-standing contract with local school systems to provide transportation for students. These include regular daily transportation, as well as services for field trips, and other similar needs. Moreover, the company operates a shuttle for the Johns Hopkins Hospital, has contracted with the Baltimore Retarded Citizens Alliance, and has similar contracts. He also noted that the company charters its buses to groups or individuals. For example, any private citizen or business entity could contract for a one time bus service; for example, the company has contracted to transport groups to baseball games, special events, and other similar occurrences.

Mr. Delano also noted that his company is regulated by the Public Service Commission and the Motor Vehicle Administration. These agencies both regulate his company as a common carrier, and routinely inspect the buses. The company employs nearly 130 people, including approximately 7 individuals who perform routine maintenance and repair of the bus fleet.

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Presently, the business operates from 1003 Race Road in Rossville. However, as noted above, the business has grown and a larger site is needed. The Petitioner is in the process of investigating other properties throughout Baltimore County which will permit the use under the zoning regulations and accommodate the needs of the business. This Petition has been filed to determine whether the use of property zoned M.L. as a transit storage and repair yard, would be permitted as a matter of right.

The Petitioner suggests that the subject use meets the definition of a transit storage and repair yard, as found within Section 101 of the B.C.Z.R. That Section defines that term as "A site used primarily for the storage and maintenance of common carrier vehicles, and for the repair of equipment associated with such vehicles." Transit storage and repair yards are permitted by right in an M.L. zone, pursuant to Section 253.1B(15C) of the B.C.Z.R.

In considering the subject Petition, a detailed review of the definition of transit storage and repair yard is required. Clearly, based on Mr. Delano's testimony, the property to be utilized for the operation of the Hofmann Bus Company, Inc. will be a site primarily used for the storage and maintenance of the buses. An aerial photograph of their present operation was shown at the hearing and shows that buses are stored throughout the property when not in use, and that a building has been erected to conduct repairs and routine maintenance on those vehicles. This business operation will continue when the company is relocated.

The sole question at issue is whether the buses owned by Hofmann Bus Company, Inc. are considered common carrier vehicles. Unfortunately, the term "common carrier vehicles" is not identified in the B.C.Z.R. In such event, Section 101 of the B.C.Z.R. directs the reader to consider the

ordinarily accepted definition of the term as found in Webster's Third New International Dictionary of the English Language, Unabridged. A consultation of Webster's reveals that the phrase "common carrier" is, in fact, defined therein. Webster's defines "common carrier" as "One that undertakes the hire, the carrying of goods, persons, or messages, treating its whole clientele without individual preference or discrimination, and being responsible for all losses and injuries, except those in consequence of an act of God, of the enemies of the Country, or of the owner of the property himself." Such definition squarely fits the Hofmann Bus Company, as described by the uncontradicted testimony of Mr. Delano. The company undoubtedly specializes in the transportation (carrying) of persons, and does not discriminate nor show preference in its operation. As noted above, the company contracts with the government, corporate, and individual clients. Therefore, in my judgment, the Hofmann Bus Company business, as described at the hearing, would be considered a transit storage and repair yard, and thus, would be permitted by right in an M.L. zone.

For their part, People's Counsel and Ms. Simoes raise a series of objections to such a conclusion. Primarily, they point to Bill No. 91-90, and the legislative history associated therewith, which established and regulated transit storage and repair yards and similar uses. In my view, such an examination of the history of this Bill is improper. As is well-established at law, the cardinal rule of statutory construction is to ascertain and carry out the intent of the legislature. See Stapleford v. Hyatt, 330 Md. 388 (1993). In making such judgment, the language of the statute and the natural and ordinary meaning of same must be considered. Harford County v. University, 318 Md. 525 (1990). Most importantly, the Courts have held that if there is no ambiguity or obscurity in the language

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WILSON

of a statute, there is no need to look elsewhere to ascertain the intent of the legislative body. See Montgomery County v. Buckman, 333 Md. 516 (1994). Thus, it is only when there is ambiguity or obscurity in the language of the statute should an examination of the legislative history of the act be undertaken.

In this case, there is no ambiguity or obscurity in the statute. The words utilized in defining a transit storage and repair yard are clear. The plain meaning of those words, as discussed heretofore, is obvious.

It is also important to note that the Council, when drafting the Bill, was well aware of the distinction between private common carriers, such as the Hofmann Bus Company, and public common carriers, such as the Mass Transit Administration (MTA). The legislature's possession of this knowledge is clear in reviewing the definitions which were adopted by Bill No. 91-90. Specifically, that Bill added five definitions to Section 101 of the B.C.Z.R. Those definitions were of the terms "bus terminal", "rail passenger stations", "transit center", "transit facility", and "transit storage and repair yard". In defining "bus terminal", the Council indicated specifically that the definition enacted "does not include Mass Transit Administration vehicles or Baltimore County public school buses." In defining a "transit center", the legislature noted that such use included the structure and bus staging area "...designed and located to facilitate transfers among bus routes operated by the State Mass Transit Administration."

Clearly, the Council was aware of the role of the Mass Transit Administration. Notwithstanding this knowledge, and inclusion of that entity's vehicles in some definitions, the Council saw fit to not restrict

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Date

By

those activities described as a transit storage and repair yard only to operations conducted by the MTA.

Thus, People's Counsels' suggestion that a transit storage and repair yard includes only such operations as conducted by the MTA is incorrect. If the Council wanted to restrict a transit storage and repair yard to only that operator, the Council should have said so. To adopt such an approach, particularly when the Council did not identify that sole user within their definition, as it did elsewhere in the Bill, is simply wrong. The use of property as a transit storage and repair yard is not specifically applicable to the MTA.

For these reasons, it is clear that the relief requested in the Petition for Special Hearing must be granted. The Petitioner's business as described, is a transit storage and repair yard. Such use, pursuant to the B.C.Z.R., is permitted by right in an M.L. zone.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of February, 1996 that the maintenance, repair, and storage of common carrier vehicles (buses) in an M.L. zone is permitted as of right under the definition of a "Transit Storage and Repair Yard" as contained within Section 101 of the B.C.Z.R., and as such, the Petition for Special Hearing is hereby GRANTED.

LES:bjs


LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

February 1, 1996

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

RE: PETITION FOR SPECIAL HEARING
(No Specific Location)
Hofmann Bus Company, Inc. - Petitioner
Case No. 96-251-SPH

Dear Mr. Hoffman:

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

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

Very truly yours,

A handwritten signature in dark ink, appearing to read "Lawrence E. Schmidt", is written over the typed name.

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Dennis G. Bayer, President
Hofmann Bus Company, Inc., 1003 Race Road, Baltimore, Md. 21221

People's Counsel

File



Petition for Special Hearing

96-251-SPH

to the Zoning Commissioner of Baltimore County

for the property located at

NO SPECIFIC SITE

which is presently zoned ML

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 for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the maintenance, repair and storage of common carrier vehicles (buses) in an ML zone as permitted under the definition of a Transit Storage and Repair Yard.

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

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

Petitioner:

XXXXXXXXXXXX
Contract Purchaser/Lessee:

Hofmann Bus Co., Inc.

(Type or Print Name)

By: Dennis G. Bayer
Signature Dennis G. Bayer, President

1003 Race Road 391-6444

Address
Baltimore, Maryland 21221

City State Zipcode

(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.

Legal Owner(s):

Attorney for Petitioner:

Robert A. Hoffman, Esquire

(Type or Print Name)

Robert A. Hoffman
Signature Venable, Baetjer & Howard
210 Allegheny Avenue 494-6201

Address
Towson, Maryland 21204 Phone No.

City State Zipcode

Name, Address and phone number of representative to be contacted.

Robert A. Hoffman

Name 210 Allegheny Avenue
Towson, Maryland 21204 21204
Address Phone No.

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for hearing

the following dates _____ Next Two Months

ALL _____ OTHER _____

REVIEWED BY: _____ DATE _____

ORDER RECEIVED FOR FILING

Date

By

DROP-OFF
NO REVIEW

12/20/95

UCR



Robert A. Hoffman, Esq.
210 Allegheny Avenue
Towson, MD 21204

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case: #96-251-SPH
(Item 251)

NO SPECIFIC LOCATION
Petitioner: Hoffman
Hearing: Tuesday, January 30,
1996 at 10:00 a.m. in Room
118, Old Courthouse
Bus Company, Inc.

Special Hearing: to approve the maintenance, repair, and storage of common carrier vehicles (buses) in a M.L. zone as permitted under the definition of a Transit Storage and Repair Yard.

Hearing: Tuesday, January 30,
1996 at 10:00 a.m. in Rm.
118, Old Courthouse.

LAWRENCE E. SCHMIDT,
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call 887-3353.
(2) For information concern-
ing the file and/or hearing,
Please Call 887-3391.

1/104 Jan, 11 C26108

CERTIFICATE OF PUBLICATION

TOWSON, MD.,

1/15, 1996

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 1/11, 1996

THE JEFFERSONIAN,

G. H. Henrichs

LEGAL AD. - TOWSON

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

No. 013425

DROP-OFF — NO REVIEW
ITEM #251

DATE 12/20/95 ACCOUNT 001-6150
96-251-SPH
AMOUNT \$ 250.00 (WCR)

RECEIVED FROM: Hofmann Bus Co., Inc.

#040 - SPECIAL HEARING
Petitioner -- Hofmann Bus Co., Inc.
FOR: No Specific Location

AMOUNT \$ 250.00
DATE 12/20/95

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER
VALIDATION OR SIGNATURE OF CASHIER

TO: PUTUXENT PUBLISHING COMPANY
January 11, 1996 Issue - Jeffersonian

Please forward billing to:

Robert A. Hoffman, Esq.
210 Allegheny Avenue
Towson, MD 21204
494-6201

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-251-SPH (Item 251)

NO SPECIFIC LOCATION

Petitioner: Hoffman HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.
Bus Company, Inc.

Special Hearing to approve the maintenance, repair, and storage of common carrier vehicles (buses) in a M.L. zone as permitted under the definition of a Transit Storage and Repair Yard.

HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900
Fax: (410) 887-2824

January 8, 1996

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in
Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204
or
Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-251-SPH (Item 251)

NO SPECIFIC LOCATION

Petitioner: Hoffman HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.
Bus Company, Inc.

Special Hearing to approve the maintenance, repair, and storage of common carrier vehicles (buses) in a M.L. zone as permitted under the definition of a Transit Storage and Repair Yard.

HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.

A handwritten signature in cursive script, reading "Arnold Jablon".

Arnold Jablon
Director

cc: Robert A. Hoffman, Esq.

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.





Baltimore County
Department of Permits and
Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900
Fax: (410) 887-2824

January 23, 1996

Robert A. Hoffman, Esquire
Venable, Baetjer & Howard
210 Allegheny Avenue
Towson, MD 21204

RE: Item No.: 251
Case No.: 96-251-SPH
Petitioner: Hoffmann Bus Co., Inc.

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 December 20, 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.
W. Carl Richards, Jr.
Zoning Supervisor

WCR/jw
Attachment(s)

MICROFILM



INTEROFFICE CORRESPONDENCE

Date: January 22, 1996

SUBJECT: Zoning Advisory Committee Meeting
Item No. 251 for January 8, 1996

RWB:bb
cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Permits and Development
Management

DATE: January 22, 1996

FROM: Pat Keller, Director
Office of Planning

SUBJECT: Petitions from Zoning Advisory Committee

The Office of Planning has no comments on the following petition(s):

Item No. 251

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Prepared by:

Jeffrey W Long

Division Chief:

Carol L. Kerns

PK/JL

Baltimore County Government
Fire Department



700 East Joppa Road
Towson, MD 21286-5500

Office of the Fire Marshal
(410) 887-4880

DATE: 12/29/95

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

RE: Property Owner: SEE BELOW

LOCATION: DISTRIBUTION MEETING OF JAN. 2, 1996.

Item No.: SEE BELOW

Zoning Agenda:

Gentlemen:

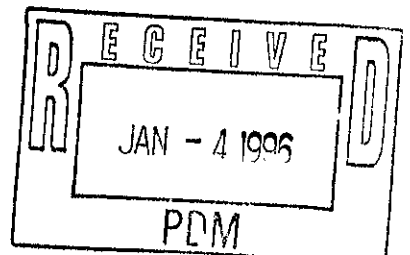
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marshal's Office has no comments at this time,
IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 250, 251 AND 252.

MICROFILMED

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

cc: File



*Sup
1/31
by*

RE: PETITION FOR SPECIAL HEARING
NO SPECIFIC LOCATION

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* CASE NO. 96-251-SPH

Hoffman Bus Company, Inc.
Petitioners

* * * * *

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

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 26th day of January, 1996, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, P. O. Box 5517, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

4/11/96



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 25, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Special Hearing
No Specific Site
PETITIONER: HOFFMAN BUS CO., INC.
Case No. 96-251-SPH

Dear Mr. Schmidt:

The Petition for Special Hearing attached hereto has been brought to our attention. In view of this office's Charter responsibility to defend the comprehensive zoning maps, we are obligated to oppose the approval of the Petition on its face for the following reasons:

1. The Petition fails to list a specific site.

(A) As a result, the Petitioner will not be required to post notice on the site of the zoning request, in accordance with BCZR Section 500.7. It is patently unreasonable and unfair to expect the citizens to comb daily all the newspapers with a county circulation to determine if they may be affected by a proposed zoning change. The citizens would have no way of correlating the requested relief on an unspecified site and an adverse affect upon them or their property.

If the Petitioner contemplates a specific site, he should be required to identify the site and post notice. A Petitioner's request for an interpretation of the zoning regulations must be heard in the context of its proposed location. It is normal for a Petitioner to contemplate a specific site when beginning a foray into the zoning process.

MICROFILMED

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
January 25, 1996
Page Two

Unless the Petition is site specific, the citizens who may be directly affected will have no input into the process.

(B) A special exception, variance, or reclassification petition must refer to a specific site.

2. The relief requested by Petitioner is derived from County Council Bill 91-90. This legislation was enacted in response to the proposed Light Rail line and its accessory functions. As stated in the Bill attached hereto: "WHEREAS, the State of Maryland Mass Transit Administration is planning to construct certain transit projects in Baltimore County, including the proposed Towson Transit Center and the Central Corridor light rail line ...":

(A) The focus of this legislation is to enable the reactivation of the light rail line and its intrinsic transit facilities and support services.

(B) The Planning Board Report on the legislation states, "This project has been initiated in response to transit projects which are planned for Baltimore County by the State Mass Transit Administration including the proposed Towson Transit Center and the Central Corridor light rail line."

(C) The uses established by this legislation refer to "mass transit" facilities and "common carrier" vehicles. Privately owned buses are not included in these definitions and are referred to as "other modes of transportation". The Petitioner is a private bus company and not part of the MTA. The operation appears similar to a service garage for a fleet of rental cars or limousines or taxicabs.

(D) The definitions and uses established in this legislation must be read conjunctively since they were enacted for a single purpose. As stated in the Planning Board Report: "The Planning Board recommends that the Zoning Regulations be amended to facilitate the development of MTA's proposed transit projects. Transit facilities would be permitted as of right in all zones. Transit centers should be permitted only in Business Major Zones. Transit storage and repair yards are appropriate only in manufacturing zones. To achieve these objectives, the Planning Office recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended ..."

WILLIAM E. SCHMIDT

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
January 25, 1996
Page Three

3. The Petitioner is not without relief. We suggest that a service garage more aptly describes the proposed use for maintenance, repair and storage of buses. A service garage is permitted in an ML zone, with certain restrictions, by special exception. BCZR Section 253.2B.3.

4. It appears that in order to avoid the Special Exception process and qualify as a permitted use, the Petitioner is seeking to rely on a provision of the BCZR that pertains to the MTA. We oppose the Petition as a misapplication of the intent and language of Bill 91-90.

Very truly yours,



Peter Max Zimmerman
People's Counsel for Baltimore County



Carole S. Demilio
Deputy People's Counsel

CSD/caf
Enclosure

cc: Robert A. Hoffman, Esquire
Attorney for Petitioner

Arnold F. Keller, III, Director
Office of Planning

FINAL Report of the
Baltimore County Planning Board
Adopted July 20, 1989

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS
CONCERNING
TRANSIT FACILITIES



MICROFILMED



County Executive
Dennis F. Rasmussen
and the
Baltimore County Council

Published by the Baltimore County Office of Planning and Zoning
Towson, Maryland 21204

Printed by Central Printing Services
Baltimore County Office of Central Services

PROPOSED AMENDMENTS TO THE
BALTIMORE COUNTY ZONING REGULATIONS
TRANSIT FACILITIES

A Final Report of the Baltimore County Planning Board
Adopted July 20, 1989.

PROJECT DESCRIPTION

This project has been initiated in response to transit projects which are planned for Baltimore County by the State of Maryland Mass Transit Administration including the proposed Towson Transit Center and the Central Corridor light rail line.

BACKGROUND

The State's Mass Transit Administration (MTA) is proposing several transit projects which will involve construction of new facilities. The MTA is planning "transit centers" to serve major employment areas in the region. The first transit center in Baltimore County will be located in Towson. It will link cross-county bus routes, improving access to Towson and alleviating traffic congestion.

MTA is also proposing light rail transit service from Glen Burnie in Anne Arundel County through Baltimore City to Hunt Valley in Baltimore County. The service will be conducted within the existing Baltimore and Annapolis and Northern Central railways primarily; however, the alignment north of Texas to Hunt Valley is still under review. The twenty-seven mile line would support thirty-seven stations, seventeen electrical sub-stations, park and ride facilities and a yard and shop complex. Ten stations would be in Baltimore County. Park and ride facilities would be provided at most of these stations while the others will be served by pedestrian access or bus loops. The yard and shop complex will be located in Baltimore City.

Under Section 7-701 of the Annotated Code of Maryland, regional transit systems must comply with local laws and ordinances, including zoning and building regulations. Compliance with these regulations is determined by plan review by the County Review Group (CRG), unless specifically exempted in Section 22-41 or Section 22-42 of the Development Regulations portion of the Baltimore County Code. State agencies are not specifically exempted from the Development Regulations. Section B of MTA's heavy rail Metro system (the part between Reisterstown Plaza and Owings Mills) did not need to comply with Section 7-701 because the right-of-way was owned by the State Highway Administration, not MTA.

Use listings are not included in the Zoning Regulations for most types of transit facilities. If a use is not specified, it is not permitted. The use listings provide for "bus terminals" and "railroads." A bus terminal is permitted by right in M.L. zone and by special exception in

in the B.M. zone and B.R. zones. Prior to the adoption of Bill 100-70, railroads were considered public utilities and were permitted by right. Bill 100-70 changed railroads to a "transportation use."

Many jurisdictions treat transit facilities as public utilities. The existing zoning requirements for public utilities in the Baltimore County Zoning Regulations are highlighted below:

- . The following public utility uses are permitted by right without a detailed site plan: Telephone, telegraph, electrical power lines or similar conduits, gas mains, water mains and sewer mains when located underground.
- . Substations, telephone exchanges and other structures related to utility lines, mains, etc. are permitted by right subject to detailed site plans, landscaping plans and elevation drawings.
- . Utility uses are generally permitted by special exception if more than 35 kilovolts. (The light rail line will operate at only 750 volts.)

DISCUSSION

The transit facilities planned by the MTA are essential to the economic welfare of not only Baltimore County, but to the entire Baltimore region. Many of the County's roads are at capacity or over capacity. It is impossible to widen some segments of the roadway; others could only be widened with drastic impacts on the environment and surrounding communities.

The County Council has supported the construction of the light rail concept and committed \$15 million in County funds toward its construction in Resolution 5-89 (attached). The County Executive is also committed to improving public transit as stated in "Closest to the People:"

"Our administration is committed to adequate public transportation. We will build upon the working relationship with the Mass Transit Administration and explore the needs and options for expansion of the existing public transportation system."

The MTA is mandated to undertake a site selection procedure which includes extensive community review and environmental analysis. For this reason, it is appropriate to permit most transit facilities by right. Transit facilities should be designed to complement, rather than intrude on neighborhoods. Resolution 5-89 supports the light rail concept only:

"...as long as there are genuine efforts to minimize any negative impact on surrounding properties, including parkland and as long as there are adequate and sufficient measures taken to reduce noise, protect citizens, screen properties and address congestion at proposed at-grade crossings;..."

Public Hearing Comments

A Planning Board public hearing on the proposed recommendations was held on June 15, 1989. At the public hearing, several citizens expressed their concerns regarding transit facilities being permitted in the DR (Density-Residential) Zones. They supported permitting the rail lines by right but not any other structures. According to the citizens, any transit facility other than the line, especially stations, should require a special exception in residential areas. Without the special exception process, the citizens contend, the County gives the Mass Transit Administration the authority to determine the nature and location of all facilities. This was viewed as an abrogation of the County's regulatory responsibilities.

RECOMMENDATIONS:

The special exception process would give the County more control over the location of stations and types of facilities provided. A transit station can have significant impacts on a neighborhood, especially if the station includes a parking lot and feeder bus service. However, the choice of location for stations is limited. The MTA evaluates the available choices and works closely with community groups. The special exception process would add further delays and duplicate the MTA hearings.

As the stations are planned, County agencies will work closely with the MTA and the citizens to assure appropriate designs with a minimum amount of neighborhood intrusion, through the County Review Group process. The County Review Group (CRG) process will provide a mechanism for involving MTA, citizens and the County in the review of project proposals. Due to the unique conditions arising from the importance of the project, rather than submitting each transit stop or facility individually, the entire network should be presented as a package to facilitate a comprehensive review of the proposal. Also, to ensure that citizens are fully informed of the proposal concepts and are permitted an opportunity for meaningful involvement, a public information meeting presenting MTA's proposal, should be held prior to the CRG meeting.

The Planning Board recommends that the Zoning Regulations be amended to facilitate the development of MTA's proposed transit projects. Transit facilities should be permitted as of right in all zones. Transit centers should be permitted only in Business Major Zones. Transit storage and repair yards are appropriate only in manufacturing zones. To achieve these objectives, the Planning Office recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended as follows:

1. Add alphabetically to Section 101: Definition:

Transit Facility: A structure or any combination of structures, including at-grade, elevated or below-grade fixed guideways, tunnels, rail passenger stations, electrical sub-stations, or fixtures necessary to support public mass transportation operations owned or operated by or on behalf of the Mass Transit Administration. This term shall not include a transit center, a transit storage and repair yard, or bus terminal.

Rail Passenger Station: A facility designed as a place for boarding and alighting from rail passenger vehicles owned or operated by or on behalf of the Mass Transit Administration. A rail passenger station may include such facilities as bus bays, parking areas or taxicab stands as accessory uses.

Transit Storage and Repair Yard: A site used primarily for the storage and maintenance of common carrier vehicles, and for the repair of equipment associated with such vehicles.

Transit Center: A centrally located transit station with the primary purpose of enabling the transfer of passengers between bus routes operated by, or on behalf of, the Mass Transit Administration. A transit center may serve other modes of transportation including taxicabs, airport vans, carpools, vanpools, or rail transit.

Bus Terminal: A station for common carrier vehicles having a carrying capacity of ten or more passengers. In addition to providing passenger services such as ticket sales, boarding and alighting, a bus terminal has areas for short term storage of busses during layover periods not exceeding one night. This definition does not include Mass Transit Administration vehicles or Baltimore County Public School busses.

2. In Section 1A01.2 (Agricultural, RC2 Zone uses permitted as of right) add:

8. Transit Facilities subject to Section 434

3. In Section 1A02.2 (Deferral of Planning and Development, RC3 Zone uses permitted as of right) add:

9B. Transit Facilities, subject to Section 434

4. In Section 1A03.3A (Watershed Protection, RC4 Zone uses permitted as of right) add:

5B. Transit Facilities, subject to Section 434

5. In Section 1A04.2A (Rural Residential, RC5 Zone uses permitted as of right) add:

13. Transit Facilities, subject to Section 434

6. In Section 1A05.2C3 (Chesapeake Bay Critical Area RC20, RC50 Zone uses permitted as of right) add:

Transit Facilities subject to Section 104 and Section 434

7. In Section 1B01.1A (Density Residential, DR zone uses permitted as of right), add:

13B. Transit Facilities, subject to Section 434

8. In Section 1B01.1.B.C (Exceptions to the residential transition requirement): add Sub-paragraph 13:
 13. Transit facilities shall be exempt from the residential transition area requirements.
9. In Section 200.2A (Elevator apartment, RAE1 Zone uses permitted as of right) add:
 19. Transit Facilities, subject to Section 434
10. In Section 201.2A (Elevator apartment, RAE2 Zone uses permitted as of right) add:
 7. Transit Facilities, subject to Section 434
11. In Section 207.3A (Principal Use permitted by right in the Office Technology Zones) add:
 16. Transit Facilities, subject to Section 434
12. In Section 230.9 (Uses permitted by right in the Business Local Zone) add:

Transit Facilities, subject to Section 434
13. In Section 233.2 (Principal permitted uses in the Business Major Zone) add:

Transit Centers, subject to 434
14. In Section 241.1 (Principal permitted uses in the Manufacturing Restricted Zone) add:

Transit facilities and transit facility storage and repair yards.
15. In Section 253.1B (Principal uses permitted as of right in the Manufacturing Light Zone) add:
 20. Transit Facilities, subject to Section 434
 21. Transit Centers, subject to Section 434
 22. Transit Storage and Repair Yards, subject to Section 434

16. Add to Section 409.6A

Required number of Parking Spaces (Commercial and Service Uses)

Transit Facility	As determined by the Baltimore County Zoning Commissioner with the recommendations of the State of Maryland Mass Transit Administration.
------------------	--

Transit Center	As determined by the Baltimore County Zoning Commissioner with the recommendations of the State of Maryland Mass Transit Administration.
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Transit Storage or Repair Yard	1 per employee on the largest shift.
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17. Add a new Section 434, Public Transportation Facilities

Section 434 Public Transportation Facilities

Public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources.

434.1 Rail passenger stations, transit centers and transit storage and repair yards, as defined in Section 101, are subject to the Development Regulations, Article IV, in Title 22 of the County Code.

434.2 Before a plan for a Rail Passenger Station or Transit Center, as defined in Section 101, is submitted for approval to the County Review Group, the appropriate officials of the Mass Transit Administration and Baltimore County shall jointly hold a public information meeting on the intended plan. The information meeting shall be advertised in two newspapers of general circulation at least fifteen days before the meeting.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1990, Legislative Day No. 10

Bill No. 91-90

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, May 21, 1990

A BILL
ENTITLED

AN ACT concerning

Public Hearings for Transit Facilities
Zoning Regulations - Transit Facilities

FOR the purpose of amending the Zoning Regulations and The County Code in order to define Transit facility, rail passenger station, transit storage and repair yard, transit center and bus terminal, to permit transit facilities in all zones, transit centers in Business Major and Business Roadside zones and in manufacturing zones, transit storage and repair yards in manufacturing zones; ~~to permit rail passenger stations in residential zones by special exception and to permit rail passenger stations in business and manufacturing zones and by special exception in residential zones~~; and providing for certain other requirements for transit facilities.

BY Adding

~~Section 101, alphabetically, the definitions of "transit facility", "rail passenger station", "transit storage and repair yard", "transit center", "bus terminal";~~ Section 434
Baltimore County Zoning Regulations, as amended
Section 101, alphabetically, the definitions of "bus terminal", "rail passenger station", "transit center", transit facility", "transit storage and repair yard" and Section 434
Baltimore County Zoning Regulations, as amended

Section 22-26(d)
Title "Planning, Zoning & Subdivision Control"
Baltimore County Code, 1978, 1987 Cumulative Supplement

BY Repealing and reenacting, with amendments

Sections ~~101~~, 1A01.2.B, 1A01.2.C, 1A02.2.A, 1A02.2.B, 1A03.3.A, 1A03.3.B, 1A04.2.A, 1A04.2.B, 1A05.2.C, 1B01.1.A, 1B01.1.B.1.c, 1B01.1.C, 200.2A, 201.2A, 207.3A, 230.9, 233.2, 241.1, 253.1B and 409.6A.2
Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council recognizes that public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources in Baltimore County; and

-1-

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
~~Strike-out~~ indicates matter stricken from bill.
Underlining indicates amendments to bill.

1. WHEREAS, the State of Maryland Mass Transit Administration, is
2. planning to construct certain transit projects in Baltimore County,
3. including the proposed Towson Transit Center and the Central Corridor
4. light rail line; and

5. WHEREAS, the Baltimore County Council has received a final report
6. from the Planning Board concerning the subject legislation and has held
7. a public hearing on September 12, 1989; now, therefore

8. SECTION 1. Be it enacted by the County Council of Baltimore
9. County, Maryland, that Section 101, the definition of "bus termi-
10. nal", "rail passenger station", "transit center", "transit facility",
11. "transit storage and repair yards", Section 434 are hereby added to the
12. Baltimore County Zoning Regulations, to read as follows:

13. Section 101--Definitions

14. BUS TERMINAL: A STATION FOR COMMON CARRIER VEHICLES HAVING A
15. CARRYING CAPACITY OF TEN OR MORE PASSENGERS. IN ADDITION TO PROVIDING
16. PASSENGER SERVICES SUCH AS TICKET SALES, BOARDING AND ALIGHTING, A BUS
17. TERMINAL HAS AREAS FOR SHORT TERM STORAGE OF BUSES DURING LAYOVER
18. PERIODS NOT EXCEEDING ONE NIGHT. THIS DEFINITION DOES NOT INCLUDE MASS
19. TRANSIT ADMINISTRATION VEHICLES OR BALTIMORE COUNTY PUBLIC SCHOOL BUSS-
20. ES.

21. RAIL PASSENGER STATION: A FACILITY DESIGNED AS A PLACE FOR
22. BOARDING AND ALIGHTING FROM RAIL PASSENGER VEHICLES. A RAIL PASSENGER
23. STATION MAY INCLUDE SUCH FACILITIES AS BUS BAYS, PARKING AREAS OR TAXI-
24. CAB STANDS AS ACCESSORY USES.

25. TRANSIT CENTER: A STRUCTURE OR PORTION OF A STRUCTURE AND BUS
26. STAGING AREA DESIGNED AND LOCATED TO FACILITATE TRANSFERS AMONG BUS
27. ROUTES OPERATED BY THE STATE MASS TRANSIT ADMINISTRATION. A TRANSIT
28. CENTER MAY ALSO BE DESIGNED WITH PARKING TO FACILITATE TRANSFERS BE-
29. TWEEN OTHER MODES OF TRANSPORTATION INCLUDING TAXICABS, AUTOMOBILES,
30. COMMUTER VANPOOLS, AIRPORT LIMOUSINES, AND PRIVATELY OWNED BUSES.

31. TRANSIT FACILITY: A STRUCTURE OR ANY COMBINATION OF STRUC-
32. TURES, INCLUDING AT-GRADE, ELEVATED OR BELOW-GRADE FIXED GUIDEWAYS,

1. TUNNELS, ELECTRICAL SUB-STATIONS, OR FIXTURES NECESSARY TO SUPPORT
2. PUBLIC MASS TRANSPORTATION OPERATIONS OWNED OR OPERATED BY OR ON BEHALF
3. OF THE MASS TRANSIT ADMINISTRATION. THIS TERM SHALL NOT INCLUDE A
4. TRANSIT CENTER, A TRANSIT STORAGE AND REPAIR YARD, BUS TERMINAL, OR
5. RAIL PASSENGER STATION.

6. TRANSIT STORAGE AND REPAIR YARD: A SITE USED PRIMARILY FOR THE
7. STORAGE AND MAINTENANCE OF COMMON CARRIER VEHICLES, AND FOR THE REPAIR
8. OF EQUIPMENT ASSOCIATED WITH SUCH VEHICLES.

9. SECTION 434-PUBLIC TRANSPORTATION FACILITIES

10. PUBLIC TRANSPORTATION FACILITIES ARE ESSENTIAL TO ALLEVIATE TRAF-
11. FIC CONGESTION, INCREASE LABOR FORCE ACCESSIBILITY, PROMOTE AIR QUALITY
12. AND THE EFFICIENT USE OF RESOURCES.

13. 434.1 RAIL PASSENGER STATIONS, ~~ELECTRICAL~~-- SUB-STATIONS,
14. TRANSIT CENTERS AND TRANSIT STORAGE AND REPAIR YARDS ARE SUBJECT TO THE
15. DEVELOPMENT REGULATIONS, ARTICLE IV, IN TITLE 22 OF THE COUNTY CODE
16. ELECTRICAL SUB-STATIONS ARE SUBJECT TO THE DEVELOPMENT REGULATIONS,
17. ARTICLE IV, TITLE 22 OF THE COUNTY CODE ONLY WHEN LOCATED IN A
18. RESIDENTIAL ZONE.

19. 434.2 BEFORE A PLAN FOR A RAIL PASSENGER STATION OR TRANSIT
20. CENTER IS SUBMITTED FOR APPROVAL TO THE COUNTY REVIEW GROUP, THE APPRO-
21. PRIATE OFFICIALS OF THE MASS TRANSIT ADMINISTRATION AND BALTIMORE COUN-
22. TY SHALL JOINTLY HOLD A PUBLIC INFORMATION MEETING ON THE INTENDED
23. PLAN. THE INFORMATION MEETING SHALL BE ADVERTISED IN TWO NEWSPAPERS OF
24. GENERAL CIRCULATION AT LEAST FIFTEEN DAYS BEFORE THE MEETING.

25. SECTION 2. Be it further enacted, that Section 22-26(d) be and
26. it is hereby added to Title "Planning, Zoning and Subdivision Con-
27. trol", Baltimore County Code, 1978, 1987 Cumulative Supplement, as
28. amended to read as follows:

29. Sec. 22-26(d). NOTWITHSTANDING ANY PROVISION OF THIS CODE OR THE
30. BALTIMORE COUNTY ZONING REGULATIONS TO THE CONTRARY:

31. (1) THE ZONING COMMISSIONER SHALL SCHEDULE A PUBLIC HEAR-
32. ING ON ANY PETITION FOR A SPECIAL EXCEPTION FOR A RAIL PASSENGER STA-

1. TION, AS THAT TERM IS DEFINED IN THE BALTIMORE COUNTY ZONING REGULA-
2. TIONS, OR FOR A VARIANCE OR SPECIAL HEARING ON ANY ISSUE INVOLVING
3. TRANSIT FACILITIES, FOR A DATE NOT MORE THAN SIXTY (60) DAYS AFTER THE
4. PETITION IS FILED. POSTING AND ADVERTISING FOR SUCH HEARING SHALL BE
5. AS REQUIRED BY SUBSECTION (a) OF THIS SECTION.

6. (2) THE ZONING COMMISSIONER SHALL ISSUE A DECISION WITHIN
7. FIFTEEN (15) DAYS AFTER THE CONCLUSION OF THE PUBLIC HEARING REQUIRED
8. IN SUBSECTION (d)(1) ABOVE.

9. (3) ANY PERSON OR PERSONS, JOINTLY OR SEVERALLY, OR ANY
10. TAXPAYER, AGGRIEVED OR FEELING AGGRIEVED BY THE DECISION OF THE ZONING
11. COMMISSIONER ISSUED PURSUANT TO THIS SUBSECTION SHALL HAVE THE RIGHT TO
12. APPEAL THEREFROM TO THE COUNTY BOARD OF APPEALS, WITH NOTICE OF SUCH
13. APPEAL IN WRITING TO BE FILED WITH THE ZONING COMMISSIONER
14. WITHIN FIFTEEN (15) DAYS FROM THE DATE OF ANY FINAL
15. ORDER APPEALED FROM, TOGETHER WITH ANY REQUIRED FEE. SUCH APPEAL SHALL
16. BE HEARD AND DISPOSED OF BY THE COUNTY BOARD OF APPEALS AS IS PROVIDED
17. FOR BELOW.

18. (4) THE BOARD OF APPEALS SHALL SCHEDULE A PUBLIC HEARING
19. FOR A DATE NOT MORE THAN FORTY-FIVE (45) DAYS AFTER SUCH NOTICE OF
20. APPEAL IS RECEIVED BY THE ZONING COMMISSIONER. THE BOARD SHALL ISSUE
21. ITS DECISION WITHIN FIFTEEN (15) DAYS AFTER THE CONCLUSION OF ITS PUB-
22. LIC HEARING. THERE SHALL BE APPROPRIATE NOTICE OF THE DATE, TIME AND
23. LOCATION OF THE PUBLIC HEARING AND POSTING OF THE PROPERTY AT ISSUE AS
24. OTHERWISE PROVIDED IN THE CHARTER, LAW AND THE BOARD'S OWN RULES OF
25. PROCEDURE.

26. SECTION 3. Be it further enacted, that Sections 101,
27. 1A01.2.B, 1A01.2.C, 1A02.2.A, 1A02.2.B, 1A03.3.A, 1A03.3.B, 1A04.2.A,
28. 1A04.2.B, 1A05.2.C, 1B01.1.A, 1B01.1.B.1.c, 1B01.1.C, 200.2A, 201.2A,
29. 207.3A, 230.9, 233.2, 241.1, 253.1B and 409.6A.2 of the Baltimore Coun-
30. ty Zoning Regulations, as amended, be and they are hereby repealed and
31. reenacted, with amendments, to read as follows:

32. Section 1A01--R.C.2 (AGRICULTURAL) ZONES

1. 1A01.2--Use regulations
2. B. Uses permitted as of right. The following uses, only,
3. are permitted as of right in R.C. 2 zones.

4. 8. TRANSIT FACILITIES

5. C. Uses permitted by Special Exception. The following
6. uses, only, may be permitted by special exception in any R.C. 2 zones,
7. provided that in each case the hearing authority empowered to hear the
8. petition finds that the use would not be detrimental to the primary
9. agricultural uses in its vicinity; and, in the case of any use permit-
10. ted under Item 24, further provided that the hearing authority finds
11. that the use would support the primary agricultural use in its vicinity
12. and would not itself be situated on land more appropriately used for
13. primary agricultural uses:

14. 13A. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

15. Section 1A02--R.C.3 (DEFERRAL OF PLANNING AND DEVELOPMENT) ZONES

16. 1A02.2--Use regulations

17. A. Uses permitted as of right. The following uses, only,
18. are permitted as of right in R.C. 3 zones.

19. 9B. TRANSIT FACILITIES

20. B. Uses permitted by special exception. The following
21. uses, only, are permitted by special exception in R.C. 3 zones.

22. 20. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

23. Section 1A03--R.C. 4 (WATERSHED PROTECTION) ZONES

24. 1A03.3--Use Regulations.

25. A. Uses permitted as of right. The following uses, only
26. are permitted as of right in R.C. 4 zones:

27. 5B. TRANSIT FACILITIES

28. B. Uses permitted by special exception. The following
29. uses, only, are permitted by special exception in R.C. 4 zones.

30. 8A. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

31. Section 1A04--R.C. 5 (RURAL-RESIDENTIAL) ZONE

32. 1A04.2--Use regulations

1. A. Uses permitted as of right. The following uses, only,
2. are permitted as of right in R.C. 5 zones:

3. 13. TRANSIT FACILITIES

4. B. Uses permitted by special exception. The following
5. uses, only, are permitted by special exception in R.C. 5 zones.

6. 12. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

7. Section 1A05--R.C. 20 AND R.C. 50 ZONES

8. 1A05.2--Table of Land Use Regulations

9. C. Institutional, Public and Quasi-Public Uses

10. 3A. TRANSIT FACILITIES - "P" & "P"

11. 4A. RAIL PASSENGER STATION, SUBJECT TO SECTION
12. 434-"SE" & "SE"

13. Section 1B01--REGULATIONS WITH RESPECT TO D.R. ZONES IN GENERAL.

14. 1B01.1--General Use Regulations in D.R. Zones.

15. A. Uses Permitted as of Right. The following uses, only,
16. are permitted as of right in D.R. zones of all classifications, subject
17. to the restrictions hereinafter prescribed:

18. 13B. TRANSIT FACILITIES

19. Section 1B01--REGULATIONS WITH RESPECT TO D.R. ZONES IN GENERAL.

20. 1B01.1--General Use Regulations in D.R. Zones.

21. B. DWELLING-TYPE AND OTHER SUPPLEMENTARY USE RESTRICTIONS
22. BASED ON EXISTING SUBDIVISION AND DEVELOPMENT CHARACTERISTICS.

23. 1. RESIDENTIAL TRANSITION AREAS AND USES PERMITTED
24. THEREIN.

25. c. Exceptions to residential transition

26. 13A. TRANSIT FACILITIES AND RAIL PASSENGER STATIONS
27. SHALL BE EXEMPT FROM THE RESIDENTIAL TRANSITION AREA REQUIREMENTS.

28. C. Uses Permitted by Special Exception. The following
29. uses, only, are permitted by special exception in all D.R. Zones, sub-
30. ject to the restrictions hereinafter prescribed:

31. 15A. RAIL PASSENGER STATIONS, SUBJECT TO SECTION 434

32. Section 200--R.A.E. 1 ZONES--RESIDENCE, APARTMENT, ELEVATOR.

1. 200.2--Use Regulations in R.A.E. 1 Zones.

2. A. Uses Permitted. The following uses, only, are permit-

3. ted:

4. 19. TRANSIT FACILITIES

5. 20. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

6. SECTION 201--R.A.E. 2 ZONES--RESIDENCE, APARTMENT, ELEVATOR.

7. 201.2--Use Regulations in R.A.E. 2 Zones.

8. A. Uses Permitted. The following uses, only, are permit-

9. ted:

10. 19 A. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

11. 25A. TRANSIT FACILITIES

12. Section 207--O.T. (OFFICE AND TECHNOLOGY)

13. 207.3--Permitted Uses.

14. A. Principal Uses. The following principal uses are per-

15. mitted as a matter of right:

16. 10A. RAIL PASSENGER STATION, SUBJECT TO SECTION 434

17. 13A. TRANSIT FACILITIES

18. Section 230--USE REGULATIONS

19. The following uses only are permitted (See Section 230.12):

20. 230.9--TRANSIT FACILITIES

21. RAIL PASSENGER STATIONS, SUBJECT TO SECTION 434

22. Section 233--USE REGULATIONS

23. The following uses only are permitted (see Section 233.3):

24. 233.2--TRANSIT CENTERS, SUBJECT TO SECTION 434

25. Section 241--USE REGULATIONS

26. 241.1--The following uses are permitted, provided their

27. operations are entirely within enclosed buildings except where approval

28. of the development plan indicates otherwise:

29. TRANSIT FACILITIES, RAIL PASSENGER STATIONS SUBJECT

30. TO SECTION 434, TRANSIT CENTERS AND TRANSIT STORAGE AND REPAIR YARDS.

31. Section 253--USE REGULATIONS.

253.1--Uses Permitted as of Right. The uses listed in this subsection, only, shall be permitted as of right in M.L. zones, subject to any conditions hereinafter prescribed.

B. The following transportation, storage, or quasi-public uses or utilities:

13A. RAIL PASSENGER STATIONS, SUBJECT TO SECTION 434

15A. TRANSIT CENTERS, SUBJECT TO SECTION 434

15B. TRANSIT FACILITIES

15C. TRANSIT STORAGE AND REPAIR YARDS, SUBJECT TO SECTION 434

Section 409--OFFSTREET PARKING AND LOADING

409.6 Required Number of Parking Spaces

A. General Requirements - The standards set forth below shall apply in all zones unless otherwise noted. Where the required number of off-street parking spaces is not set forth for a particular type of use, the Zoning Commissioner shall determine the basis of the number of spaces to be provided. When the number of spaces calculated in accordance with this subsection results in a number containing a fraction, the required number of spaces shall be the next highest whole number.

2. Commercial and Service Uses

<u>Type of Use</u>	<u>Minimum Number of Required Off-Street Parking Spaces</u>
TRANSIT CENTER OR TRANSIT FACILITY	AS DETERMINED BY THE BALTIMORE COUNTY ZONING COMMISSIONER UPON THE RECOMMENDATIONS OF THE STATE OF MARYLAND MASS TRANSIT ADMINISTRATION.
PASSENGER RAIL STATION	AS DETERMINED BY THE ZONING COMMISSIONER UPON THE RECOMMENDATION OF THE STATE OF MARYLAND MASS TRANSIT ADMINISTRATION.
TRANSIT STORAGE OR REPAIR YARD	1 PER EMPLOYEE ON THE LARGEST SHIFT.

SECTION 4. And be it further enacted, that this Act shall take effect forty-five days after its enactment.

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MADE IN THE UNITED STATES OF AMERICA

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mode 1

the meanness of the
the and lively com-
the space and room
the free motion
was of a well-pro-
for the city — Amer.

— [y] : in a

ity or state of being com-

... of a) n - ES
... L commoditat-
... commodus
... USEFULNESS
... a good wit will
... — Shak.)
... as an article
... into a
... known as
2 a : an economic good;
... sometimes manu-
... commodities such as
... prices) b : an
... to a transportation
... of goods
... to be bought

proposed form of currency
... by and whose
... to an index num-
... commodities — called also

ized market where future
... as grains, cotton,
... sold
... secured by a bill of
... upon or title to readily

... distinguished from a
... specific commodity or
... between specific points

... standard in which the
... or more economic goods
... commodity standard)
... only commodity rates
... of a common carrier

... -doe, -de's \ n -s [prob.
... F. fr. OF comandeor
... — more at COMMAND]
... above a captain and be-
... this rank temporarily
... or division of a fleet

Jerome) 1 of lumber : of or relating to several grades that
are inferior to finish lumber : DEFECTIVE, KNOTTY 7 now
chiefly dial : easily approachable : UNRESERVED, INFORMAL
(he's such a nice ~ fellow) 8 : frequently met with and
known better than types less often encountered ~ salt (the
~ fern); specif : most frequent and best known of its kind in a
particular region — used of plants and animals 9 a of gender
(1) : either masculine or feminine (the gender of French is ~
(2) : characterizing words of which in an earlier stage of the
language some were masculine and some feminine (Danish has
two genders, ~ and neuter) b of a substantive : belonging to
the common gender c of a syllable : either short or long (in
Greek prosody a syllable is ~ that has a short vowel followed
by a stop and a liquid or nasal, as the first syllable of teknon)
d of a grammatical case : denoting relations by a single form
that in a more highly inflected language might be denoted by
two or more different case forms (moon, as subject in "the moon
is shining" and as object in "I see the moon", is in the ~ case)

SYN ORDINARY, FAMILIAR, POPULAR, VULGAR: COMMON,
ORDINARY, AND FAMILIAR all describe something that is very
frequently or generally met with and hence is not at all
strange or unusual. COMMON stresses lack of distinguishing or
exceptional characteristics (Norris quite definitely identified
the romantic with that which is peculiar or special as opposed
to the common — M.R.Cohen) and may connote coarseness or
lack of refinement (weavers produced fine muslins, gauzes,
calicoes, and the common cloths used by the poorer population
— C.L.Jones) ORDINARY applies to what is met with in the
routine, regular, or accustomed order of events; it may con-
note lack of rareness or of superiority (the business of the
poet is not to find new emotions, but to use the ordinary ones
— T.S.Eliot) (it is not an ordinary war. It is a revolution ...
which threatens all men everywhere — F.D.Roosevelt) (the
mass of ordinary men, as definitely opposed to exceptional
men — W.H.Mallock) FAMILIAR applies to what is well known
because encountered often and lacks any suggestion of the
foreign or exotic (the familiar arrangement of chairs and
tables, always the same — Pearl Buck) (the curious impression
... that she had seen everything and everybody before. Every
face was familiar to her — Ellen Glasgow) POPULAR indicates
the common due to acceptance, sometimes enthusiastic, by the
people, esp. commoners; it may imply a lack of qualities
pleasing to the elite, upper classes, or learned groups (the
popular faith in the omnipotence of education — M.R.Cohen)
(these brotherhoods were ... thoroughly popular, drawing
most of their support from the lower classes — W.R.Inge)
(compromise its values by publishing work that could be
described as merely cheap or popular — H.V.Gregory)
VULGAR is used only occas. to mean COMMON; it usu. suggests
meanness, bad taste, crudeness, or crassness (the now vulgar
opinion that [Samuel] Johnson was more distinguished as a
talker than as a writer — J.W.Krutch) (he never could have
been vulgar; there is not in the whole range of English litera-
ture quite such a gentleman — George Saintsbury) (not for
the vulgar gaze but for an aristocratic and urbane inspection)
SYN see in addition RECIPROCAL, UNIVERSAL

2 common \ n -s [ME commun, fr. commun, adj.] 1 a obs
: the common body of people of a place, community, or polity
b commons pl but sing or pl in constr : COMMONALTY; esp
: people lacking noble, knightly, or gentle rank (the ~s were
pleased) 2 commons pl a sing or pl in constr : provisions
for a usu. ecclesiastical or collegiate community or company
(a modern university ~s) b sing in constr : a common

brilliantly metallic bronze and green specula on the wing
covers

common buckthorn n : a common Eurasian shrub (*Rhamnus*
cathartica) with oval leaves and black berries that sometimes
are used as a laxative

common buckwheat n : an Asiatic buckwheat (*Fagopyrum*
esculentum) that has short dense flower clusters and sharp-
angled fruit and is now widespread esp. in cultivation — com-
pare TARTARIAN BUCKWHEAT

common bundle n : a vascular bundle that passes from a stem
into a leaf — compare CAULINE BUNDLE

common cardinal vein n : DUCT OF CUVIER

common carotid also common carotid artery n : the part of
either carotid artery between its point of origin and its
division into internal and external branches

common carrier n 1 : one that undertakes for hire the carry-
ing of goods, persons, or messages treating its whole clientele
without individual preference or discrimination and being
responsible for all losses and injuries except those in con-
sequence of an act of God, of the enemies of the country, or of
the owner of the property himself 2 : a public utility or
public service company 3 in federal regulatory use : a
carrier offering its services to all comers for interstate transpor-
tation by railroad, motor vehicle, ship, aircraft, or pipeline
— compare CONTRACT CARRIER

common chemical sense n : a chemical sense universally
exhibited by body surfaces exposed to certain (as irritant)
solutions or vapors that in vertebrates is mediated by both
spinal and cranial nerves

common chickweed n : a Eurasian herb (*Stellaria media*)
widely naturalized as a weed in No. America

common chord n : the major or minor triad

common coin n : something that is current through being
commonly mentioned, discussed, accepted, or sanctioned (his
name became common coin)

common cold n : an acute contagious disease of the upper
respiratory tract caused by a filterable virus and characterized
by inflammation of the mucous membranes of the nose, throat,
eyes, and eustachian tubes with watery then purulent dis-
charge

common comfrey n : a European comfrey (*Symphytum of-
ficinale*) that is naturalized as a weed in No. America and has
the upper part of the stem densely hispid

common cost n : expense chargeable in accounting to the busi-
ness as a whole : cost assigned to several departments or
operations

common council n : a legislative body or council of a munici-
pal government — common councilman n

common count n : any of various technical counts in law that
are of a general nature and are used in pleadings to prevent a
failure of justice by reason of an inadvertent variance

common cracker n : BOSTON CRACKER

common curlew n : a large Old World curlew (*Numenius*
arquata) with strong flight somewhat resembling that of a gull

common denominator n 1 : a common multiple of the de-
nominators of a number of fractions 2 a : something that
marks a group of things as alike or that characterizes a group
or class : a trait or characteristic in common (the essence of
religious experience, the actual common denominator of the
world's great religions — H.J.Muller) (diverse writings whose
only common denominator was a supposed sophistication —
J.D.Hart) (the common denominator in this collection of
distracts ... men and women is that they are all Americans)

PETITIONER(S) SIGN-IN SHEET

ADDRESS

210 Allegheny Ave 21204
6600 YORK ROAD 21212
SOUTHERN
8608 RICHMOND CIRCLE 21234
8603 RICHMOND CIRCLE 21234
4017 PERRY HALL RD, 21128

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME

ADDRESS

Marie Q. Simoes

1314 Spotswood Rd. 21237



IN RE: PETITION FOR SPECIAL HEARING
(No Specific Location)

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY

Hofmann Bus Company, Inc.
Petitioner

* Case No. 96-251-SPH

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing which identifies no specific site as the subject of the requested relief. The Petition was filed by the Hofmann Bus Company, Inc., seeking an interpretation of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioner seeks a determination as to whether the maintenance, repair, and storage of common carrier vehicles (buses) in an M.L. zone is permitted as of right under the definition of a "Transit Storage and Repair Yard" as found in Section 101 of the B.C.Z.R.

Following the filing of this Petition, the case was scheduled for a public hearing on January 30, 1996, and public notice of same was provided by way of an advertisement in the Jeffersonian newspaper.

Appearing at the hearing were Wilbur A. Delano, Sr., Randy Delano, and Dennis Bayer, all representatives of the Hofmann Bus Company, Inc. Also present were James E. Matis, a land use consultant, and Robert A. Hoffman, Esquire. Marie Q. Simoes, appeared as a Protestant in the matter. Moreover, correspondence was received from the Office of People's Counsel of Baltimore County, dated January 25, 1996, which raised certain objections to the proceedings which will be discussed hereinafter.

As noted above, the subject matter is in somewhat of an unusual posture, in that no specific property is identified as the subject of the

Petition. In fact, the Office of People's Counsel and Ms. Simoes both object to the Petition as improper in that no specific site is identified.

A review of Section 500.7 of the B.C.Z.R. clearly indicates that an objection on this basis is without merit. That Section empowers the Zoning Commissioner to conduct "such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations..." Further on, that Section states "If the Petition relates to a specific property, notice of the time and place of the hearing shall be conspicuously posted on the property for a period of at least fifteen (15) days before the time of the hearing. Whether or not a specific property is involved, notice shall be given for the same period of time in at least two newspapers of general circulation in the County." (emphasis added).

A fair reading of that language is dispositive on this issue. The regulation clearly provides that the Zoning Commissioner has broad discretion to conduct hearings to interpret the regulations, and that such hearing may involve a specific property, or may not. Particularly, the notice requirement provides direction for when a specific property is involved and when one is not so designated.

People's Counsel complains that it is patently unreasonable and unfair to expect the citizens of the County to comb all of the newspapers with County circulation to determine if they may be affected by a proposed zoning Petition. Although this may or may not be the case, the language of the Statute and the intent of the County Council is clear. The Zoning Commissioner enjoys the discretion to consider such cases as may be necessary to interpret the zoning regulations and such cases are not limited to only those Petitions which identify a specific property.

- 2 -

Turning to the merits of this case, testimony was received from Wilbur Delano, Sr., a principal in the Hofmann Bus Company, Inc. Mr. Delano testified that he acquired the business approximately 30 years ago and now operates same with his son and son-in-law. He testified that when he acquired the business many years ago, the company then owned five buses and had several contracts involving the operation of that small fleet. The business has grown over the years and the company now owns approximately 90 buses. Testimony revealed that Hofmann Bus Company has a series of contracts with the government (Baltimore County and Baltimore City), as well as public and private agencies. Mr. Delano testified that his company contracts, without discrimination, to those in need of transportation services. He stated that his company has a long-standing contract with local school systems to provide transportation for students. These include regular daily transportation, as well as services for field trips, and other similar needs. Moreover, the company operates a shuttle for the Johns Hopkins Hospital, has contracted with the Baltimore Retarded Citizens Alliance, and has similar contracts. He also noted that the company charters its buses to groups or individuals. For example, any private citizen or business entity could contract for a one time bus service; for example, the company has contracted to transport groups to baseball games, special events, and other similar occurrences.

Mr. Delano also noted that his company is regulated by the Public Service Commission and the Motor Vehicle Administration. These agencies both regulate his company as a common carrier, and routinely inspect the buses. The company employs nearly 130 people, including approximately 7 individuals who perform routine maintenance and repair of the bus fleet.

- 3 -

Presently, the business operates from 1003 Race Road in Rossville. However, as noted above, the business has grown and a larger site is needed. The Petitioner is in the process of investigating other properties throughout Baltimore County which will permit the use under the zoning regulations and accommodate the needs of the business. This Petition has been filed to determine whether the use of property zoned M.L. as a transit storage and repair yard, would be permitted as a matter of right.

The Petitioner suggests that the subject use meets the definition of a transit storage and repair yard, as found within Section 101 of the B.C.Z.R. That Section defines that term as "A site used primarily for the storage and maintenance of common carrier vehicles, and for the repair of equipment associated with such vehicles." Transit storage and repair yards are permitted by right in an M.L. zone, pursuant to Section 252.1B(15C) of the B.C.Z.R.

In considering the subject Petition, a detailed review of the definition of transit storage and repair yard is required. Clearly, based on Mr. Delano's testimony, the property to be utilized for the operation of the Hofmann Bus Company, Inc. will be a site primarily used for the storage and maintenance of the buses. An aerial photograph of their present operation was shown at the hearing and shows that buses are stored throughout the property when not in use, and that a building has been erected to conduct repairs and routine maintenance on those vehicles. This business operation will continue when the company is relocated.

The sole question at issue is whether the buses owned by Hofmann Bus Company, Inc. are considered common carrier vehicles. Unfortunately, the term "common carrier vehicles" is not identified in the B.C.Z.R. In such event, Section 101 of the B.C.Z.R. directs the reader to consider the

- 4 -

ordinarily accepted definition of the term as found in Webster's Third New International Dictionary of the English Language, Unabridged. A consultation of Webster's reveals that the phrase "common carrier" is, in fact, defined therein. Webster's defines "common carrier" as "One that undertakes the hire, the carrying of goods, persons, or messages, treating its whole clientele without individual preference or discrimination, and being responsible for all losses and injuries, except those in consequence of an act of God, of the enemies of the Country, or of the owner of the property himself." Such definition squarely fits the Hofmann Bus Company, as described by the uncontradicted testimony of Mr. Delano. The company undoubtedly specializes in the transportation (carrying) of persons, and does not discriminate nor show preference in its operation. As noted above, the company contracts with the government, corporate, and individual clients. Therefore, in my judgment, the Hofmann Bus Company business, as described at the hearing, would be considered a transit storage and repair yard, and thus, would be permitted by right in an M.L. zone.

For their part, People's Counsel and Ms. Simoes raise a series of objections to such a conclusion. Primarily, they point to Bill No. 91-90, and the legislative history associated therewith, which established and regulated transit storage and repair yards and similar uses. In my view, such an examination of the history of this Bill is improper. As is well established at law, the cardinal rule of statutory construction is to ascertain and carry out the intent of the legislature. See Stapleford v. Hyatt, 330 Md. 388 (1993). In making such judgment, the language of the statute and the natural and ordinary meaning of same must be considered. Harford County v. University, 318 Md. 525 (1990). Most importantly, the Courts have held that if there is no ambiguity or obscurity in the language

of a statute, there is no need to look elsewhere to ascertain the intent of the legislative body. See Montgomery County v. Buckman, 333 Md. 516 (1994). Thus, it is only when there is ambiguity or obscurity in the language of the statute should an examination of the legislative history of the act be undertaken.

In this case, there is no ambiguity or obscurity in the statute. The words utilized in defining a transit storage and repair yard are clear. The plain meaning of those words, as discussed heretofore, is obvious.

It is also important to note that the Council, when drafting the Bill, was well aware of the distinction between private common carriers, such as the Hofmann Bus Company, and public common carriers, such as the Mass Transit Administration (MTA). The legislature's possession of this knowledge is clear in reviewing the definitions which were adopted by Bill No. 91-90. Specifically, that Bill added five definitions to Section 101 of the B.C.Z.R. Those definitions were of the terms "bus terminal", "rail passenger stations", "transit center", "transit facility", and "transit storage and repair yard". In defining "bus terminal", the Council indicated specifically that the definition enacted "does not include Mass Transit Administration vehicles or Baltimore County public school buses." In defining a "transit center", the legislature noted that such use included the structure and bus staging area "...designed and located to facilitate transfers among bus routes operated by the State Mass Transit Administration."

Clearly, the Council was aware of the role of the Mass Transit Administration. Notwithstanding this knowledge, and inclusion of that entity's vehicles in some definitions, the Council saw fit to not restrict

those activities described as a transit storage and repair yard only to operations conducted by the MTA.

Thus, People's Counsel's suggestion that a transit storage and repair yard includes only such operations as conducted by the MTA is incorrect. If the Council wanted to restrict a transit storage and repair yard to only that operator, the Council should have said so. To adopt such an approach, particularly when the Council did not identify that sole user within their definition, as it did elsewhere in the Bill, is simply wrong. The use of property as a transit storage and repair yard is not specifically applicable to the MTA.

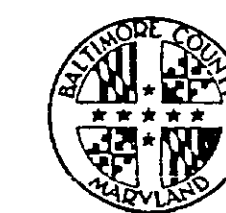
For these reasons, it is clear that the relief requested in the Petition for Special Hearing must be granted. The Petitioner's business as described, is a transit storage and repair yard. Such use, pursuant to the B.C.Z.R., is permitted by right in an M.L. zone.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held and for the reasons set forth above, the relief requested shall be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 10th day of February, 1996 that the maintenance, repair, and storage of common carrier vehicles (buses) in an M.L. zone is permitted as of right under the definition of a "Transit Storage and Repair Yard" as contained within Section 101 of the B.C.Z.R., and as such, the Petition for Special Hearing is hereby GRANTED.

LES:bjs

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County



Baltimore County
Zoning Commissioner
Office of Planning and Zoning

Suite 112, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-4386

February 1, 1996

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

RE: PETITION FOR SPECIAL HEARING
(No Specific Location)
Hofmann Bus Company, Inc. - Petitioner
Case No. 96-251-SPH

Dear Mr. Hoffman:

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

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

Very truly yours,
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. Dennis G. Bayer, President
Hofmann Bus Company, Inc., 1003 Race Road, Baltimore, Md. 21221
People's Counsel
File

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]

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Date 2/1/96
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]

ORDER RECEIVED FOR FILING
Date 2/1/96
By [Signature]



Petition for Special Hearing

to the Zoning Commissioner of Baltimore County
for the property located at _____

NO SPECIFIC SITE
which is presently zoned ML

This Petition shall be filed with the Office of Zoning Administration & Development Management. The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

the maintenance, repair and storage of common carrier vehicles (buses) in an ML zone as permitted under the definition of a Transit Storage and Repair Yard.

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

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

Petitioner:

Hofmann Bus Co., Inc.

By: *Dennis G. Bayer*

Dennis G. Bayer, President

1003 Race Road

Baltimore, Maryland 21221

City State Zipcode

City State Zipcode

City State Zipcode

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CERTIFICATE OF PUBLICATION

TOWSON, MD. 11/15/1996

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 11/11/1996

THE JEFFERSONIAN,

A. H. HENNING

LEGAL AD. - TOWSON

TO: PUBLISHER PUBLISHING COMPANY
January 11, 1996 Issue - Jeffersonian

Please forward billing to:

Robert A. Hoffman, Esq.
210 Allegheny Avenue
Towson, MD 21204
494-6201

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-251-SPH (Item 251)

NO SPECIFIC LOCATION

Petitioner: Hoffman HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse. Bus Company, Inc.

Special Hearing to approve the maintenance, repair, and storage of common carrier vehicles (buses) in a M.L. zone as permitted under the definition of a Transit Storage and Repair Yard.

HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.



Baltimore County
Department of Permits and
Development Management

Permits and Licenses
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
(410) 887-3900
Fax: (410) 887-2824

January 8, 1996

NOTICE OF HEARING

The Zoning Commission of Baltimore County, by authority of the Zoning Act and regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204 or Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 96-251-SPH (Item 251)

NO SPECIFIC LOCATION

Petitioner: Hoffman HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse. Bus Company, Inc.

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HEARING: TUESDAY, JANUARY 30, 1996 at 10:00 a.m. in Room 118, Old Courthouse.

Arnold Jablon
Director

cc: Robert A. Hoffman, Esq.

NOTES: (1) ZONING SIGN AND POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE.
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 013425
DROP-OFF - NO REVIEW
ITEM #251
DATE 12/20/95 ACCOUNT 001-6150
ESTIMATED LENGTH OF HEARING 12/20/95
AMOUNT \$ 250.00 (WCR)
RECEIVED Hofmann Bus Co., Inc.
FROM: Robert A. Hoffman
210 Allegheny Avenue
Towson, Maryland 21204
21204
ADDRESS: 210 Allegheny Avenue
Towson, Maryland 21204
CITY: Towson, Maryland 21204
STATE: MD
ZIP: 21204
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RE: PETITION FOR SPECIAL HEARING
NO SPECIFIC LOCATION

BEFORE THE
ZONING COMMISSIONER
OF BALTIMORE COUNTY
CASE NO. 96-251-SPH

Hoffman Bus Company, Inc.
Petitioners

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

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 26th day of January, 1996, a copy of the foregoing Entry of Appearance was mailed to Robert A. Hoffman, Esquire, Venable, Baetjer and Howard, 210 Allegheny Avenue, P. O. Box 5517, Towson, MD 21204, attorney for Petitioner.

Peter Max Zimmerman
PETER MAX ZIMMERMAN



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old Courthouse
400 Washington Ave.
Towson, MD 21204
(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

January 25, 1996

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
Old Courthouse, Room 118
400 Washington Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Special Hearing
No Specific Site
PETITIONER: HOFFMAN BUS CO., INC.
Case No. 96-251-SPH

Dear Mr. Schmidt:

The Petition for Special Hearing attached hereto has been brought to our attention. In view of this office's Charter responsibility to defend the comprehensive zoning maps, we are obligated to oppose the approval of the Petition on its face for the following reasons:

1. The Petition fails to list a specific site.

(A) As a result, the Petitioner will not be required to post notice on the site of the zoning request, in accordance with BCZR Section 500.7. It is patently unreasonable and unfair to expect the citizens to comb daily all the newspapers with a county circulation to determine if they may be affected by a proposed zoning change. The citizens would have no way of correlating the requested relief on an unspecified site and an adverse affect upon them or their property.

If the Petitioner contemplates a specific site, he should be required to identify the site and post notice. A Petitioner's request for an interpretation of the zoning regulations must be heard in the context of its proposed location. It is normal for a Petitioner to contemplate a specific site when beginning a foray into the zoning process.

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
January 25, 1996
Page Two

Unless the Petition is site specific, the citizens who may be directly affected will have no input into the process.

(B) A special exception, variance, or reclassification petition must refer to a specific site.

2. The relief requested by Petitioner is derived from County Council Bill 91-90. This legislation was enacted in response to the proposed Light Rail line and its accessory functions. As stated in the Bill attached hereto: "WHEREAS, the State of Maryland Mass Transit Administration is planning to construct certain transit projects in Baltimore County, including the proposed Towson Transit Center and the Central Corridor light rail line ...":

(A) The focus of this legislation is to enable the reactivation of the light rail line and its intrinsic transit facilities and support services.

(B) The Planning Board Report on the legislation states, "This project has been initiated in response to transit projects which are planned for Baltimore County by the State Mass Transit Administration including the proposed Towson Transit Center and the Central Corridor light rail line."

(C) The uses established by this legislation refer to "mass transit" facilities and "common carrier" vehicles. Privately owned buses are not included in these definitions and are referred to as "other modes of transportation". The Petitioner is a private bus company and not part of the MTA. The operation appears similar to a service garage for a fleet of rental cars or limousines or taxicabs.

(D) The definitions and uses established in this legislation must be read conjunctively since they were enacted for a single purpose. As stated in the Planning Board Report: "The Planning Board recommends that the Zoning Regulations be amended to facilitate the development of MTA's proposed transit projects. Transit facilities would be permitted as of right in all zones. Transit centers should be permitted only in Business Major Zones. Transit storage and repair yards are appropriate only in manufacturing zones. To achieve these objectives, the Planning Office recommends that the Baltimore County Zoning Regulations, 1955, as amended, be further amended ..."

Lawrence E. Schmidt, Esquire
Baltimore County Zoning Commissioner
January 25, 1996
Page Three

3. The Petitioner is not without relief. We suggest that a service garage more aptly describes the proposed use for maintenance, repair and storage of buses. A service garage is permitted in an MD zone, with certain restrictions, by special exception. BCZR Section 253.2B.3.

4. It appears that in order to avoid the Special Exception process and qualify as a permitted use, the Petitioner is seeking to rely on a provision of the BCZR that pertains to the MTA. We oppose the Petition as a misapplication of the intent and language of Bill 91-90.

Very truly yours,
Peter Max Zimmerman
Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio
Carole S. Demilio
Deputy People's Counsel

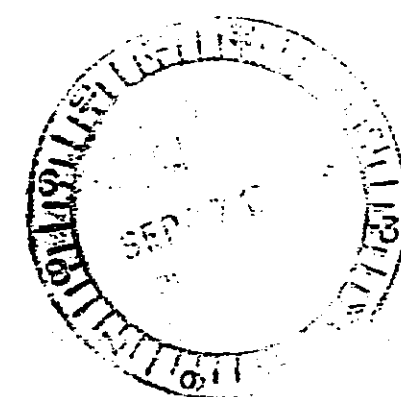
CSD/caf
Enclosure

cc: Robert A. Hoffman, Esquire
Attorney for Petitioner

Arnold F. Keller, III, Director
Office of Planning

FINAL Report of the
Baltimore County Planning Board
Adopted July 20, 1989

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS CONCERNING TRANSIT FACILITIES



Office of Planning & Zoning
Baltimore County, Maryland

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1990, Legislative Day No. 10

Bill No. 91-90

Mr. C.A. Dutch Ruppersberger, III, Councilman
By Request of County Executive

By the County Council, May 21, 1990

A BILL
ENTITLED

AN ACT concerning

Public Hearings for Transit Facilities
Zoning Regulations - Transit Facilities

FOR the purpose of amending the Zoning Regulations and The County Code in order to define Transit facility, rail passenger station, transit storage and repair yard, transit center and bus terminal, to permit transit facilities in all zones, transit centers in Business Major and Business Roadside zones and in manufacturing zones, transit storage and repair yards in manufacturing zones; to permit rail passenger stations in residential zones by special exception and to permit rail passenger stations in business and manufacturing zones and by special exception in residential zones; and providing for certain other requirements for transit facilities.

BY Adding

Section 191; alphabetically, the definitions of "transit facility"; "rail passenger station"; "transit storage and repair yard"; "transit center"; "bus terminal"; Section 434
Baltimore County Zoning Regulations, as amended
Section 101; alphabetically, the definitions of "bus terminal"; "rail passenger station"; "transit center"; "transit facility"; "transit storage and repair yard" and Section 434
Baltimore County Zoning Regulations, as amended

Section 22-26(d)
Title "Planning, Zoning & Subdivision Control"
Baltimore County Code, 1978, 1987 Cumulative Supplement

BY Repealing and reenacting, with amendments

Sections 191, 1A01.2.B, 1A01.2.C, 1A02.2.A, 1A03.3.A, 1A03.3.B, 1A04.2.A, 1A04.2.B, 1A05.2.C, 1B01.1.A, 1B01.1.B.1.c, 1B01.1.C, 200.2A, 201.2A, 207.3A, 230.9, 233.2, 241.1, 253.1B and 409.6A.2
Baltimore County Zoning Regulations, as amended.

WHEREAS, the Baltimore County Council recognizes that public transportation facilities are essential to alleviate traffic congestion, increase labor force accessibility, promote air quality and the efficient use of resources in Baltimore County; and

-1-

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter stricken from existing law.
Strike-out indicates matter stricken from bill.
Underlining indicates amendments to bill.

FROM: D

PHONE NO.: 4103777657

Jan. 25 1996 01:58PM P2



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PROTESTANT(S) SIGN-IN SHEET

NAME ADDRESS
Marie Q. Simoes *1314 Spotswood Rd. 21237*

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