IN THE MATTER OF THE APPLICATION OF SAMUEL MOGAVERO -PROPERTY OWNER / \* COUNTY BOARD OF APPEALS PETITIONER FOR A ZONING RECLASSIFICATION ON PROPERTY LOCATED 120' NW OF THE NW/S PULASKI HIGHWAY AND 700' SW OF C/L LITTLE \* GUNPOWDER FALLS (REAR OF 12436 PULASKI HIGHWAY) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

BEFORE THE

OF

BALTIMORE COUNTY

CASE NO. R-98-150 (Cycle II, 1997/98)

#### OPINION

This case comes to the Board of Appeals of Baltimore County based on a reclassification filed by the Petitioners to reclassify two parcels of land from their present zoning classification of B.L.-C.R. and B.R.-C.R. to B.M. and B.R. The two parcels involved are: Parcel "A" - 120' NW of NW/s Pulaski Highway and 700' SW of centerline Little Gunpowder Falls (rear of 12436 Pulaski Highway) and Parcel "B" - NW/s Pulaski Highway and 700' SW of centerline Little Gunpowder Falls (12420 Pulaski Highway) in the Eleventh Election District of Baltimore County.

This case was originally opened and continued on the record on March 24, 1998 for submittal of amendment to petition and plan, and was assigned for hearing on the merits. A public hearing was held on Thursday, July 2, 1998. Newton A. Williams, Esquire, represented the Petitioners on March 24, 1998; and Stephen J. Nolan, Esquire, continued representation for the law firm of NOLAN, PLUMHOFF & WILLIAMS, CHTD., in the absence of Mr. Williams. Peter Max Zimmerman, People's Counsel for Baltimore County, participated in these proceedings.

Mr. Nolan, in his opening statement, advised the Board that

the Petitioners had decided to adjust their original request to delete Parcel "B" in its entirety, and no evidence or testimony would be received at the hearing to reclassify Parcel "B" from its current zoning. The new request would require the Board to consider only Parcel "A" and to remove the current C.R. designation, leaving the property zoned B.L.

Mr. Zimmerman, in his opening remarks, stated that, in removing Parcel "B" from consideration, the Petitioner had removed a number of issues that had caused concern for the Office of People's Counsel. Mr. Zimmerman indicated that the only issue present was one of the removal of the C.R. district, leaving the B.L. zoning in place and the appropriateness of that action. He concurred with Mr. Nolan that, because the Petitioner was requesting relief of a lesser nature, the Board could proceed without going back through the formal review process.

Mr. G. Dwight Little testified in support of the reclassification. He is a Professional Engineer with the firm of W. Duvall & Associates. He was first registered in Pennsylvania in 1985 and became registered in Maryland in 1988. He was offered and accepted as an expert in the field of civil engineering and identified the site plan and red line adjustments. He opined that Parcel "A" consisted of 1.2 acres just south of the Harford County Line before reaching the Baltimore County border (Petitioner's Exhibit No. 1, site plan). He acknowledged that Parcel "B" had been stricken from the Petitioner's request, and as to Parcel "A,"

the requested B.M. zoning had been stricken in favor of B.L. He stated that Parcel "A" was 50' from the B&O Railroad line, with the bulk of the property surrounding it owned by Samuel and Margaret Mogavero. A gas station in the front of the property was owned by Mr. Goldman, and presently zoned B.L.-C.R.

Mr. Little testified at length concerning the limitations of the C.R. district relative to a floor area of 8,800 sq. ft. with a maximum of 6,600 sq. ft. on the ground floor. He indicated that the C.R. designation was not proper since the area was paved and not consistent with C.R. requirements, and due to its proximity to Route 40 (Pulaski Highway). He recited the requirements of the Baltimore County Code [Section 2~356(j)(2)] which the Board must have present in order to reclassify property. He indicated that if the C.R. district were removed the area would be consistent with the Master Plan, water /sewer requirements and the property could be developed with private water and sewerage facilities. The present zoning, in his opinion, was not a proper use of the property.

Mr. Jeffrey Long also testified. He stated that he was a Planning Officer with Baltimore County, having 10 years experience, was presently Section Chief in the area of development and cycle planning within the department. He was accepted as an expert in land planning. He testified that he had reviewed the property from a documentary standpoint, made site visits, and it was quite clear from his observations that the C.R. overlay was not appropriate in

these requirements. He stated that the intent of the C.R. district as amended does not suit the property because the industrial uses already present in the area, the regional appeal of the property for tax purposes, and the present uses such as the nearby 84 Lumber facility. Again, he stated that the C.R. designation is appropriate for rural villages but this site and the factors previously related made it inappropriate as to this area. Mr. Long opined that in 1992 the Planning Staff had in fact surveyed the northern County and the inappropriateness of the assigned zoning would have dictated removal of the C.R., but it was overlooked by the Planning Staff. This was a very clear case where the Petitioner's request was reasonable, and if Parcel "A" were reclassified, the uses permitted would be compatible with the immediate area. The B.L. zoning requested permits a reasonable use of the property and would employ the least intensive use of the site.

The third witness offered by the Petitioner was Mr. Samuel Mogavero, owner of the property. Mr. Mogavero testified that he acquired the property in August 1991 by way of a mortgage foreclosure, that he was the mortgage holder and lender and the borrower defaulted on the loan. He was not personally aware of the C.R. overlay and 6,600 sq. ft. restriction, and subsequently developed information concerning the limitations which it presented for future development.

Mr. Zimmerman opted for no cross-examination as to this

witness.

Mr. William Monk, Towson, Maryland, a land planning consultant, also testified in favor of the reclassification. He holds both a Bachelor's Degree and a Master's Degree from the University of Illinois, and has been active in land planning for over 20 years, having testified before this Board many times as an expert land planner. He was accepted as same without objection.

Petitioner's Exhibit No. 3 was admitted reflecting various photographs of the area, showing, in proximity, the 84 Lumber Company to the south, adjacent Crown station, and the nearby Joppatowne Shopping Center, in addition to a RiteAid drug facility which is under construction nearby, and also a landfill site opposite the property (Petitioner's Exhibit No. 4).

Petitioner's Exhibit No. 5 reflected an aerial map of the area which was described in detail by Mr. Monk. Mr. Monk also testified concerning the C.R. designation and his assessment as to the 1967 definition, and that of the Bill as it was revised in 1988. He also believed the C.R. designation to be an error by reason of the area not being rural in nature, heavy traffic along Route 40, the jersey barriers, etc. He also recited reasons why the reclassification would be appropriate; that there were no adverse impacts as to the health, safety and general compatibility with surrounding uses. Following the testimony of Mr. Monk, Mr. Nolan proffered the testimony of Mr. Mogavero, the owner, that Parcel "B" was now being used as a bingo hall, and was previously the "Club

40."

In closing remarks, Mr. Nolan stated that he believed that the Petitioner had met his burden of meeting the requirements of the County Code, and the placement of the C.R. designation during the 1996 zoning map process was an error; and had the Planning Staff not overlooked the site during that process, the C.R. overlay would have been removed, leaving the B.L. zoning in place.

People's Counsel reminded the Board of its responsibilities concerning reclassification petitions, but that, based upon the testimony of Messrs. Long and Monk, he did not see a conflict between present design and purpose, and with the requested reclassification, the purpose could serve a more useful function with controls in place as to use limitations relative to the B.L. functions.

The Board took a period of recess and reconvened to publicly deliberate the issue. This Board is empowered by the <u>Baltimore</u>

<u>County Code</u> to have original jurisdiction in zoning reclassifications. Under Section 2-356(j), "Findings prior to Reclassification," it is stated:

- (1) That, except as limited by the terms of subsection (j)(3) of this section, there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified or that the last classification of the property was established in error.
- (2) That the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted

may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including but not limited to all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character surrounding area; any of the pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program.

This Board, having heard the testimony and after reviewing the evidence, concludes that the finally-determined zoning of B.L.-C.R. assigned by the County Council during the last comprehensive zoning process to Parcel "A" of the subject site was in error; and that the C.R. overlay should appropriately be removed, leaving the zoning designation as B.L. The testimony and evidence presented at the hearing clearly reflect that the C.R. overlay is not appropriate to this site as it is no longer in harmony with the definition of the C.R. district as outlined by Bill No. 103-88 passed by the County Council on July 5, 1988:

#### A. C.R. District - Commercial Rural

1. The C.R. district is established to provide opportunities for convenience shopping and personal services that are customarily and frequently needed by the rural residential and agricultural population and tourists. It is intended that the C.R. district be applied only to areas where such facilities are not available within a reasonable distance; where sewerage treatment and a potable water supply can be provided without an adverse effect on the environment and neighboring uses and where public roads are capable of

handling the anticipated increase in traffic without adverse impacts on surrounding areas. The commercial centers within C.R. districts are not intended to be regional facilities providing specialty goods to a population outside of the rural area.

Clearly the site is not one that is "customarily and frequently needed by the rural residents and agricultural population and tourists." While this Board is cognizant of its responsibilities and that "in the case of comprehensive zoning or rezoning, a strong presumption of correctness; and that those who attack it bear a heavy burden in overcoming that presumption" Bonnie View Country Club v. Glass, 242 Md. 4, the Board concludes that the Petitioner has met his burden more than adequately to convince the Board that the findings used under Baltimore County Code Section 2-356(j) have been satisfied. It is the further conclusion of the Board that the Petitioner has convincingly demonstrated sufficient facts and documentation to establish that there were then existing facts or subsequently occurring events which the Council could not have taken into account that warrant reclassification of the subject site.

For the reasons so stated, this Board will grant the request for the sole reclassification of Parcel "A."

#### ORDER

IT IS THEREFORE, this 5th day of August, 1998 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification as to Parcel "A" of the subject property be GRANTED from the present

classification of B.L.-C.R. to B.L.; and it is further

ORDERED that the Petitioner shall file a new plat which shall be submitted to the appropriate Baltimore County departments reflecting the revised reclassification as to Parcel "A"; and it is further

ORDERED that this Board shall take no further action on Petitioner's original request for reclassification of Parcel "B" as such was withdrawn by the Petitioner at the time of this hearing.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

rastine K. Howanski, Chairman

Charles L. Marks

Donna M. Felling



## County Board of Appeals of Baltimore County

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

August 5, 1998

Newton A. Williams, Esquire Stephen J. Nolan, Esquire NOLAN, PLUMHOFF & WILLIAMS, CHTD. Suite 700, Nottingham Centre 520 Washington Avenue Towson, MD 21204

RE: Case No. R-98-150

Samuel & Margaret Mogavero -Petitioners

Dear Messrs. Williams and Nolan:

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

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

Very truly yours,

Charlette E. Radchiff
Kathleen C. Bianco

Administrator

#### Enclosure

CC: Samuel & Margaret Mogavero
W. Duvall & Associates, Inc. /Sean Schmidt
James Earl Kraft /Bd of Education
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long /Planning
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, Co Atty



# Petition for Reclassification

## to the Board of Appeals of Baltimore County

WADVI KID	<b>_</b>	
MALAN	for the Property at Tax	K Map 64 Grid 23 Parcel 449, Rear of 12346 Pulaski
	- <del> </del>	and pull 210; 12420 Pullishi Highway
This Petition shall b	e filed with the Department of P	Permits & Development Management
The undersigned, leg	pal owner(s) of the property situate in Baltin	nore County and which is described in the description and plat attached hereto and
made a part hereof, i	hereby petition (1) that the zoning status of	the herein described property be reclassified, pursuant to the Zoning Law
of Baltimore County,	BL-CR and BR-CR from an	BM and BR zone to anzone, for the reasons
given in the attached	and (2) for a Special Exception under the	Zoning Regulations of Baltimore County, to use the herein described property for:
	•	
	No proposed use f	or subject property at this time.
		- · · · · · · · · · · · · · · · · · · ·
and (3) for the reason	ns Given in the attached statement a varian	ce from the following sections of the Zoning Regulations of Baltimore County:
	and and arraction officially dividit	ice, nomination of the Zoning Regulations of patimole County.
	No verience rea	uested at this time.
	no variance red	dested at this time.
		•
	•	
Property is to be	posted and advertised as prescribe	ed by Zoning Regulations.
1, or we, ag	gree to pay expenses of above Special Exc	ception advertising, posting, etc., upon filing of this petition, and further agree to of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.
		I/We do solemnly declare and affirm, under the penalties of penury, that I/we are the
		legal owner(s) of the property which is the subject of this Petition.
Contract Purchaser/Les	420e:	Legal Owner(s):
•	•	Samuel Mogavero
Type or Print Name)	<del></del>	(Type or Print Name)
	<del></del>	Jamuel Mogerers
Signature		Signature · //
	- -	Margaret Mogavero
Address	······································	(Type or Print Name)
		MIAN

	•				
•			Samuel Mogavero		
(Type or Print Name)		· · · · · · · · · · · · · · · · · · ·	(Type or Print Name)		
	<del></del>	<del></del>	Jamus Mogaren-		
Signature			Signature · //		
			Margaret Mogavero		
Address			(Type or Print Name)  Margaret Manavero		
City	State	Zip Code	Signature		
			1552 Fairview Beach Rd		
Attomac for Oatlifonan					
Attorney for Petitioner:			Address Pasadena		
37			City		
Newton A. Williams	<del></del>		Name, address and phone number of legal owns		
(Type or Print Name)			to be contacted. Newton A. William		
- Auston G.M.	lleams	-	Nolan, Plumhoff & Wil		
Signature Nolan, Plumhor			Name		
502 Washington Av	7 <b>e</b> .	410-823-7800	502 Washington Ave., Suit		
Address		Phone No.	Address Towson, MD 21204		
Towson	MD	21204	OFFICE USE ONLY		
City	State	Zip Code			

410-360-1525 Phone No. MD 21122 State Zip Code r, contract purchaser or representative នេ .liams 700 <u>410-823-</u>7800 е Phone No. ESTIMATED LENGTH OF HEARING\_\_\_\_\_ unavailable for Hearing the following dates\_\_\_ **Next TWO Months REVIEWED BY:\_** 

Revised 9/5/95 2-48-/50

LON 1/21/98

# Supplemental Reasons in Support of Amended Reclassification Requests

Mr. and Mrs. Samuel Mogavero are amending their request in Case No. R-98-150 as follows:

- 1. They are adding a request to include Parcel 2 on the same Site Plan to remove the erroneous CR from the existing BR-CR zoning for the same reasons as hereinafter set out.
- 2. While they have not formally amended their first request from BL-CR to BM, they have through counsel indicated their willingness to accept BL with the removal of the CR District, which they believe and the Planning Office believes in its Report on Cycle II, 1997, dated November 28, 1997, to be erroneous because the site does not meet the CR Criteria, namely under Section 259.2A.1 in that:
- i. It is not a rural area, it is a heavily developed strip on Pulaski Highway, in sight of Joppatown Shopping Center, opposite the Eastern Sanitary Landfill, adjacent to a BR-AS strip used for lumber yards, warehouses, etc., and its rear boundary is the CSX Main Line.
- ii. Pulaski Highway, Route 40, is <u>not</u> a Rural Road, but a main highway serving Maryland and the Washington to New York Corridor, with considerable reserve traffic capacity.
- iii. The existing building now a bingo parlor/flea market which predates the CR District is far larger than the 6,600 square foot footprint, at 160 feet by 145 feet for a 23,200 square foot footprint, this is on Parcel No. 2, the amended site, hereby seeking removal of the CR District as well.
- iv. Finally, the erroneous CR District actually precludes upgrading of this former nightclub site, available now for adaptive, upgraded reuse.
  - v. For such other and further reasons to be brought out at the hearing hereon.

Newton A. Williams

Nolan, Plumhoff & Williams, Chtd.

Newton a. Williams

Suite 700 - Nottingham Centre

502 Washington Avenue

Towson, Maryland 21204

(410) 823-7800



# Petition for Reclassification

## to the Board of Appeals of Baltimore County

for the Property at Tax Map 64 Grid 23 Parcel 449, REAR OF 12436

PULASKI HIGHWAY.

This Petition shall be filed with the Department of Per The undersigned, legal owner(s) of the property situate in Baltimore made a part hereof, hereby petition (1) that the zoning status of the	e County and which is described in the descri	ption and plat attached hereto and
of Baltimore County, from an BL-CR	zone to an BM	zone, for the reasons
given in the attached and (2) for a Special Exception under the Zon	ning Regulations of Baltimore County, to use t	he herein described property for:
No proposed use for subjec	et property at this time.	
and (3) for the reasons given in the attached statement a variance t	from the following sections of the Zoning Reg	
No variance requested at t	this time.	AUG 29 F
Property is to be posted and advertised as prescribed 1, or we, agree to pay expenses of above Special Except and are to be bound by the zoning regulations and restrictions of Bares.	tion advertising, posting, etc., upon filing of th	is petition, and buther agree to ing Law for Baltinore County.
	I/We do solemnly declare and affirm, under the legal owner(s) of the property which is the subjection	
Contract Purchaser/Lessee:	Legal Owner(s):	
(Type or Print Name)	Samuel Mogavero (Type of Frint Name)	12 (10) ·
Signature	Signature REARET MOGAU	
Address	(Type or Print Name)  Maryant Moganico	
City State Zip Code		<del></del>
	Signature // 1552 Fairview Beach Rd.	410-360-1525
Attorney for Petitioner:	Address	Phone No.
	Pasadena	MD 21122
NEWYON A. WILLIAMS	City Name, address and phone number of legal or	State Zip Code wher, contract purchaser or representative
(Type or Print Name)	to be contacted.	
ewton G. Williams, Molan, Plumber At	W. Duvall & Associates,	Inc.,Attn: Sean Schmid
Signature Williams Centre Williams	Name	ı
Address Phone No.	530 E. Joppa Rd. Towson. Address	MD 21286 (410)583-957 Phone No.
Towson, Md. 21204	OFFICE USE ONLY	
City State Zip Code	ESTIMATED LENGTH OF HEARIN	G.
•	unavailable for Hearing the following	
	Next TWO Months	
		OTHER
	REVIEWED BY:	DATE

# W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners



530 East Joppa Road Towson, Maryland 21286 Telephone: (410) 583-9571 Fax: (410) 583-1513.

# PETITIONER'S OPINION WHY ZONING RECLASSIFICATION SHOULD BE ALLOWED

In the opinion of the Petitioner, the subject property's current BL CR zoning is erroneous due to the nature of the surrounding neighborhood and also overly restrictive as to severely limit and cause undue hardship to the Petitioner should any future development occur. Furthermore, the CR districting is inappropriate due to the site's location on a major highway marked by major commercial development.

# W. DUVALL & ASSOCIATES, INC.

Engineers • Surveyors • Land Planners



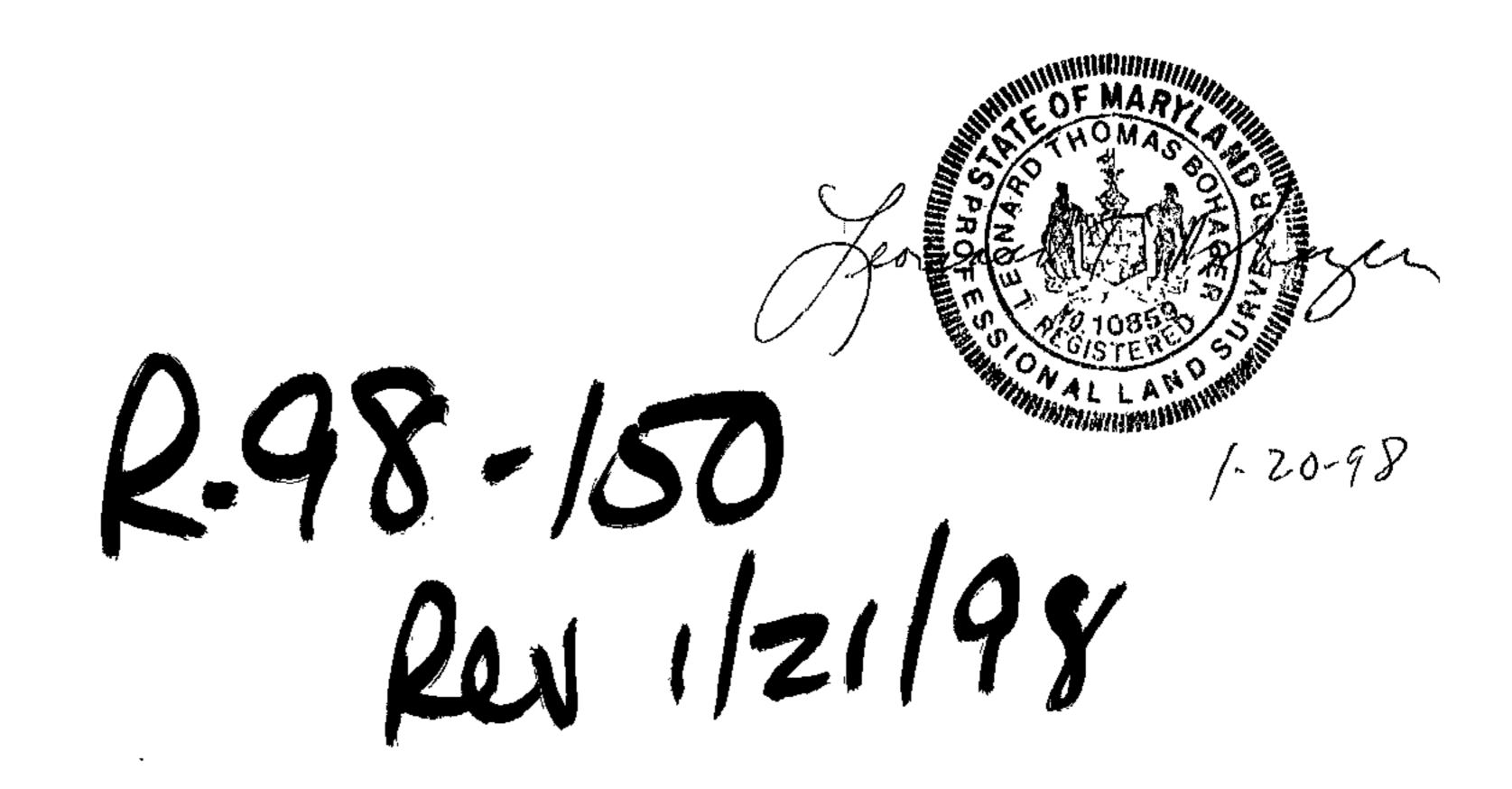
530 East Joppa Road Towson, Maryland 21286 Telephone: (410) 583-9571 Fax: (410) 583-1513

PARCEL 'B'
METES AND BOUNDS DESCRIPTION FOR
ZONING RECLASSIFICATION
PART OF THE PROPERTY SHOWN ON
TAX MAP 64 GRID 23 PARCEL 449
PROPERTY OF
SAMUEL MOGAVERO AND MARGARET MOGAVERO

BEGINNING for the same at a point on the northwest side of Pulaski Highway, 700 feet ± southeast of the centerline of Little Gunpowder Falls, said point also being at the end of the third or South 35 degrees 31 minutes 09 seconds East, 360.41 foot line of the first parcel of land which by Deed dated January 6, 1992 and recorded among the Land Records of Baltimore County in Liber 9036 Folio 158 was granted and conveyed by Norman M. Pepersack, Jr. to Samuel Mogavero and Margaret Mogavero; thence binding on the northwest side of Pulaski Highway South 56 degrees 42 minutes 25 seconds West, 337.71 feet; thence leaving said road North 31 degrees 36 minutes 07 seconds West, 361.59 feet; thence North 56 degrees 38 minutes 37 seconds East, 312.98 feet; thence South 35 degrees 31 minutes 09 seconds East, 362.05 feet to the point of beginning.

CONTAINING 117,612 square feet, or 2.70 acres of land, more or less.

NOTE: IN THE ABOVE TOTAL OF 2.70 ACRES OF LAND, 3,136 SQUARE FEET OR 0.072 ACRES OF EXISTING BL-CR ZONE IS INTENDED TO BE RECLASSIFIED TO BR ZONE, AND THE REMAINING 114,476 SQUARE FEET OR 2.628 ACRES OF EXISTING BR-CR ZONE IS INTENDED TO BE RECLASSIFIED TO BR ZONE.



Engineers • Surveyors • Land Planners



530 East Joppa Road Towson, Maryland 21286 Telephone: (410) 583-9571 Fax: (410) 583-1513

#### METES AND BOUNDS DESCRIPTION FOR ZONING RECLASSIFICATION PART OF THE PROPERTY SHOWN ON TAX MAP 64 GRID 23 PARCEL 449 - PROPERTY OF SAMUEL MOGAVERO AND MARGARET MOGAVERO

BEGINNING for the same at the end of the sixth or South 33 degrees 18 minutes 21 seconds East, 40.00 foot line of the third parcel of land which by Deed dated January 6, 1992 and recorded among the Land Records of Baltimore County in Liber 9036 Folio 158 was granted and conveyed by Norman M. Pepersack, Jr. to Samuel Mogavero and Margaret Mogavero; thence leaving the outline of said third parcel and running South 35 degrees 14 minutes 58 seconds East, 202.13 feet; thence South 56 degrees 42 minutes 25 seconds West, 214.66 feet; thence North 35 degrees 31 minutes 09 seconds West, 241.96 feet to intersect the fifth line of said Deed; thence binding on said fifth and sixth lines North 56 degrees 38 minutes 37 seconds East, 217.11 feet and South 33 degrees 21 minutes 23 seconds East, 40.00 feet to the point of beginning.

CONTAINING 52,090 square feet, or 1.1958 acres of land, more or less.

8-26-97

**ITEM #2** 

Property Owner:

Case No./Hearing Date:

Contract Purchaser:

Location:

Existing Zoning:

Election District:
Councilmanic District:

Acres:

Proposed Zoning:

Samuel & Margaret Mogavero

R-98-150; March 24, 1998

N/A

120' NW of NW/S Pulaski Highway and 700' SW of centerline

Little Gunpowder Falls (rear of 12436 Pulaski Highway)

B.L.-C.R.

11th

5th

1.1958 +/-

B.M. 🕝

Parcel "B" a being added.

27 acres (1012 BLCP + 2.628 BR-CP)

duce la "B"

Now!s Pulaski Huy + 100'swooder Falls.

Centerline Little Gurpourcher Falls.

(12420 Pulaski Huy)

#### NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Sec. 602.(e) and Sec. 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property Identified herein as follows:

Case #R-98-150

Parcel "A": 120' NW of NW/S
Pulaski Highway and 700' SW
of centerline Little Gunpowder
Falls (rear of 12436 Pulaski
Highway)
Parcel "B" NW/S Pulaski Highway and 700' SW of centerline
Little Gunpowder Falls (12420
Pulaski Highway)
11th Election District
5th Councilmanic District
Legal Owner(s):
Samuel & Margaret
Mogavero
Reclassification: of the property from B.L.-C.R. and
B.R.-C.R. to B.M. and B.R.
Hearing: Tuesday, March 24,
1998 at 10:00 a.m., in Room
48 of the Old Courthouse,
400 Washington Avenue.

KRISTINE M. HOWANSKI,
Chairman
NOTES: (1) Hearings are
Handicapped Accessible; for
special accommodations
Please Call (410) 887-3353.
(2) For information concerning the File and/or Hearing,
Please Call (410) 887-3391.
3/004 Mar. 5 c211002

### CERTIFICATE OF PUBLICATION

LEGAL AD. - TOWSON

	1		۱	•
BALTIMORE COUNTY, MA LAND OFFICE OF BUDGET & FINANCL MISCELLANEOUS RECEIPT	No.		م جن ع	
DATE 29 Aug 97 ACCOUNT OO AMOUNT \$ 5	1-101 35.0	81	Reti Rem CR	HOUSE CHANGE CHEEK UNIT ULM TROMER (*)  THEORIE AND CHEEK CHEEK UNIT ULM TROMER (*)  THEORIE AND CHECK (*)  THEORIE AND CHECK (*)  THEORIE AND CHECK (*)
RECEIVED HOGALERO & SON	5', ( , , ]			paltimure County, Maryland
DISTRIBUTION	135:3			CASHIER'S VALIDATION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER	, , <sup>2</sup>		, <u>, , , , , , , , , , , , , , , , , , </u>	The second secon
BALTIMORE COUNTY, MARY ND OFFICE OF BUDGET & FINANCE	No.	040715		

MISCELLANEOUS RECEIPT **指框部** THE. ATTAL. 1/23/1990 04:70:19 1/23/1991 001-6181 1/21/98 CREMITY CLIM CAL DRINGS 阳阳阳 ACCOUNT. DATE. THEIR RED BURG LEISIN ? Reseirt # ()359W) MA AMOUNT \$ 100.00 (WCR) CRIMO. WONLS 加加 00.001 Baltimore County, Haryland RECEIVED Mogavero & Son Builders FROM: #110 - REVISIONS FOR: Reclassification Case #R-98-150 Revised Petitions, Plats, Descriptions & Maps DISTRIBUTION **CASHIER'S VALIDATION** YELLOW - CUSTOMER PINK - AGENCY WHITE - CASHIER

## CERTIFICATE OF POSTING

	RE: Case No.: 12-98-150
	Petitioner/ <del>Developer</del> : SAMUEL +
	MARGARET MOGAVERO
	Date of Hearing/Closing: 3-24-98
Baltimore County Department of Permits and Development Managemen County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
were posted conspicuously on the prop	erry located at 12436 Pulaski Hwy
	2/26/98
The sign(s) were posted on	erty located at 12436 Pocaskie Hwy  2/26/98  (Month, Day, Year)
he sign(s) were posted on	2/26/98 (Month, Day, Year)  Sincerely,  Augl Jens 2/26/ (Signature of Sign Poster and Date)
The sign(s) were posted on	2/26/98 (Month, Day, Year) Sincerely,  Auy Cheun 2/26/
The sign(s) were posted on	2/26/98 (Month, Day, Year)  Sincerely,  Aught Jews 2/26/ (Signature of Sign Poster and Date)  GARY FREUND
	2/26/98 (Month, Day, Year)  Sincerely,  Aug French 2/26/ (Signature of Sign Poster and Date)  GARY FREUND (Printed Name)

#### **RECLASS SIGNS FOR CYCLE II**

Case Number: CR-98-149-XA

Hearing Date: March 10, 1998 at 10:00 a.m. (BOA)

Reclassification from M.L.-I.M. to D.R.-3.5. Special Exception for a mobile home park. Variance to permit trailers (mobile homes) within 25 feet of any other boundary line in lieu of the required 75 feet.

Case Number: R-98-150

Hearing Date: March 24, 1998 at 10:00 a.m. (BOA)

Reclassification from B.L.-C.R. to B.M.

#### LET CARL KNOW WHEN THE SIGNS ARE DONE.

Dave

12/1/97

Run 48, Old Counthouse

TO: PATUXENT PUBLISHING COMPANY

March 5, 1998 Issue - Jeffersonian

Please forward billing to:

Newton A. Williams, Esquire Nolan, Plumhoff & Williams 502 Washington Avenue Towson, MD 21204 410-823-7800

#### NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Sec. 602.(e) and Sec. 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: R-98-150

Parcel "A": 120' NW of NW/S Pulaski Highway and 700' SW of centerline Little Gunpowder

Falls (rear of 12436 Pulaski Highway)

Parcel "B": NW/S Pulaski Highway and 700' SW of centerline Little Gunpowder Falls (12420

Pulaski Highway)

11th Election District - 5th Councilmanic District Legal Owner: Samuel & Margaret Mogavero

Reclassification of the property from B.L.-C.R. and B.R.-C.R. to B.M. and B.R.

HEARING:

Tuesday, March 24, 1998 at 10:00 a.m. in Room 48 of the Old Courthouse,

400 Washington Avenue

Kristine M. Howanski

Chairman

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, PLEASE CALL 410-887-3180.



Baltimore County
Department of Permits and
Development Management

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

February 2, 1998

### NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Sec. 602.(e) and Sec. 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

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Parcel "A": 120' NW of NW/S Pulaski Highway and 700' SW of centerline Little Gunpowder

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Pulaski Highway)

11th Election District - 5th Councilmanic District

Legal Owner: Samuel & Margaret Mogavero

Reclassification of the property from B.L.-C.R. and B.R.-C.R. to B.M. and B.R.

**HEARING:** 

Tuesday, March 24, 1998 at 10:00 a.m. in Room 48 of the Old Courthouse,

400 Washington Avenue

Kristine **K**. Howanski

Chairman

c: Newton A. Williams, Esquire Samuel & Margaret Mogavero

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3180.



98 FEB -2 PH 12: 08



### County Board of Appeals of Baltimore County

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

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 25, 1998

#### NOTICE OF ASSIGNMENT

CASE #: R-98-150

IN THE MATTER OF: SAMUEL & MARGARET MOGAVERO - Petitioners 12436 Pulaski Highway and 12420 Pulaski Highway 11th E; 5th C Cycle II, 1997/98

Reclassification from DR 3.5 and CB to BR and BR-AS)

which was opened and continued on the record on March 24, 1998 for submittal of amendment to petition and plan has been assigned for hearing on the merits; and has been

ASSIGNED FOR: THURSDAY, JULY 2, 1998 at 10:00 a.m.

NOTICE: The above-scheduled hearing is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c). For further information, see Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

Kathleen C. Bianco Administrator

cc: Counsel for Petitioner

: Newton A. Williams, Esquire

Petitioner

Samuel & Margaret Mogavero

W. Duvall & Associates, Inc. /Sean Schmidt

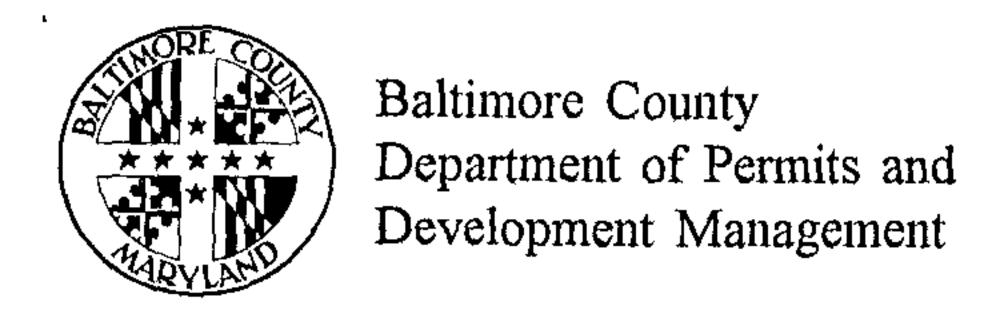
James Earl Kraft /Bd of Education

People's Counsel for Baltimore Co.

Pat Keller Jeffrey Long /Planning Lawrence E. Schmidt Arnold Jablon, Director /PDM Virginia W. Barnhart, Co Atty

K.F.C.





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

March 20, 1998

Newton A. Williams. Esq. Nolan, Plumhoff & Williams 790 Nottingham Centre 502 Washington Avenue Towson, MD 21204

RE:

Item No.: 150

Case No.: 9R-98-150

Petitioner: Samuel Mogavero, et ux Location: Rear of 12436 Pulaski Hwy.

Dear Mr. Williams:

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.

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.

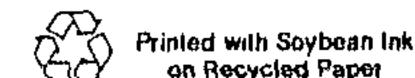
If you need further information or have any questions regarding these comments, please do not hesitate to contact the commenting agency or Gwendolyn Stephens in the zoning office (410-887-3391).

Sincerely,

W. Carl Richards, Jr.

Zoning Supervisor

WCR:ggs Attachment(s)



# B TIMORE. COUNTY, MARYLAND

# DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

TO:

PDM

DATE:

FROM:

R. Bruce Seeley . RIS Permits and Development Review

DEPRM

SUBJECT: Zoning Advisory Committee
Meeting Date:

The Department of Environmental Protection & Resource Management has no comments for the following Zoning Advisory Committee Items:

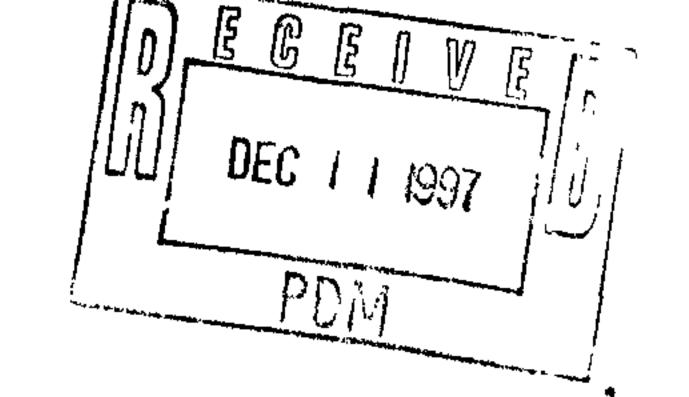
Item #'s:

RBS:sp

BRUCE2/DEPRM/TXTSBP

#### Baltimore County Government Fire Department





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

DATE: December 10, 1997 (410) 887-4500

TO DARRYL FUTTY, ZADM, MAIL STOP-1301

FROM: LT. ROBERT P. SAUERWALD

BALTIMORE COUNTY FIRE MARSHAL OFFICE
MAIL STOP-1102F, PHONE (410)887-4881

SUBJECT: SUBDIVISION REVIEW COMMENTS

PROJECT NAME: SAMUEL & MARGARET MOGAVERO

PROJECT NUMBER: R-98-150

LOCATION: 120' NW OF NW/S PULASKI HIGHWAY

DISTRICT: 5TH

#### COMMENTS:

- 7. DRIVEWAYS OR DEADEND ROADS IN EXCESS OF 300 FEET SHALL HAVE CUL-DE-SAC OR T-TURNAROUND. (CUL-DE-SAC TURNING RADIUS MINIMUM 35 FOOT WALL TO WALL, \*INSIDE TURNING RADIUS\*.
- 9. ALL FIRE HYDRANT SPACING SHALL BE IN ACCORDANC WITH THE BALTIMORE COUNTY STANDARD DESIGN MANUAL, SEC 2.4.4, FIRE HYDRANTS.

cc. File



Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: December 11, 1997

Department of Permits & Development

Management

FROM:

Robert W. Bowling, Chief

Bureau of Developer's Plans Review

SUBJECT:

Zoning Reclassification Cycle II

October 1997 to April 1998

Item #2

Samuel & Margaret Mogavero

Case No. R-98-150

Hearing Date: March 24, 1998

District 11C5

The Bureau of Developer's Plans Review has reviewed the subject zoning item. Pulaski Highway (Md. Rte. 40) is a State road. All improvements, intersections, entrances, drainage requirements and construction affecting a State road right-of-way are subject to the Standards, specifications and approval of the Maryland State Highway Administration in addition to those of Baltimore County.

Entrances shall be a minimum of 24 feet and a maximum of 35 feet wide. Depressed curb is to be used with no curb returns to the property line.

RWB:HJO:jrb

cc: File

### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

Date: February 10, 1998

Department of Permits & Development

Management

FROM: A

Robert W. Bowling, Chief

Bureau of Developer's Plans Review

SUBJECT:

Zoning Advisory Committee Meeting

for February 9, 1998

Item Nos. 247, 269, 270, 271, 274, 277, and CASE NUMBER R-98-150

The Bureau of Developer's Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:jrb

cc: File



David L. Winstead Secretary Parker F. Williams Administrator

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

RE: Baltimore County 12.3.97

Item No. #Z

Cose N. R.98-150

Samuel & Margaret Mogavero

Zoning Rechossificotion Cycle II

Dear Ms. Eubanks:

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

Please contact Larry Gredlein at 410-545-5606 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

Ronald Burns, Chief

Engineering Access Permits

Division

LG



## Maryland Department of Transportation State Highway Administration

Parris N. Glendening Governor

David L. Winstead Secretary

Parker F. Williams Administrator

February 9, 1998

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

RE: Baltimore County
Case No. R-98-150
Mogavero Property

Dear Ms. Eubanks:

We have reviewed the referenced item and we have no objection to rezoning of subject property to B.R.

Please contact Larry Gredlein at 410-545-5606 if you have any questions. You may also E-mail him (lgredlein@sha.state.md.us). Thank you for the opportunity to review this Case.

Very truly yours,

Por Ronald Burns, Chief

Engineering Access Permits Division

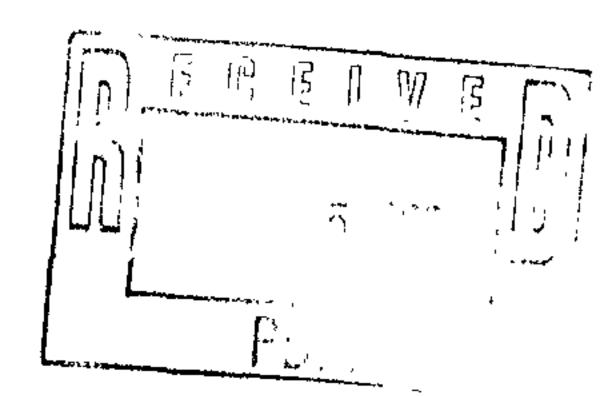
LG/eu



Office of the Fire Marshal 700 East Joppa Road Towson, Maryland 21286-5500 410-887-4880

February 4, 1998

Arnold Jab'on. Director
Zoning Administration and Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-:105



PE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF February 2, 1998

Item Mo.: See Below Zoming Agenda:

Gantleme: :

curveyed by this Bureau and the comments below are applicable and reduired to be corrected or incorporated into the final plans for the aroseity.

The Tire Marshal's Office has no comments at this time. IN PEFERENCE TO THE FOLLOWING ITEM NUMBERS:

Fire Marchal Office, PHONE 887-4881, MS-1102F

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

DATE: February 9, 1998

To:

Arnold L. Jablon

From:

Bruce Seeley 15/5/

Subject:

Zoning Item

#R-98-150

### Mogavero Property, Pulaski Highway

Zoning Advisory Committee Meeting of February 2, 1998

	The Depa	artment of Environmental Protection and Resource Management has no ts on the above-referenced zoning item.		
	The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.			
X	The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:			
		Development of the <u>property</u> must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code.)		
		Development of this property must comply with the Forest Conservation Regulations (Sections 14-401 through 14-422 of the Baltimore County Code), if the property is being subdivided according to the Development Regulations.		
	X	Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).		

# BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

	•	DATE.	December 16, 1997
To:	Arnold L. Jablon		
From:	R. Bruce Seeley (15)/4/		
Subject:	Zoning Item #R-98-150		
	Mogavero, rear of 12436 Pulaski Highway		
	Zoning Advisory Committee Meeting of		
	e Department of Environmental Protection and Resomments on the above-referenced zoning item.	ource Mana	gement has no
ext	e Department of Environmental Protection and Resortension for the review of the above-referenced zoning ich environmental regulations apply to the site.		_ *
	ne Department of Environmental Protection and Resollowing comments on the above-referenced zoning i		agement offers the
	Development of the property must comply with a protection of Water Quality, Streams, Wetla 331 through 14-350 of the Baltimore County	inds and Flo	
<del></del>	X Development of this property must comply was Regulations (Sections 14-401 through 14-42		
	Development of this property must comply water Area Regulations (Sections 26-436 through Baltimore County Code).		
	X GWM: Prior to building permit approval, add must be provided.	equate sept	ic reserve area and well
	•		

BS:sp

## BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO:

Kristine K. Howanski, Chairman

**DATE**: May 26, 1998

County Board of Appeals

FROM:

Arnold F. 'Pat' Keller, III, Secretary

County Planning Board

SUBJECT:

Amended Petition, Case No. R-98-150

(Mogavero property, Pulaski Highway)

Enclosed is the May 12, 1998 report from the Office of Planning regarding the Petitioner's amendment in Case No. R-98-150.

The report was considered by the Planning Board in the meeting on May 21, 1998, and was adopted by Resolution to constitute the Board's report, pursuant to County Code Section 2-356(m)(2), recommending that the Mogavero property at 12420 and 12436 Pulaski Highway be reclassified from BR-CR to BL.

Arnold F. 'Pat' Keller, III

AFK:TD:rlh

Enclosure

c:

Newton Williams

86 : 11 MA TS YAM 86

COMMIA ROVED DE VEGEVES BECELAED



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

Fax: (410) 887-5862

**DATE:** May 12, 1998

TO:

Members, Baltimore County

Planning Board

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

SUBJECT: Samuel & Margaret Mogavero, 12420 & 12436 Pulaski Highway

Please be advised that pursuant to the appropriate sections of the <u>Baltimore County Code</u>, an amended plan was submitted to the Baltimore County Board of Appeals regarding the subject reclassification petition (See attached copy of original staff report). The purpose of the amendment is to increase the area of the property under petition from 1.19± acres to approximately 3.8± acres. The current request consists of two parcels: Parcel 'A' is 1.19± acres and is zoned BL-CR, and the applicant requests a change to BM; Parcel 'B' is 2.70± acres and is zoned BR-CR, and BR zoning is requested on this parcel.

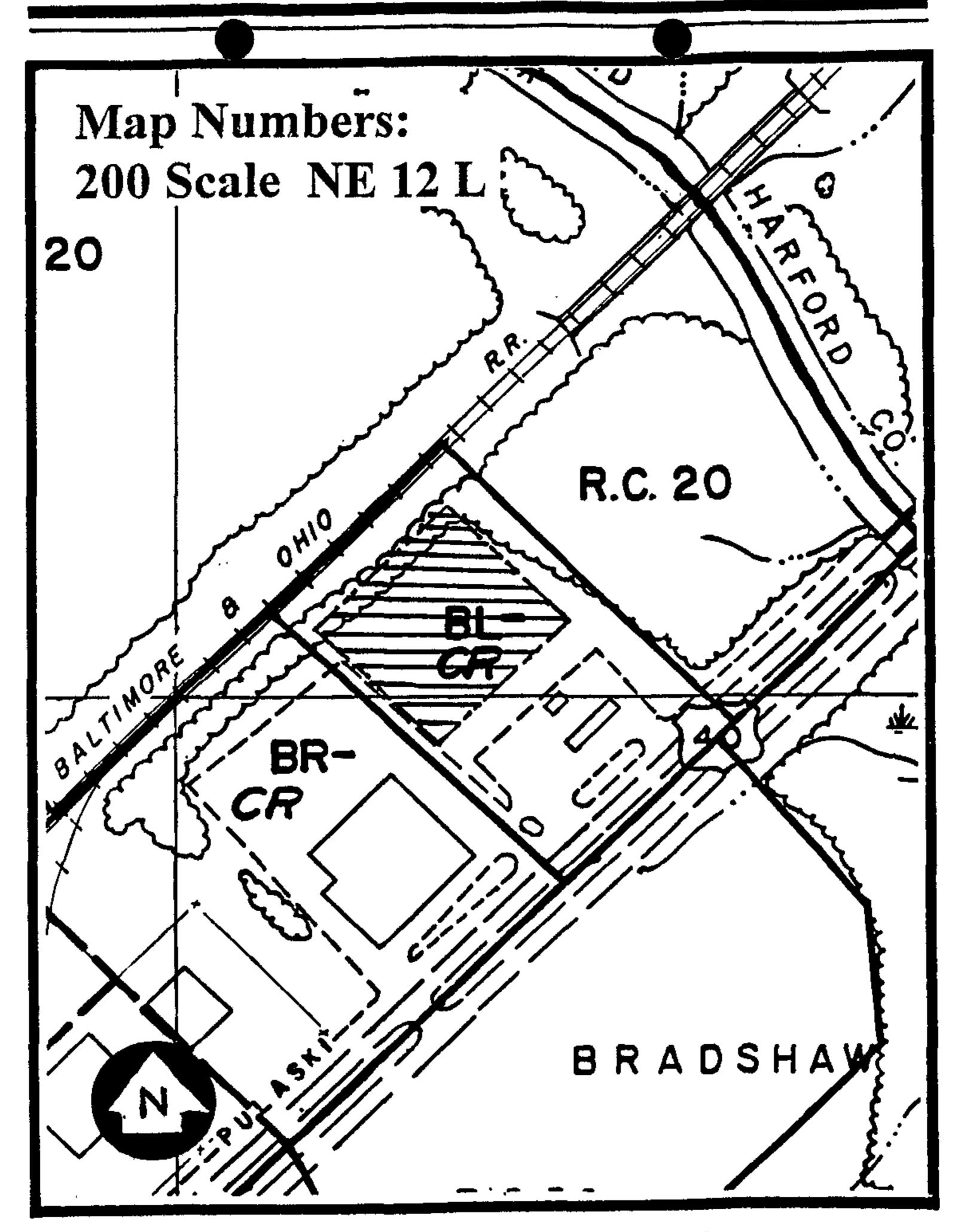
On March 24, 1998, the Planning Board recommended to the Board of Appeals that the 1.19± acre parcel be rezoned from BL-CR to BL because application of the CR district at the subject property was an obvious error given the proximity of Pulaski Highway and the intense commercial development along the highway corridor in both Baltimore and Harford County.

Based on the information and analysis conducted, the Office of Planning recommends the subject parcels be rezoned to the BL classification.

Arnold F. 'Pat' Keller, III

AFK:JL:lsn

Attachment



ITEM NUMBER 2
Location of Property Under Petition

Scale 1" = 200'

CASE NO. R-98-150

**PETITIONER:** Mogavero Property

REOUESTED ACTION: Reclassification to BM

**EXISTING ZONING: BL-CR** 

LOCATION: 190' Northwest of the centerline of Pulaski Highway and 360' southeast of centerline of Pulaski Highway and the Baltimore/Harford County line (rear of 12436

Pulaski Highway)

AREA OF SITE: 1.19 acre

#### ZONING OF ADJACENT PROPERTY/USE:

North: RC 20 Unimproved

South: BR-CR Commercial (used for weekend flee markets)

East: BL-CR Service Station

West: RC 5 Railroad (Chessie System)

SITE DESCRIPTION: The site is currently unimproved.

WATER AND SEWERAGE: The applicant's property is located within a "no planned water and sewer service" area, and is designated W-7, S-7 according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS: The site has direct access to Pulaski Highway which is designated as a major arterial.

ZONING HISTORY: The zoning of the site has not changed since 1980.

MASTER PLAN / COMMUNITY PLANS: The site is identified as "mixed use commercial" on the 1995 Proposed Land Use Map, which was adopted by the Planning Board on June 15, 1995.

PROPOSED vs. EXISTING ZONING: Regulations governing the BL zone may be found in Section 230 of the Baltimore Zoning Regulations (BCZR). The BL zone allows a wide range of uses in addition to those permitted in the residential zone immediately adjoining the property. Density is regulated by a floor area ratio of 3.0. However, density is realistically limited by parking requirements and economic constraints. Building height is limited by the height regulations; setbacks include front yards of no less than 10 feet and not less than 40 feet from the centerline of the street, except as specified in Section 302.2 of the BCZR. No setback is required for side yards, except for

lots abutting a residential zone or on a corner lot on the street side; in these cases a 10 foot setback is required. The CR district regulations are found in Section 259.1 of the BCZR.

OFFICE OF PLANNING ANALYSIS AND RECOMMENDATION: Staff supports the rezoning of the subject parcel to the BL zone classification.

MISTAKE/CHANGE/ERROR: Application of the CR district at this particular location is an obvious error given the proximity of Pulaski Highway and the intense commercial development located along the highway corridor in both Baltimore and Harford County. The Baltimore County Zoning Regulations state that "CR districts may be assigned to areas of commercial development beyond the urban-rural demarcation line for which CR district application is recommended in the Master Plan. It is important to note that the 1989-2000 Master Plan makes no such recommendation for the subject property. Therefore, based upon the information provided and analysis conducted, the Office of Planning concludes that the County Council made an error when the Comprehensive Zoning Maps were last adopted.

RE: PETITION FOR ZONING RECLASSIFICATION \*

12436 Pulaski Hwy. (rear), 120' NW of

NW/S Pulaski Hwy. and 700' SW of c/l \*

Little Gunpowder Falls

11th Election District, 5th Councilmanic \*

BALTIMORE COUNTY

Legal Owners: Samuel & Margaret Mogavero \*

Petitioners

\*\*

Case No. R-98-150

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

People's Counsel for Baltimore County

Peter Mar Zinnernan

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 12 day of December, 1997, a copy of the foregoing Entry of Appearance was mailed to Newton A. Williams, Esq., Nolan, Plumhoff & Williams, 502 Washington Avenue, Suite 700, Towson, MD 21204, attorney for Petitioners.

PETER MAX ZIMMERMAN

SAMUEL MOGAVERO - PROPERTY OWNER /PETITIONER

Parcel A -120' NW of NW/s Pulaski Highway and 700 'SW of c/l Little Gunpowder Falls (rear of 12436 Pulaski Highway ) 1.1958 +/- acres R-98-150 CYCLE II, 1997/98

> 11th Election District 5th Councilmanic District

Parcel B -NW/s Pulaski Highway and (Petition revised 1/21/98; 700' SW of c/l Little Gunpowder Falls (12420 Pulaski Highway) 2.7 acres

Parcel B added)

Reclassification: Parcel A: B.L.-C.R. to B.M. Parcel B: B.L.-C.R. (.072 acre) and B.R.-C.R. (2.628 acres)

to B.R.

August 29, 1997

Petition for Reclassification filed by Samuel Mogavero, Petitioner.

Newton A. Williams, Esquire NOLAN, PLUMHOFF & WILLIAMS, CHTD. Suite 700, Nottingham Centre 520 Washington Avenue Towson, MD 21204

Counsel for Petitioner

(Entered 10/24/97)

Samuel and Margaret Mogavero 1552 Fairview Beach Road Pasadena, MD 21122

W. Duvall & Associates, Inc. Attn: Sean Schmidt 530 E. Joppa Road Towson, MD 21286

James Earl Kraft Baltimore County Board of Education Mail Stop 1102-J

People's Counsel for Baltimore County

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

County Board of Appeals of Baltimore County

R-98-15 THERO
Cycle II 1998

PROPERTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204

410-887-3180

- 12/23/97 -Letter from Newton Williams, Esquire, Counsel for Petitioner, regarding proposes amendments to Petition for Reclassification; course of action; etc. To be discussed by Petitioner and PC; Board to be advised of status of this matter prior to March 4, 1998 hearing date.
- 1/20/98 -Copy of note to Carl Richards from N. Williams regarding amendments to this petition and submission of amended documents to PDM (copies attached to CBA copy of note).
- 1/26/98 -Amendment notice from PDM Parcel A to remain same; adding Parcel B to petition by way of amendment. REVISED 1/21/98.
- 3/18/98 -Letter from P. Zimmerman confirming that March 24th hearing would involve submission of amendment to plan and stating his position on this particular amendment.
- 3/24/98 -Open and continued on the record; amendment to petition and plan submitted by Counsel for Petitioner. Memo sent to PDM w/copy of Amended Plan. Date scheduled for hearing of case on merits on Amended Petition for Reclassification
- 3/25/98 -Notice of Assignment sent to parties; scheduled for hearing on merits of petition for reclassification as amended for Thursday, July 2, 1998 at 10:00 a.m. (K.W.C. /FYI copy 3/24 Board)
- 5/27/98 -Memo from Planning Director forwarding report from Office of Planning on Petitioner's amendment
- 7/02/98 -Hearing before CBA; concluded. Public deliberation followed conclusion of hearing (K.C.F. -Board on merits). Petition for Reclassification as to Parcel "A" granted; reclass of Parcel B request withdrawn by Petitioner on the record prior to hearing. Opinion and Order of the Board will relate only to Parcel A as to grant of reclassification.
- 11/10/98 -Revised, amended undocumented plan submitted pursuant to the Order of the Board issued 8/05/98; forwarded to this office from PDM to be included in the subject reclass file and returned to PDM when file is closed.

IN THE MATTER OF						* BEFORE										
SAMUEL MOGAVERO, et ux.				* COUNTY BOARD OF APPEALS												
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TO:	(1.1shm	e, Addre	133, C	,unty j		Mr. Jeffrey Long										
						Office of Planning								(1) (1) (1)		
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Subp	oena re	equested	by:													
Ste	phen J	. Nolan	, Esq								Son, Ma Number)	•	<u>1_2</u> 12	04		
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C 'Cheryl's Data\DATA\CHERYL\FORMS\Subpoens - Bd of Appeals.wpd

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director

DATE: March 24, 1998

Permits & Development Management

Attn: Sophie Jennings

FROM: Kristine K. Howanski, Chairman

County Board of Appeals

SUBJECT: Amendment to Petition for Reclassification /Case No. R-

98-150 /Samuel & Margaret Mogavero -Legal Owners

/Petitioners

Pursuant to the appropriate sections of the <u>Baltimore County Code</u>, the Amended Plan for the subject reclassification petition was submitted to the County Board of Appeals on the record and at a public hearing this date. This amended plan and accompanying documentation was submitted to your office for processing pursuant to the Code, and reflects a revision date of 1/21/98.

This case will be heard before the Board on the merits of the request on July 2, 1998 at 10:00 a.m. A Notice of Assignment is attached reflecting this hearing date. Should you require any additional information regarding this matter, please contact this office.

Kristine K. Howanski

Attachment

cc: Pat Keller, Planning Director

Jeffrey Long /Planning

People's Counsel for Baltimore County

#### BALTIMORE COUNTY, MARYLAND

#### INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: March 19, 1999

Permits & Development Management

FROM: Charlotte E. Radcliffe ()

County Board of Appeals

SUBJECT: Closed File: R-98-150 /Samuel Mogavero

As no further appeal was taken in the above captioned case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. R-98-150)





OFFICE OF PEOPLE'S COUNSEL

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

(410) 887-2188

PETER MAX ZIMMERMAN
People's Counsel

March 18, 1998

Deputy People's Counsel

DE 98 HAR 19 AM II: 24

Kristine K. Howanski, Esq., Chairman County Board of Appeals of Baltimore County 401 Washington Avenue, Room 49 Towson, MD 21204

<u>Hand-delivered</u>

Re:

PETITION FOR RECLASSIFICATION

12436 Pulaski Hwy. (rear), 120' NW of NW/S Pulaski Hwy., and 700' SW of c/l Little Gunpowder Falls, 11th Election District,

4th Councilmanic

SAMUEL MOGAVERO, ET UX., Petitioners

Case No. R-98-150

CBA Hearing Date: March 24, 1998

Dear Chairman Howanski:

Because Petitioner has filed an amendment to the Petition for Reclassification, we understand that the March 24 hearing will involve submission of that amendment.

This ordinarily triggers the procedure under Code Sec. 2-356(m), involving referral to the Planning Board.

Please note, however, the unusual aspect of this proposed amendment. It adds substantial adjacent acreage which was not included in the original petition. Our office does not agree that the amendment process contemplated the addition of new property, but rather that its scope is limited to the property in the original petition.

Very truly yours,

Peter Max Zimmerman

People's Counsel for Baltimore County

PMZ/caf

cc: Newton A. Williams, Esq.
Attorney for Petitioner
Arnold F. (Pat) Keller, Director
Office of Planning

#### COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

#### MINUTES OF DELIBERATION

IN THE MATTER OF: Samuel and Margaret Mogavero -Petitioners

Case No. R-98-150

DATE: July 2, 1998 at 10:00 a.m.

BOARD / PANEL : Kristine K. Howanski (KKH)

Donna M. Felling (DMF)
Charles L. Marks (CLM)

SECRETARY: Kathleen C. Bianco

Administrator

PURPOSE: To deliberate Case No. R-98-150 /Petition for Reclassification /Samuel & Margaret Mogavero /for reclassification on property located NW of the NW/s Pulaski Highway and 700' SW of c/l Little Gunpowder Falls (rear of 12436 Pulaski Highway). This matter was opened and continued on the record March 24, 1998; testimony and evidence received at hearing on July 2, 1998; deliberation followed at conclusion of hearing.

KKH: We are here to publicly deliberate Case No. R-98-150; consideration focused on the recommended changes, at least my comments will be directed toward the red line site plan as opposed to the site plan without the amendments.

DMF: My comments are also directed to the red line plan; not considering Parcel B but only Parcel A. There is an in error in this classification; testimony and evidence support removal of CR making the property BL zone; concur that it is appropriate; would support granting of request and removal of CR overlay.

Petition for Reclassification should be GRANTED.

CLM: Petitioner in this case has more than met burden; CR designation is no longer appropriate and as to Parcel A, should be removed; does not support best use of land under current definitions and zoning laws. Based on evidence and facts presented, would approve Petitioner's request. Opinion should specify that revised plat should be submitted to Planning Office.

Petition for Reclassification should be GRANTED.

KKH: I would concur for the same reasons. Petitioner has met burden; mindful of comments of Mr. Zimmerman; believe we can make a fact-specific observation in this instance that the CR overlay does not fit. This was designated with CR overlay at a time when the statute read quite differently.

## Samuel & Margaret Mogavero -Petitioners Case No. R-98-150 /Minutes of Deliberation

Coupled with the more than adequate testimony from Mr. Monk and Mr. Long as to underpinnings of subsection 2, I would concur with my colleagues.

Petition for Reclassification to be GRANTED.

CLM: The record should show that the property was appropriately posted. At the hearing today, no protestants were present in opposition to the reclassification, and the fact that the Board is appreciative of Mr. Zimmerman's comments and reasons as to what we cannot consider on reclassification, and that was taken into consideration.

The Board's unanimous decision based on testimony and evidence produced at hearing and after public deliberation is that Petition for Reclassification in Case No. R-98-150 is GRANTED.

Written Opinion and Order to be issued by the Board as required by statute. Appellate period to run from date of written Order.

These minutes indicate public deliberation in this matter was held this date in the subject matter and a final decision rendered in which the requested reclassification was denied.

Respectfully submitted,

Kathleen C. Bianco

Administrator

# W. DUVALL & ASSOCIATES, INC.

	Date:		
BALTIMORE COUNTY  OFFICE OF ZONING	Re:	PETITION FOR	ZUNING RECLASS. PROPERTY
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Law Offices

#### NOLAN, PLUMHOFF & WILLIAMS

CHARTERED

SUITE 700, NOTTINGHAM CENTRE 502 WASHINGTON AVENUE TOWSON, MARYLAND 21204-4528

(410) 823-7800

TELEFAX: (410) 296-2765
email: npw@nolanplumhoff.com
Web: www.nolanplumhoff.com

JAMES D. NOLAN (RETIRED 1980)

J. EARLE PLUMHOFF (1940-1988)

> RALPH E. DEITZ (1918-1990)

October 16, 1998

Pat Keller, Director Mr. Jeff Long Planning Office Courts Building, 4<sup>th</sup> floor Towson, Maryland 21204

Newton A. Williams

DIRECT DIAL:

(410) 823-7856

Mr. Carl Richards
Zoning Supervisor
Zoning, PDM
County Office Building

Towson, Md. 21204

Dear Mr. Keller, Mr. Long and Mr. Richards:

RE: THE MOGAVERO PROPERTY
AMENDED, UNDOCUMENTED SITE PLAN
REAR OF 12436 PULASKI HIGHWAY
CASE NO. R-98-150

OCT 19 1998 98.4356

As a part of its Order of August 5, 1998, removing the erroneous, outdated CR District from this property, the Board directed that a revised, that is an Amended, Undocumented Plan be filed herein with the "the appropriate County departments" reclassifying only Parcel A by removal of the District.

Enclosed is the Revised version of the Duvall Plan dated 9\27\98, as directed by the Board Order, a copy of which is enclosed for your convenience.

We appreciate the attention of Planning and Zoning of PDM for your attention to this revise, amended Plan.

We have enclosed five [5] copies for Mr. Long and five [5] for Mr. Richards, as well as a copy of the corrected 200 scale zone affected.

If there is anything further to be done by our firm and the Duvall firm, please advise us. Thank you.

With best regards to all involved, I am,

Sincerely,

Stephen J. Nolan

CC:

Mr. Sam Mogavero 1552 Fairview Beach Road, Pasadena, Maryland, 21122 Mr. Dwight Litttle, P. E., W. Duvall & Associates, Inc., 530 East Joppa Road, Towson, Md. 21286

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS CHARTERED Mr. Carl Richards SUITE 700, NOTTINGHAM CENTRE 502 WASHINGTON AVENUE Pom TOWSON, MARYLAND 21204-4528 January 20,1998 Amendment-Paul Z. Hand Delivered er our phone conversation of January

HEW FON A WILLIAMS THOMAS J. RENNER WILLIAM MENGLEHART, JR. STEPHEN U HOLAN' STORENT LI HANGEY, JA. POBERT S, GLUSHAKOW STRPHEN M. SCHENNING COUDLAST BURGESS HOBERT E. CAHILL, JA. C. WILLIAM CLARK E ARUCE JONES! STUART'A, SCHADT

LAW OFFICES

#### NOLAN, PLUMMOFF & WILLIAMS CHANTERNO

SUITE FOO, NOTTINGHAM CENTRE SOR WASHINGTON AVENUE TOWSON, MARYLAND 2 (204-4528 1410) 823-7800 TELEFAX: (410) 298-2765

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#### TELECOPY COVER PAGE

DATE:

12-23-97

CLIENT MATTER NO.:

TO:

Kathy Bianco, Board of Appeals

Peter M. Zimmerman, People's Counsel

FROM:

Newton A Williams

Mogavero Property - R-98-150, Scheduled Hearing, March 24, 1988, Amendment of CR RE: District Deletion Request

TELECOPIER TELEPHONE NO.:

410-887-3182

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET):

IF FOR ANY REASON YOU NEED TO CONTACT US, PLEASE CALL MARCIE @ (410)823-7800.

FAX CC: Jeff Long, Planning

410-887-5862

Dwight Little, W.Duvall & Assoc.

410-583-1513

Jules Lichter, Esq., Levin & Gann

410-296-2801

Mail CC: Mr. Samuel Mogavero, 1552 Fairview Beach Rd., Balto., MD 21122

(copy to PML 12/23)

"WARNING: Unauthorized interception of this telephonic communication could be a violation of Maryland and Federal Law,"

The documents accompanying this telecopy transmission contain confidential information belonging to the sender which is legally privileged. The information is intended only for the use of the individual or entity named above. If you are not the intended recipiont, you are hereby notified that any disclosure, copying, distribution, or the taking of any action in reliance on the contents of this telecopied information is strictly prohibited. If you have received this telecopy in error, please immediately notity us by telephone to arrange for return of the original documents to us.

with Newton, Cewaiting further wife on status of dale Cheaning on March 4).

Dear Ladies and Gentlemen:

In case R-98-150, Mr. Mogavero had asked that a BL-CR portion of this property on Pulaski Highway be reclassified to BM.

2. Subsequently, after our firm entered the case, it was found that the lesser relief of the

removal of the CR district is more appropriate.

The Planning Staff report to the Planning Board concurs with the CR district removal.

- Subsequently, interest has been expressed in a lease/option to purchase the southwestern end of this Pulaski Highway property which is zoned BR-CR. This property contains a one story masonry building used as a bingo hall/flea market. This building is non-conforming in the CR District since the footprint exceeds 6600s.f. This is shown as parcel 2 on the site plan.
- 5. We wish to amend the deletion of the CR District to include this property, which may result in an upgrade I am seeking more information on the planned use/improvements.

6. The schedule now includes:

a. Timely filing of original case in August, 1998.

b. Planning Staff review, Phase I, completion - December, 1997.

c. Planning Board review and recommendation, January 15th and 29th, 2nd and 4th

Thursday.

d. Late January/early February amendment before the Board of Appeals - added CR deletion request - very short hearing.

e. Probable return to Planning Board in February, i.e. February 5th and 19th.

f. Scheduled Board of Appeals hearing - March 24, 1998.

7. If possible, we would like to apprise the public in the second newspaper ad, and we are not sure of the date.

This course seems proferrable to filing a new case for the April to October, 1998 cycle, and would procure a brand new tenant for the lightly used present building.

It would be appreciated if everyone would review this proposal, and I am particularly interested, Peter and Jeff, if this could be done under the relevant statute in your opinion, particlarly the provisions concerning amendment, secondary Planning Board review, etc.

Awaiting word, I am with best regards of the season to all,

Newton A. Williams

LAW OFFICES

NEWTON A. WILLIAMS
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR.
STEPHEN J. NOLAN'
ROBERT L. HANLEY, JR.
ROBERT S. GLUSHAKOW
STEPHEN M. SCHENNING
DOUGLAS L. BURGESS
ROBERT E. CAHILL, JR.
C. WILLIAM CLARK
E. BRUCE JONES''
STUART A. SCHADT

\*ALSO ADMITTED IN D C

# NOLAN, PLUMHOFF & WILLIAMS CHARTERED

SUITE 700, NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
TOWSON, MARYLAND 21204-4528
(410) 823-7800

TELEFAX: (410) 296-2765

October 22, 1997

JAMES D. NOLAN

J. EARLE PLUMHOFF (1940-1988)

> RALPH E DEITZ (1918-1990)

WRITER'S DIRECT DIAL 823- 7853

Mrs. Kathleen Bianco County Board of Appeals Courthouse Towson, Maryland 21204

Re:

The Mogavero Property, Pulaski Highway, Just West of the Harford County Line Requested Reclassification from the October to April 1997/98 Cycle from

BL-CR to BM

Dear Mrs. Bianco:

It would be greatly appreciated if you will enter the appearance of Newton A. Williams and Nolan, Plumhoff & Williams on behalf of the property owner, Mr. Mogavero, in the above-entitled matter. In addition to Mr. Mogavero and W. Duvall & Associates, copies of all notices, etc. should be directed to this office as well.

Thanking you and your staff for your kind attention to this request, I am

Very truly yours,

Newton

Newton A. Williams

NAW:mao

cc: Peter Zimmerman, Esquire, People's Counsel

Carol S. DeMilio, Esquire, Deputy People's Counsel

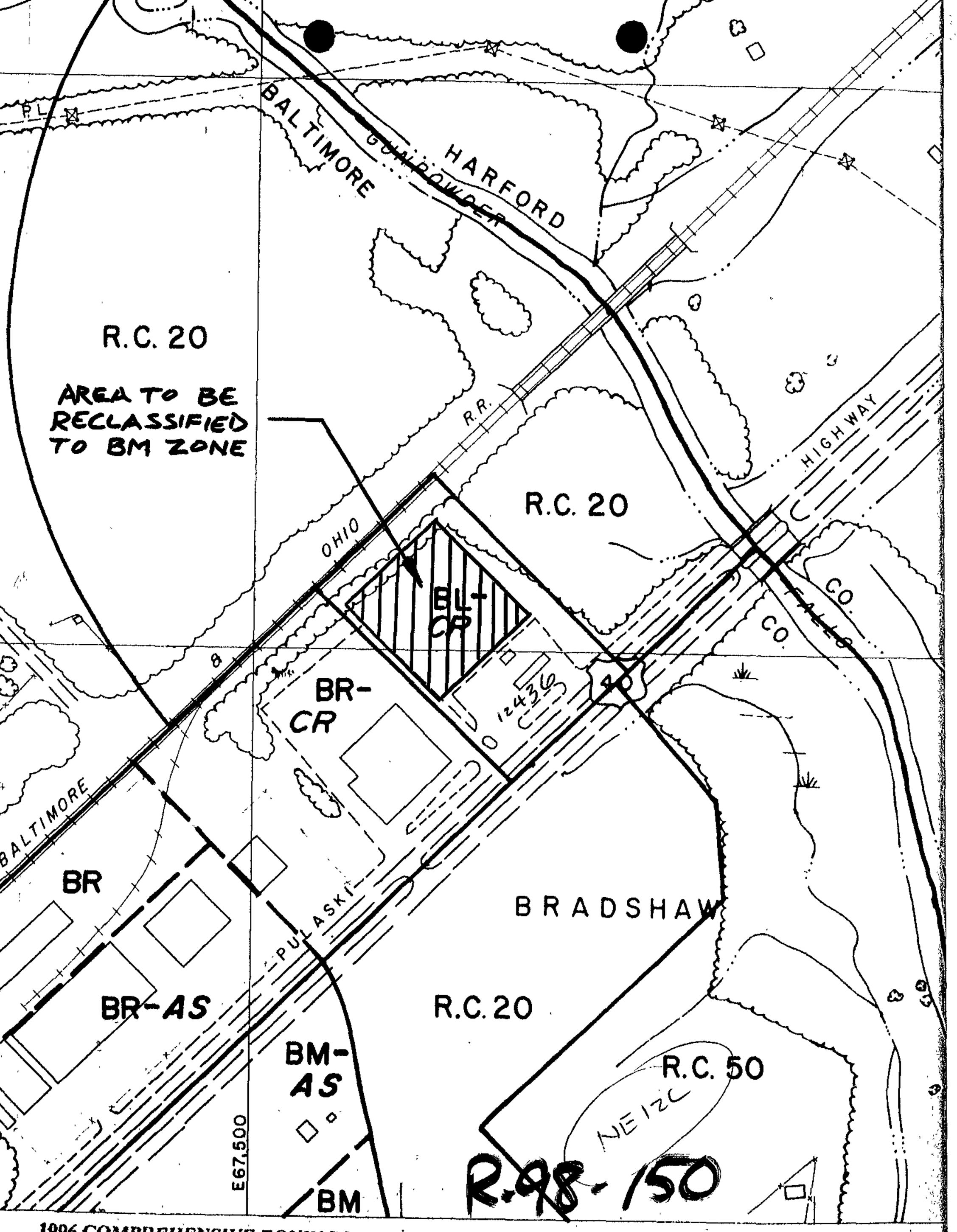
Mr. Jeff Long, Planning

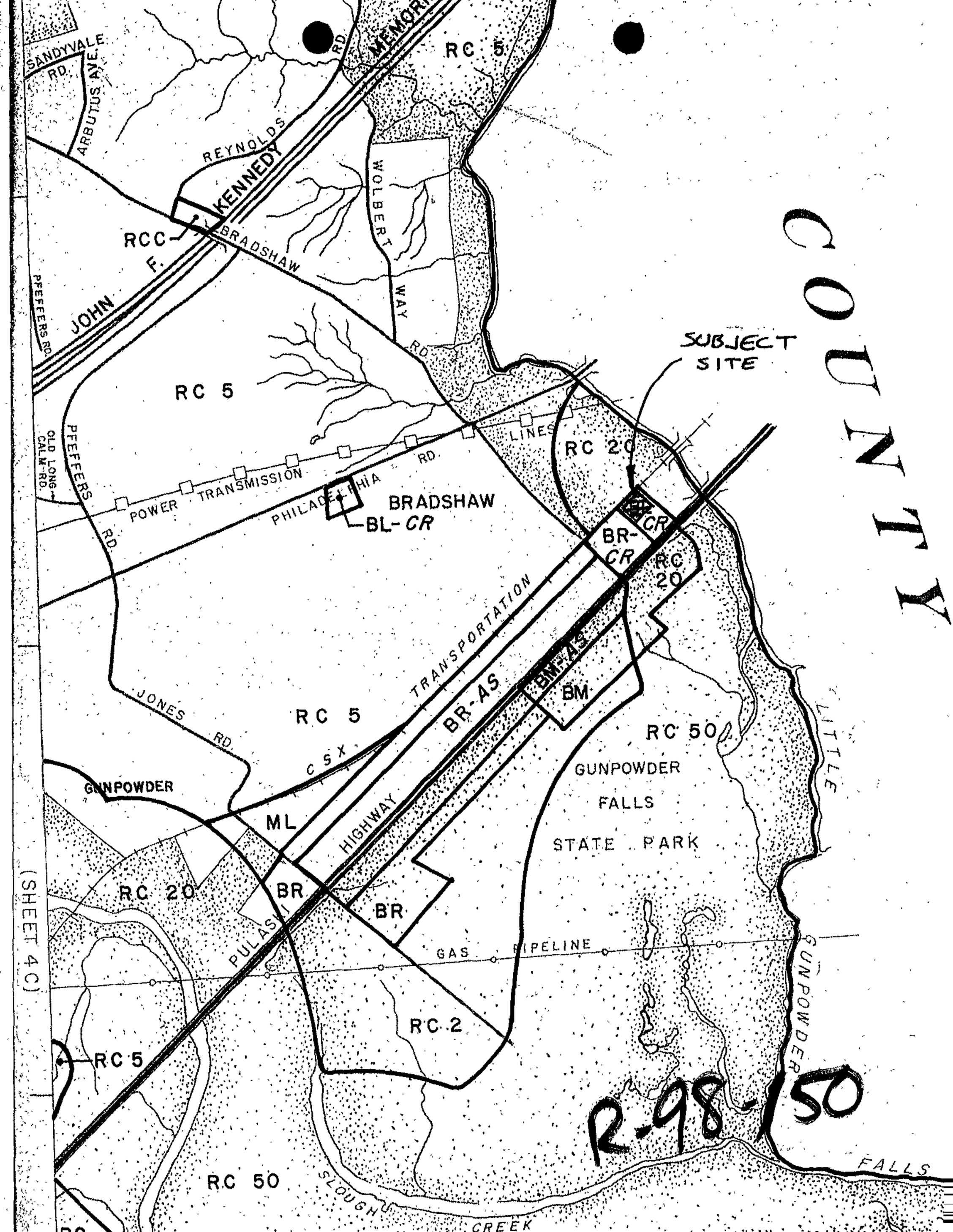
Mrs. Karen Brown, Planning

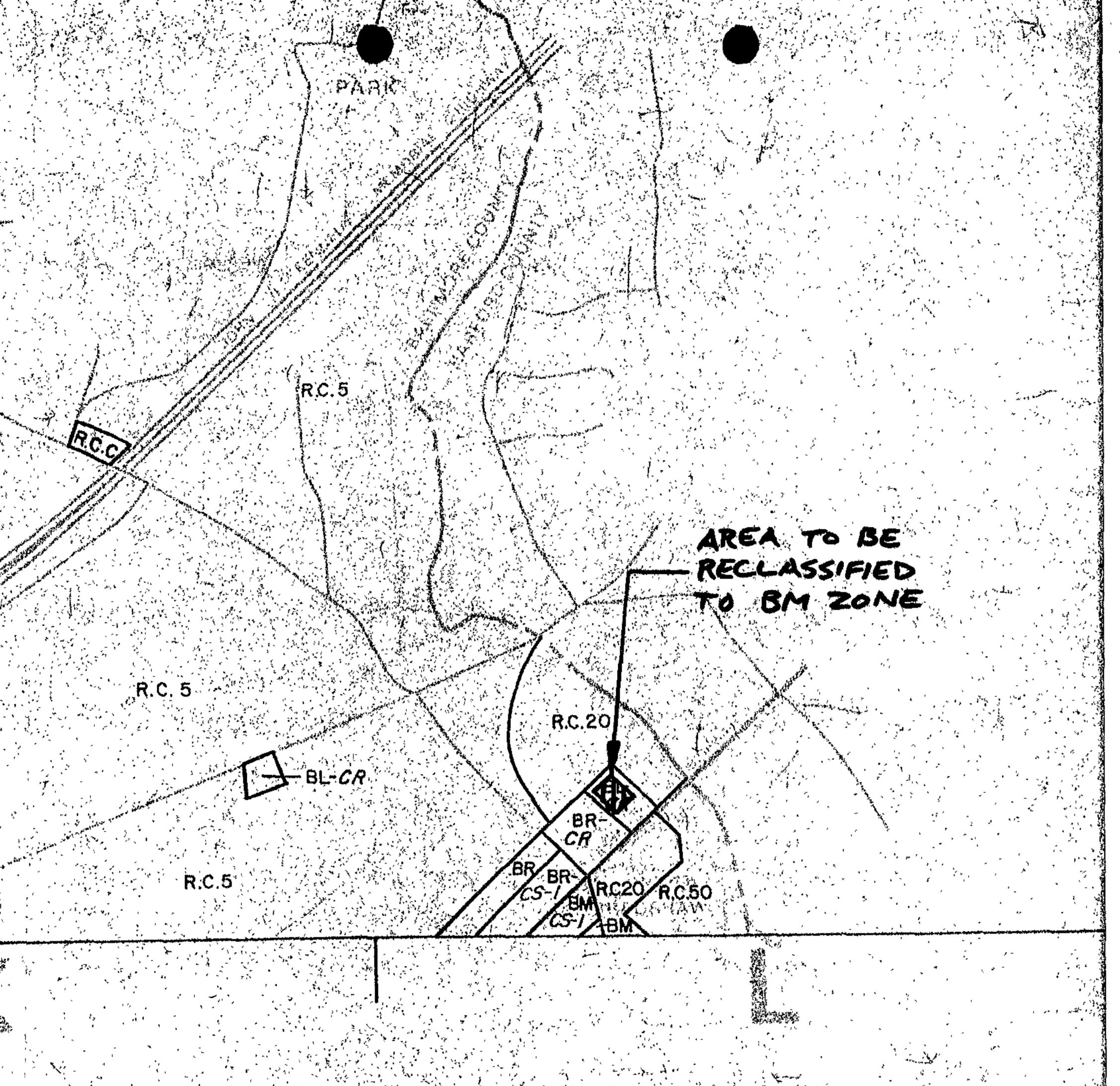
Mr. Samuel Mogavero

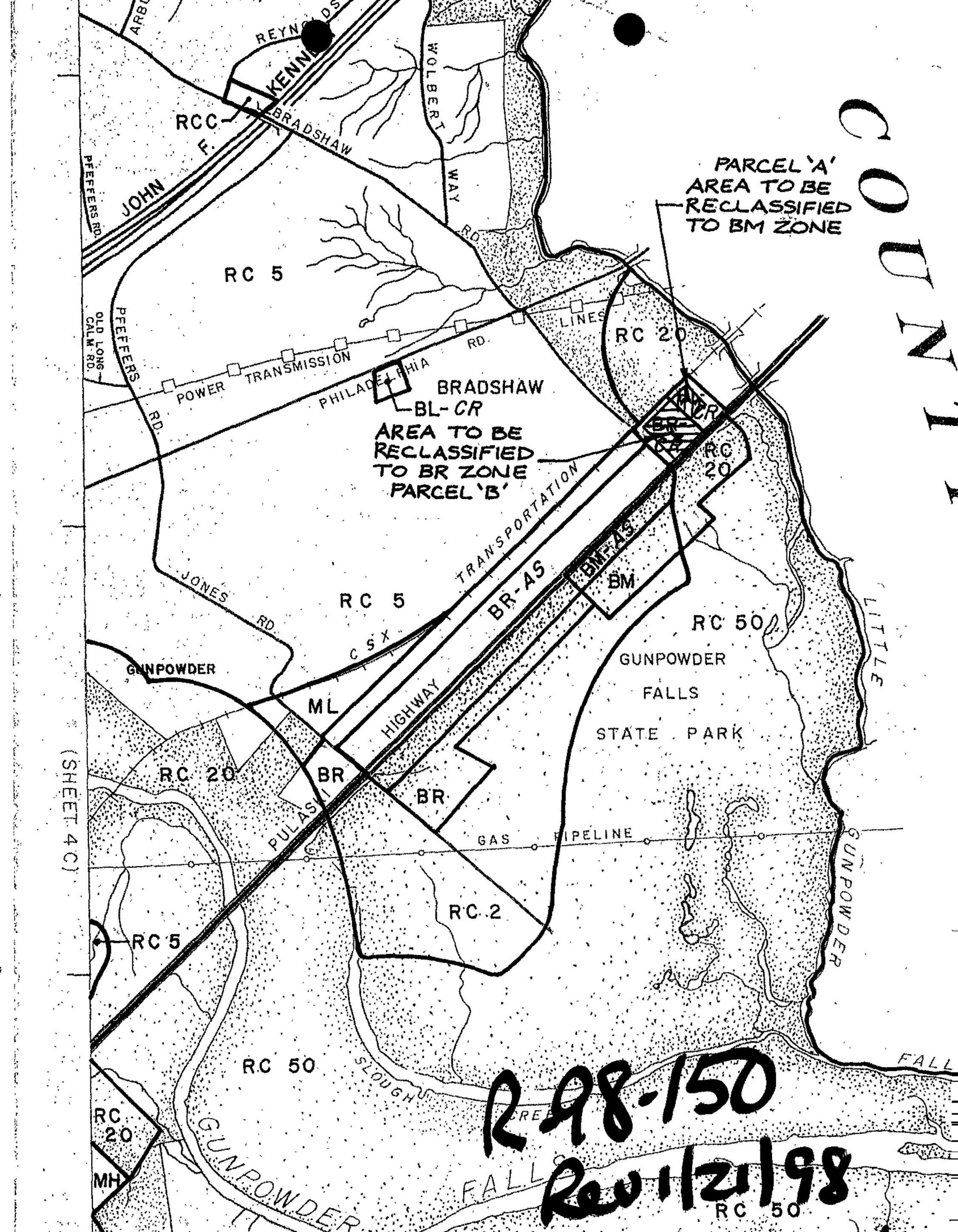
Mr. Sean Schmidt, W. Duvall & Associates

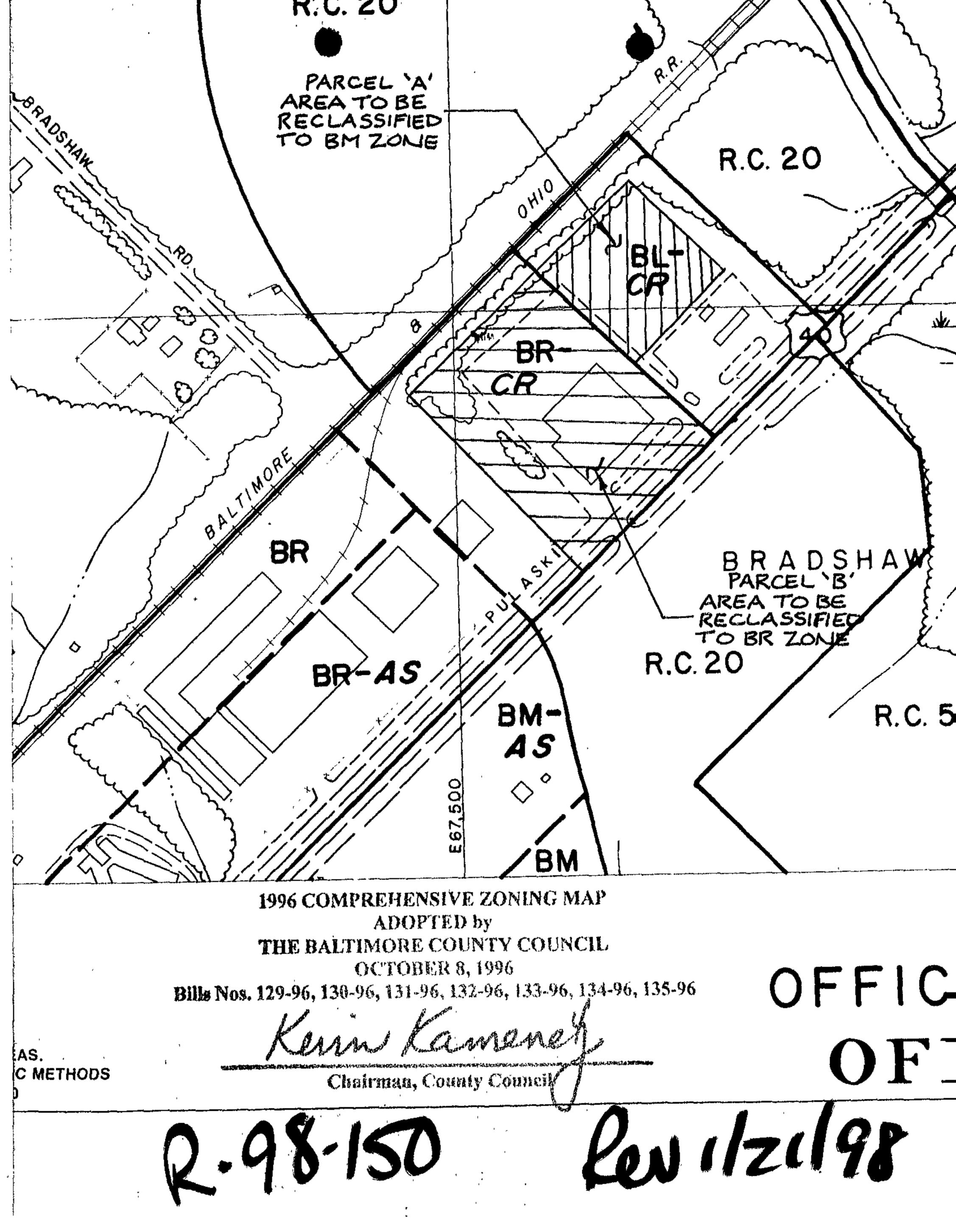
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TO: PATUXENT PUBLISHING COMPANY
December 18, 1997 Issue - Jeffersonian
1/2 Page Ad

Please forward billing to:

Newton A. Williams, Esquire 700 Nottingham Centre 502 Washington Avenue Towson, MD 21204

410-823-7800

#### NEWSPAPER AD MUST BE 1/2 PAGE AD.

SEE ATTACHED SAMPLE FOR PROPER SET-UP OF AD. SEE ATTACHED PAPERS FOR CORRECT WORDING FOR ZONING RECLASSIFICATION CYCLE II (OCTOBER 1997 TO APRIL 1998) AND CORRECT MAP.

PLEASE FORWARD TO ZONING REVIEW, PERMITS & DEVELOPMENT MANAGEMENT, A CONTACT POSITIVE PRINT.

ANY QUESTIONS CONCERNING THIS AD, PLEASE CONTACT EITHER SOPHIA JENNINGS OR CARL RICHARDS IN ZONING REVIEW AT 410-887-3391.

RECLASSIFICATION & REDISTRICTING PETITIONS ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE OCTOBER 1997 - APRIL 1998 ZONING RECLASSIFICATION CYCLE II

BY ORDER OF
KRISTINE HOWANSKI, CHAIRMAN, BALTIMORE COUNTY BOARD OF APPEALS
ARNOLD F. KELLER, III, DIRECTOR, OFFICE OF PLANNING AND
COMMUNITY CONSERVATION

# ACCEPTED FOR ILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE ZONING RECLASSIFICATION CYCLE II OCTOBER 1997 TO APRIL 1998

#### WESTERN SECTOR

No Petitions Filed for Area

#### NORTHERN SECTOR

No Petitions Filed for Area

#### **CENTRAL SECTOR**

No Petitions Filed for Area

#### EASTERN SECTOR

**ITEM #1** 

Property Owner: Sleepy Hollow Woods, Inc.

Case No./Hearing Date: CR-98-149-XA; March 10, 1998

Contract Purchaser: N/A

Location: SW/S Mohrs Lane (future Campbell Boulevard), 1630' E of

centerline Pulaski Highway and SE/S BGE/Susquehanna

Transmission right-of-way

Existing Zoning: M.L.-I.M. Election District: 15th

Councilmanic District: 5th

Acres: 9.7375 +/-

Proposed Zoning: D.R.-3.5. Special Exception for a mobile home park.

Variance to permit trailers (mobile homes) within 25 feet of

any other boundary line in lieu of the required 75 feet.

ITEM #2

Property Owner: Samuel & Margaret Mogavero Case No./Hearing Date: R-98-150; March 24, 1998

Contract Purchaser: N/A

Location: 120' NW of NW/S Pulaski Highway and 700' SW of centerline

Little Gunpowder Falls (rear of 12436 Pulaski Highway)

Existing Zoning:

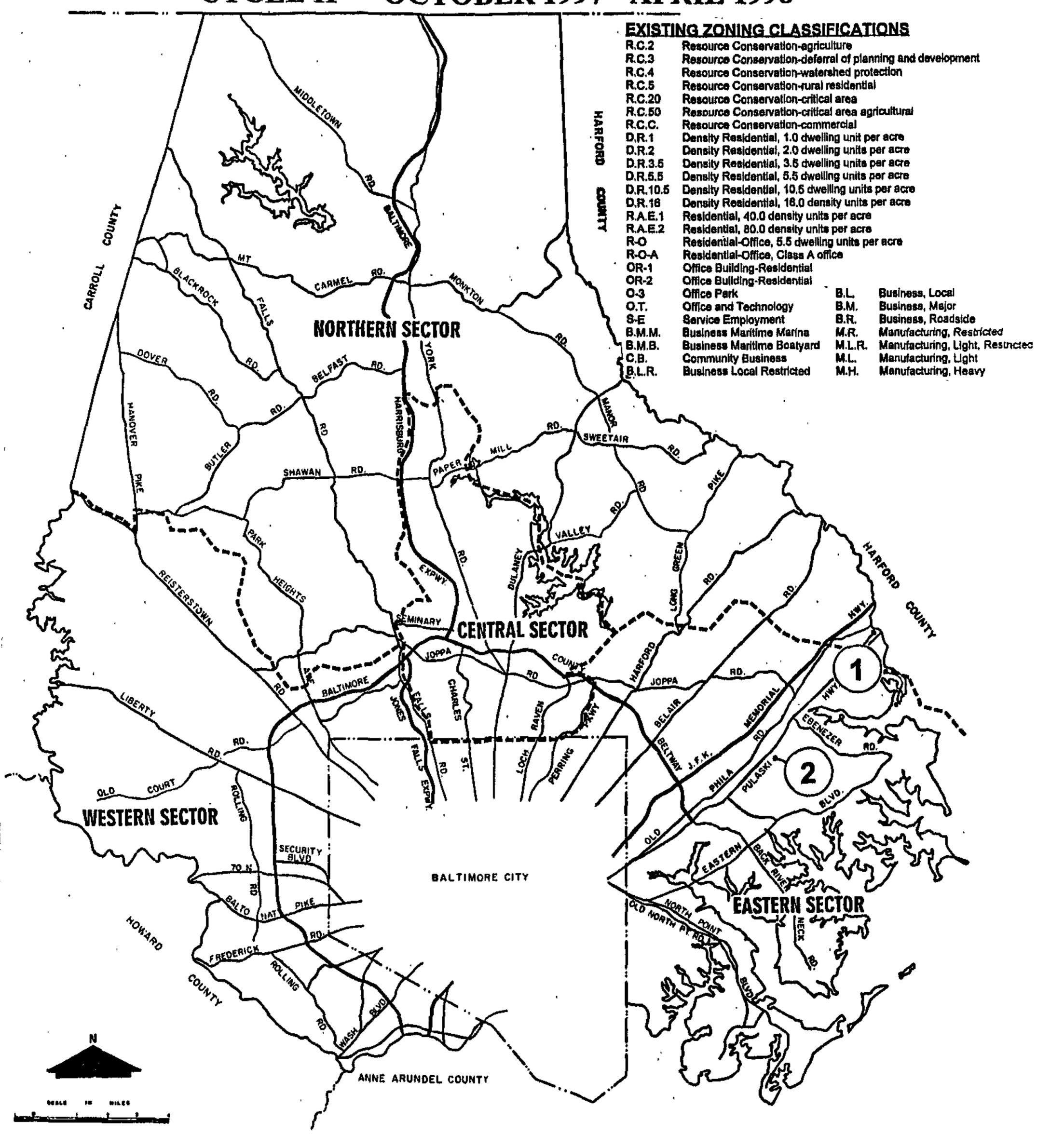
B.L.-C.R.

Election District: 11th
Councilmanic District: 5th

Acres: 1.1958 +/-

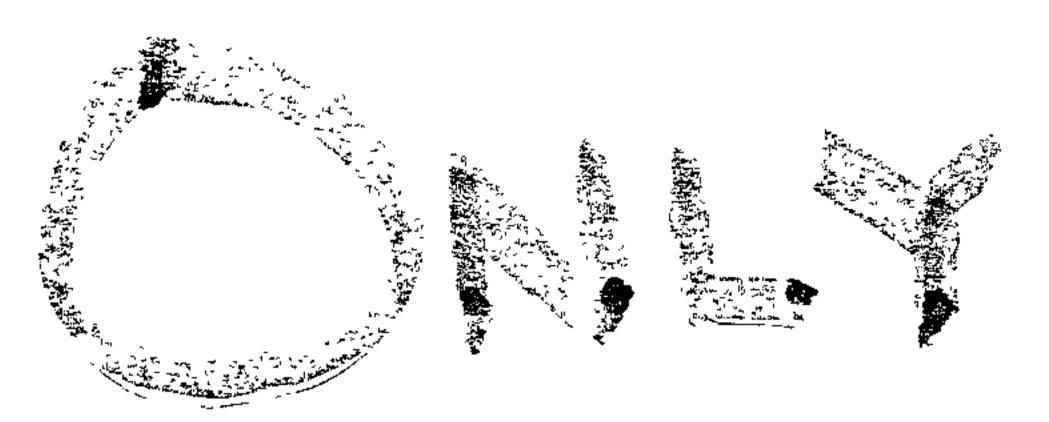
Proposed Zoning: B.M.

# LOCATIONS OF PROPERTIES UNDER PETITION CYCLE II --- OCTOBER 1997 - APRIL 1998



BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW





BALTIMORE COUNTY, MARYLAND

RECLASSIFICATION & REDISTRICTING PETITIONS ACCEPTED FOR FILING BY BALTIMORE COUNTY BOARD OF APPEALS FOR THE OCTOBER, 1993 - APRIL, 1994 ZONING RECLASSIFICATION CYCLE II

#### **WESTERN SECTOR**

1. Property Owner: J.F.O. Holding Corporation & Josephine

**Owings Grinnings** 

Case No./Hearing Date: R-94-141; 3/9/94 Contract Purchaser: J. Patrick Gill

Location: SW/S Reisterstown Road, 540' SE of centerline Mt. Wilson Lane, opposite Castleton Avenue (#1838-1850

Reisterstown Road) Existing Zoning: R.O. Election District: 3rd Councilmanic District: 3rd Acres: 5.81 +/- or 5.25 +/-Proposed Zoning: B.L.

#### NORTHERN SECTOR

2. Property Owner: Harford Joint Venture Case No./Hearing Date: R-94-142; 3/23/94

Contract Purchaser: N/A

Location: N/S Everett Road, W/S York Road (Monkton Centre)

Existing Zoning: R.C.-5 **Election District: 7th** Councilmanic District: 3rd Acres: .90 +/-

Proposed Zoning: B.M.-C.R.

3. Property Owner: The Prosser Company, Inc. Case No./Hearing Date: CR-94-143; 4/6/94

Contract Purchaser, N/A

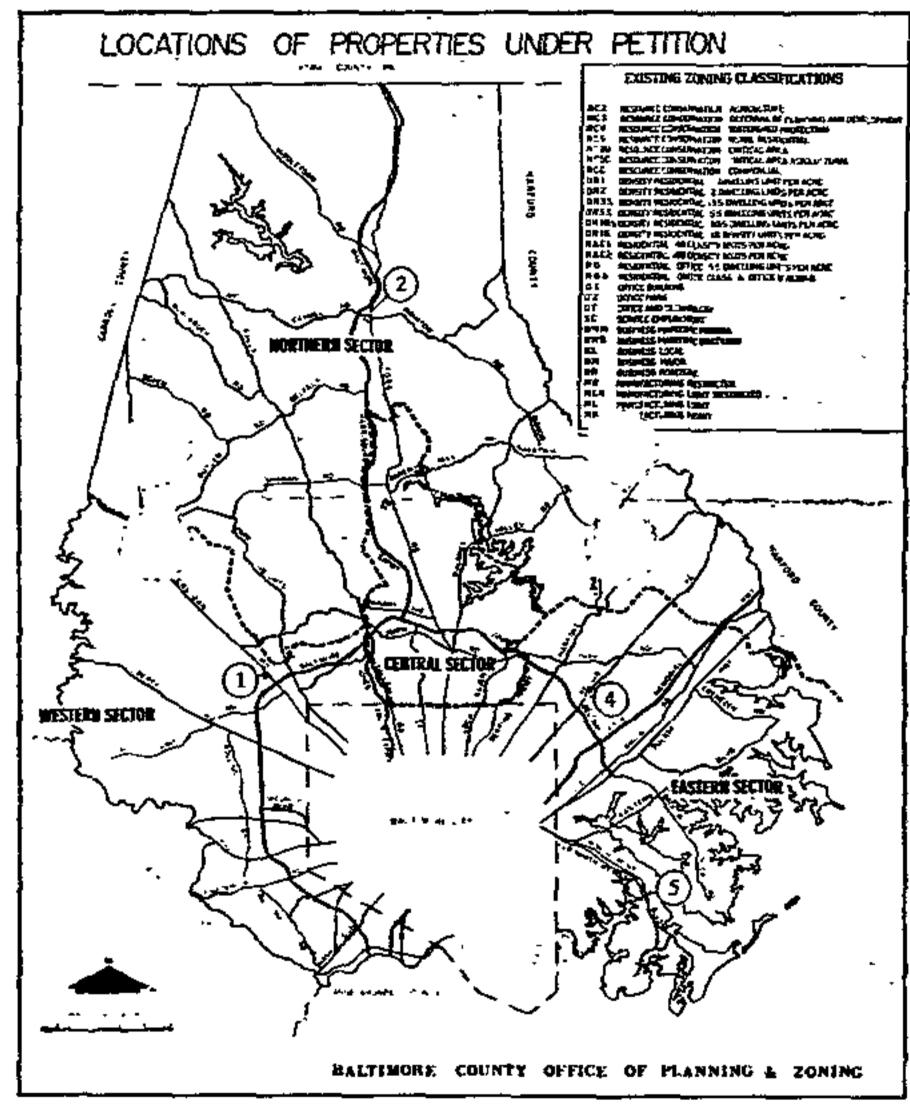
Recetion: SE/S Long Green Pike and NW/S Glen Arm Road

(12107 & 12109

Long Green Pike and 5328 Glen Arm Road)

Existing Zoning: R.O. & R.C.-5

**Election District: 11th** 



Councilmanic District: 6th

Acres: 5.2 +/-

Proposed Zoning: M.L.

#### **CENTRAL SECTOR**

No Petitions in the Central Sector

#### **EASTERN SECTOR**

4. Property Owner: State Highway Administration Case No./Hearing Date: R-94-144; 4/20/94

Contract Purchaser: White Marsh Dinner Theatre, Inc.

Location: NW/S Belair Road, corner NE/S White Marsh

Boulevard (8204

Belair Road)

Existing Zoning: D.R.-5.5 Election District: 14th

Councilmanic District: 6th

Acres: .61 +/-

Proposed Zoning: B.M.

#### 5. Property Owner: Beachwood II Limited Partnership &

Cignal Development

Corporation

Case No./Hearing Date: R-94-145; 5/4/94

Contract Purchaser: N/A

Location: E/S Morse Lane between Lynhurst and Shore

Roads (Beachwood) Existing Zoning: D.R.-1 Election District: 15th Councilmanic District: 7th

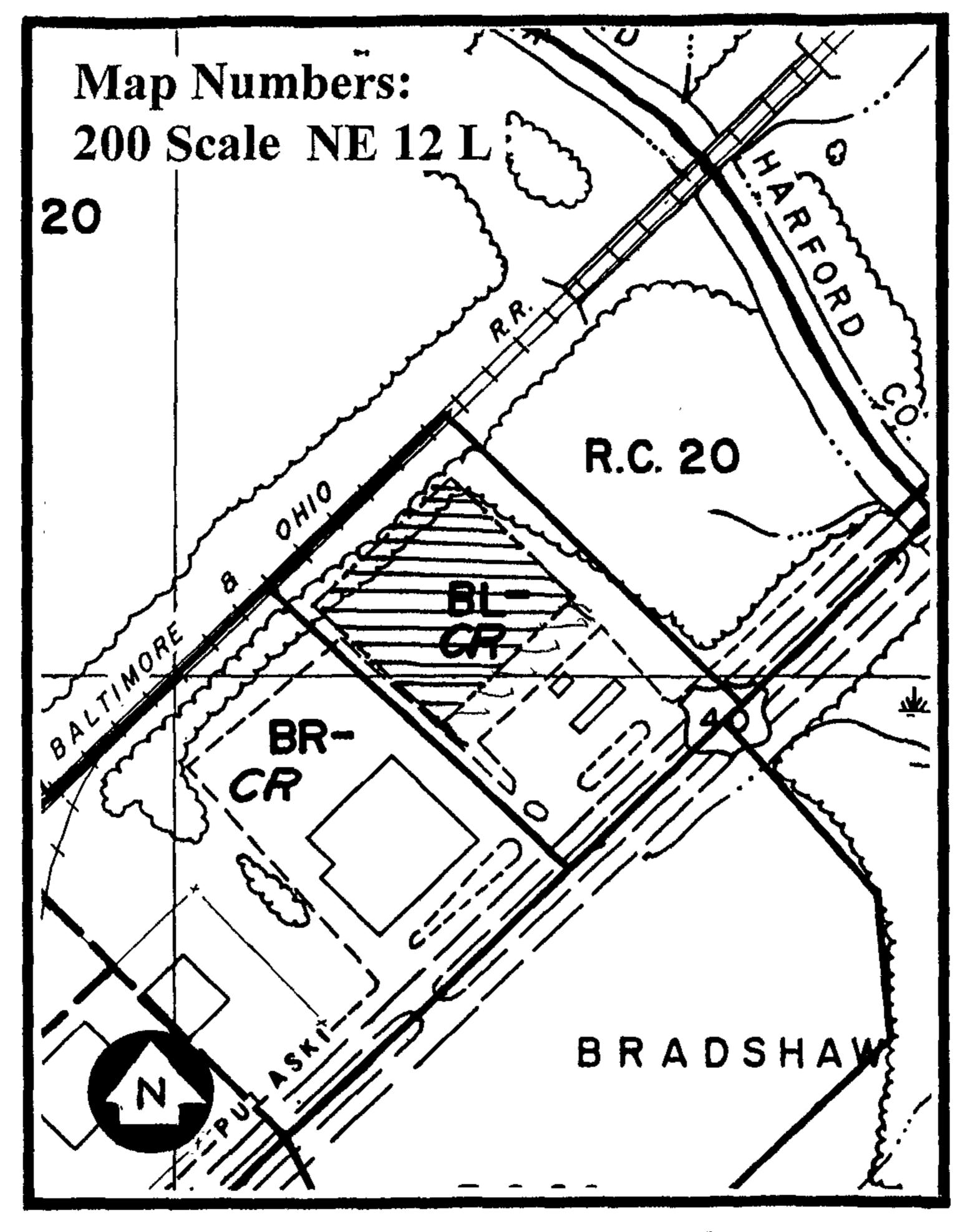
Acres: 27.309

Proposed Zoning: D.R.-3.5 or D.R.-5.5 or D.R.-10.5

#### LISTINGS OF PETITIONS: Numbers in the listings are keyed to the map above.

BY ORDER OF

WILLIAM HACKETT, CHAIRMAN BALTIMORE COUNTY BOARD OF APPEALS P. DAVID FIELDS, DIRECTOR BALTIMORE COUNTY PLANNING AND ZONING



ITEM NUMBER 2
Location of Property Under Petition

Scale 1" = 200'

Tet applied of

. R-98-150 Mogavero



#### ZONING RECLASSIFICATION PETITIONS

Cycle II, 1998

Report by the Baltimore County
Planning Board

to the

Baltimore County Board of Appeals

January 22, 1998

Baltimore County Office of Planning Towson, Maryland

#### TABLE OF CONTENTS

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Source Material	.6
Item No. 1 (Case No.CR-98-149-XA)	.7
Item No. 2 (Case No.(R-98-150)	10



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

Fax: (410) 887-5862

November 28, 1997

TO: MEMBERS OF THE BALTIMORE COUNTY PLANNING BOARD

In the current cycle, two zoning reclassification petitions were accepted by the Baltimore County Board of Appeals. In compliance with the County Code, recommendations on the petitions are submitted in the attached report.

The Planning Board is scheduled to review the petitions on January 8, 1998, and to make final recommendations in January. The Planning Board's report must be submitted to the Baltimore County Board of Appeals no later than January 31, 1998.

The Board of Appeals has tentatively scheduled hearings on these petitions and will advertise these hearings as required. Hearings are set to take place on March 10, 1998 (R-98-149) and March 24, 1998 (R-98-150).

Arnold F. "Pat" Keller Director of Planning

AFK: JL Attachment

cyc2.doc

#### Introduction

Under the provisions of Section 2-356(e), <u>Baltimore County Code</u>, <u>1988</u>, (see Appendix A), the Director of Planning is required to submit to the Planning Board, during Period 1 of each zoning cycle, a report on the petitions accepted by the County Board of Appeals for filing during the previous zoning cycle. The report is to contain the following information:

- 1. Maps showing properties under petition and the reclassifications sought therefore; such maps may also identify groups of such properties located close to each other and show other indications of the inter-relation of petitions with respect to planning considerations.
- 2. Recommendations on the petitions.
- 3. Supporting data for the recommendations, including any pertinent data and recommendations submitted by other County agencies.
- 4. Recommendations for scheduling of all hearings (to be held during the next Period IV, prepared in consultation with the County Board of Appeals).

The two petitions in the current cycle have been reviewed by the planning staff, and the following pages report the Office of Planning staff's analysis and recommendations. The process of formulating these recommendations included: staff inspections of each site; a review of the policies and statements in the current <u>Baltimore County Master Plan</u>, and a preparation and adoption of the 1996 Comprehensive Zoning Map. Comments also were requested from other county agencies including the Board of Education, the Department of Environmental Protection and Resource Management, the Fire Department, the Police Department, the Department of Public Works, the Department of Recreation and Parks, and the Bureau of Traffic Engineering.

In reaching its decision on each petition, the Board of Appeals is required to use the standards in Section 2-356(j) of the County Code. During the first cycle following a Comprehensive Zoning Map Process, Section 2-356(k) further limits the Board's authority to granting reclassifications only where the Board finds that the change is warranted upon consideration of the specified factors and also if "the last classification of the property [i.e., by the County Council's vote on October 8, 1996] was established in error."

# PETITIONS FOR RECLASSIFICATION CYCLE II, 1997

Assigned Hearing Dates County Board of Appeals

Week of March 9, 1998

Case No. CR-98-149XA

Sleepy Hollow Woods, Inc.

Tuesday, March 10, 1998 @ 10:00 a.m.

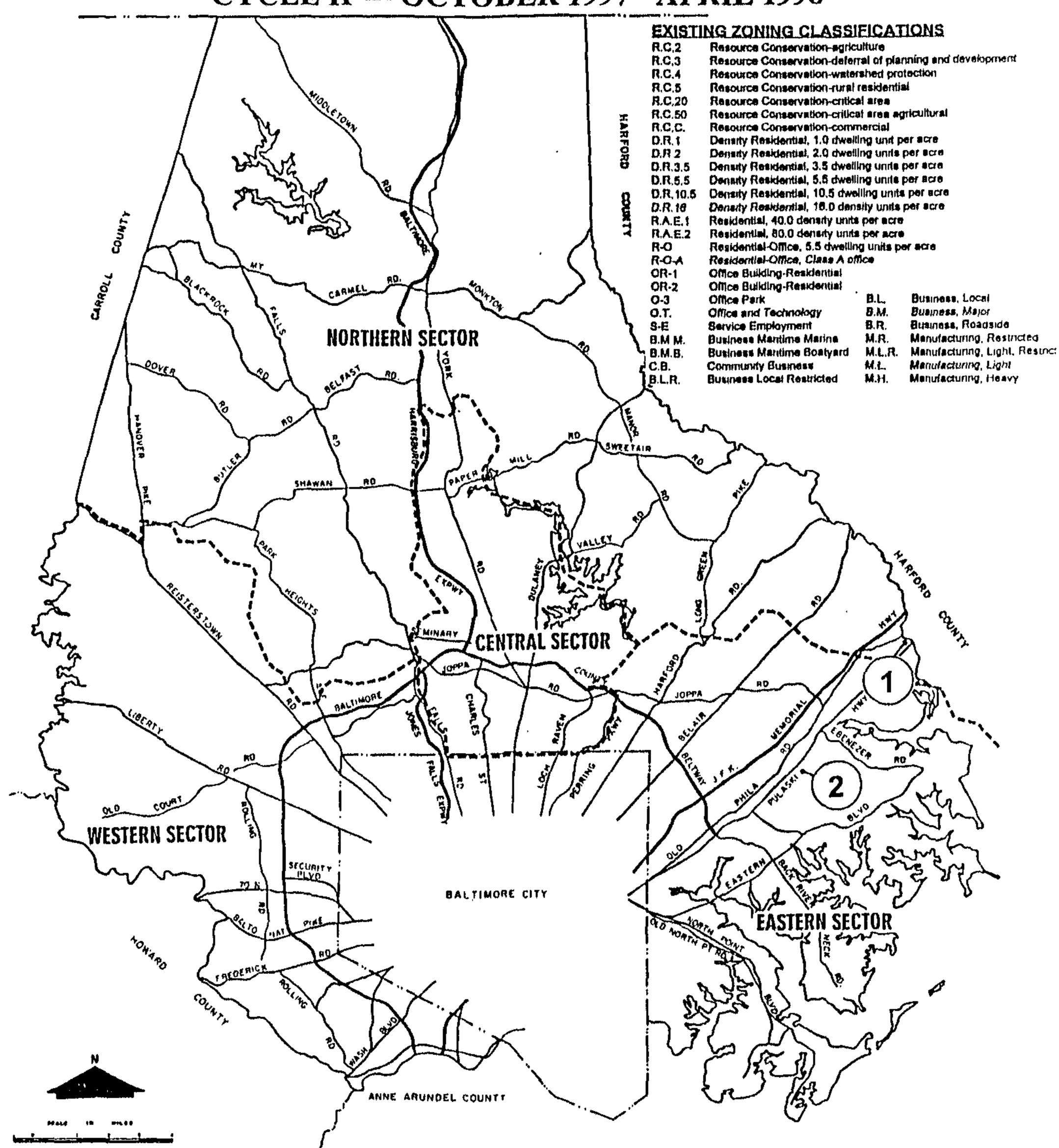
Week of March 23, 1998
Case No. R-98-150
Samuel & Margaret Mogavero
Tuesday, March 24, 1998 @ 10:00

### BALTIMORE COUNTY, MD RECOMMENDATIONS OF THE OFFICE OF PLANNING

#### November 28, 1997

ITEM NO. and PETITIONER	LOCATION	ACREAGE	EXISTING ZONING	REQUESTED ZONING	RECOMMENDATION
Item No. i Sicepy Hollow Woods, Inc.	Southwest side Mohrs Lane (future Campbell ' Boulevard), 1760' east of centerline of Pulaski Highway and southeast side of BGE/Susquehanna Transmission right- of-way	9.73	ML-1M	DR 3.5	DR 3.5
Item No. 2 Samuel Mogavero Margaret Mogavero	190' northwest of the centerline of Pulaski Highway and 360' southeast of the centerline of Pulaski Highway and Baltimore/Harford County (rear of 12436 Pulaski Highway)	(.19	BL-CR	BM	31.

## LOCATIONS OF PROPERTIES UNDER PETITION CYCLE II --- OCTOBER 1997 - APRIL 1998

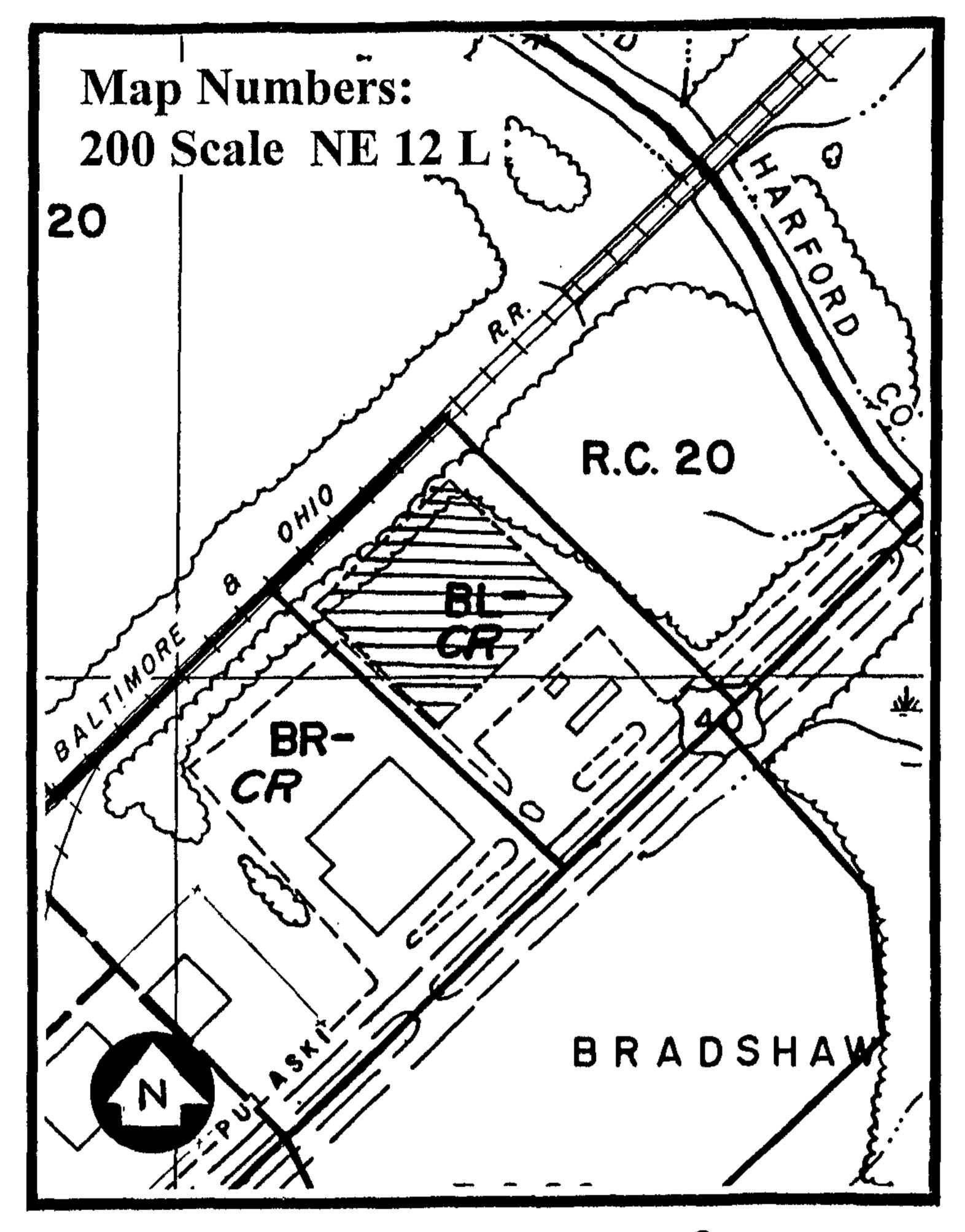


BALTIMORE COUNTY DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT/ZONING REVIEW

## SOURCE MATERIAL

Recommendations for the two (2) petitions filed are based on the following:

- Information compiled during the processing of the Comprehensive Zoning Map adopted by the County Council on October 8, 1996;
- 2. Capital Budget and 5-Year Capital Program;
- 3. Zoning Plans Advisory Committee comments;
- 4. Discussions with other governmental agencies;
- 5. Field inspections of subject sites; and
- 6. Baltimore County Master Plan.



ITEM NUMBER 2
Location of Property Under Petition

Scale 1" = 200"

CASE NO. R-98-150

**PETITIONER:** Mogavero Property

REQUESTED ACTION: Reclassification to BM

**EXISTING ZONING: BL-CR** 

**LOCATION:** 190' Northwest of the centerline of Pulaski Highway and 360' southeast of centerline of Pulaski Highway and the Baltimore/Harford County line (rear of 12436 Pulaski Highway)

AREA OF SITE: 1.19 acre

## ZONING OF ADJACENT PROPERTY/USE:

North: RC 20 Unimproved

South: BR-CR Commercial (used for weekend flee markets)

East: BL-CR Service Station

West: RC 5 Railroad (Chessie System)

SITE DESCRIPTION: The site is currently unimproved.

WATER AND SEWERAGE: The applicant's property is located within a "no planned water and sewer service" area, and is designated W-7, S-7 according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS: The site has direct access to Pulaski Highway which is designated as a major arterial.

ZONING HISTORY: The zoning of the site has not changed since 1980.

MASTER PLAN / COMMUNITY PLANS: The site is identified as "mixed use commercial" on the 1995 Proposed Land Use Map, which was adopted by the Planning Board on June 15, 1995.

PROPOSED vs. EXISTING ZONING: Regulations governing the BL zone may be found in Section 230 of the Baltimore Zoning Regulations (BCZR). The BL zone allows a wide range of uses in addition to those permitted in the residential zone immediately adjoining the property. Density is regulated by a floor area ratio of 3.0. However, density is realistically limited by parking requirements and economic constraints. Building height is limited by the height regulations; setbacks include front yards of no less than 10 feet and not less than 40 feet from the centerline of the street, except as specified in Section 302.2 of the BCZR. No setback is required for side yards, except for

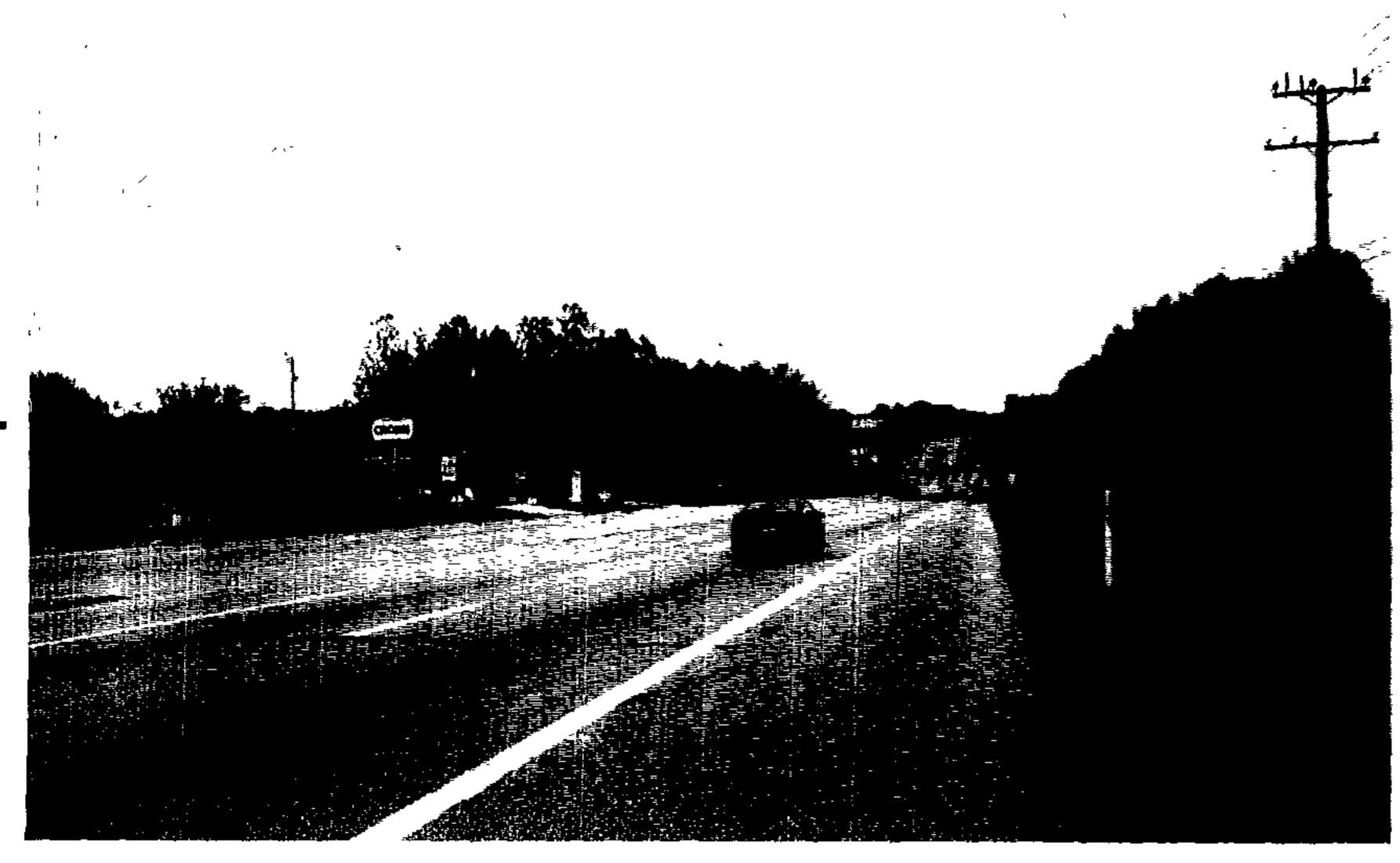
lots abutting a residential zone or on a corner lot on the street side; in these cases a 10 foot setback is required. The CR district regulations are found in Section 259.1 of the BCZR.

OFFICE OF PLANNING ANALYSIS AND RECOMMENDATION: Staff supports the rezoning of the subject parcel to the BL zone classification.

MISTAKE/CHANGE/ERROR: Application of the CR district at this particular location is an obvious error given the proximity of Pulaski Highway and the intense commercial development located along the highway corridor in both Baltimore and Harford County. The Baltimore County Zoning Regulations state that "CR districts may be assigned to areas of commercial development beyond the urban-rural demarcation line for which CR district application is recommended in the Master Plan. It is important to note that the 1989-2000 Master Plan makes no such recommendation for the subject property. Therefore, based upon the information provided and analysis conducted, the Office of Planning concludes that the County Council made an error when the Comprehensive Zoning Maps were last adopted.

**ENGINEERS • PLANNERS** 

**VIEW** LOOKING NORTHEAST



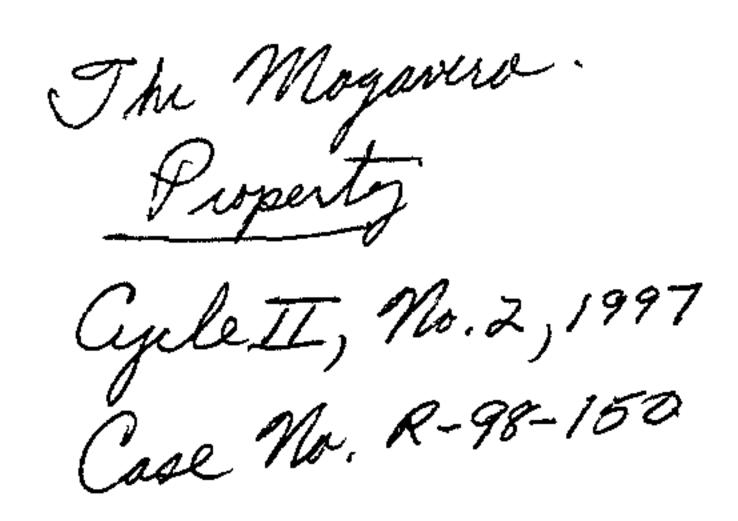
**PULASKI HIGHWAY** 

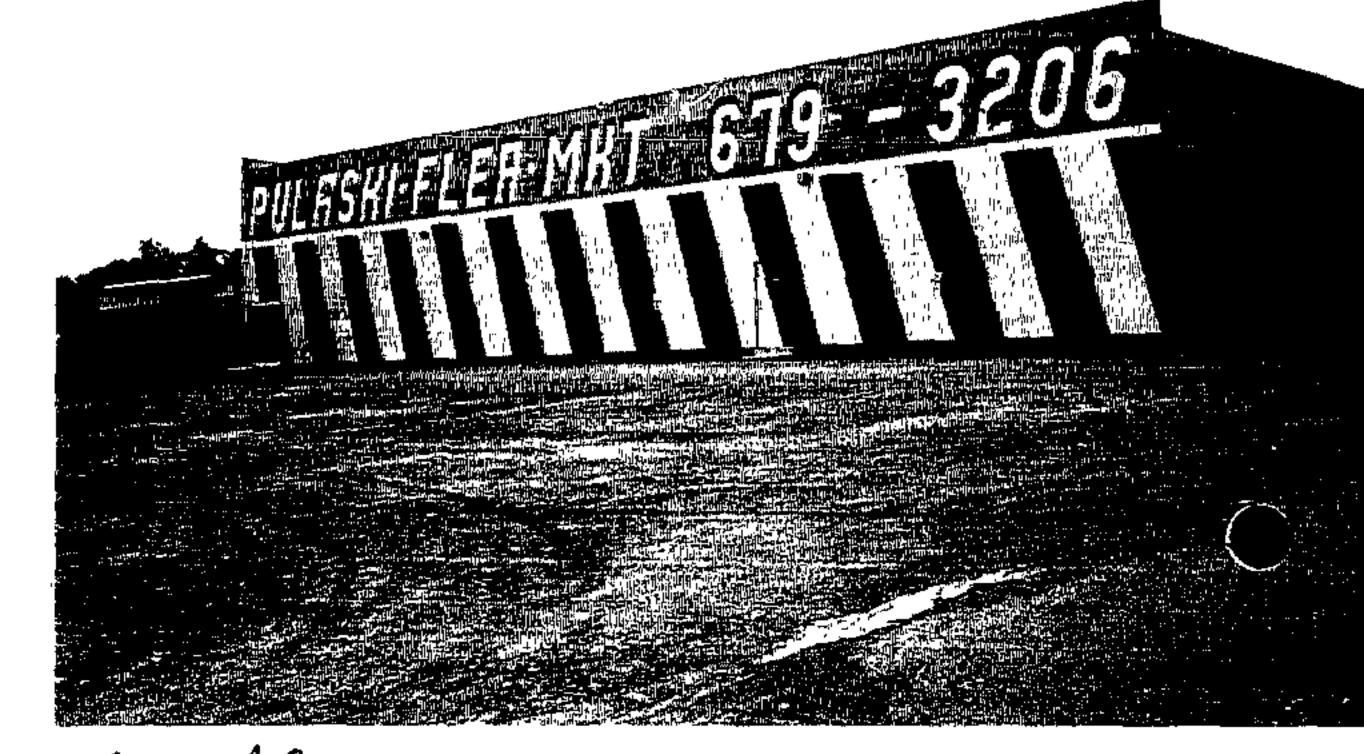


VIEW LOOKING SOUTHWEST

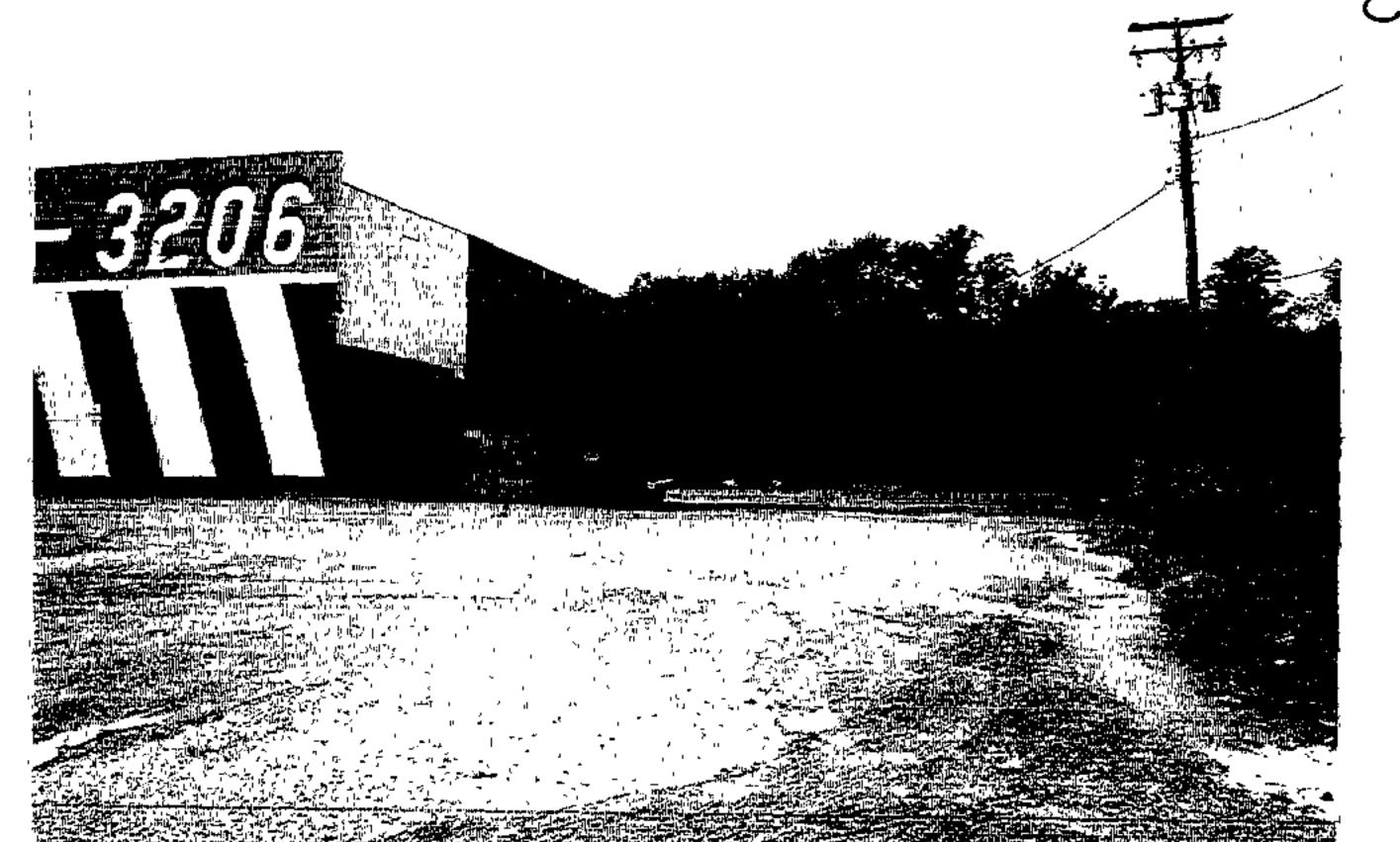


A. Pulosbi Highway and. Parking Lot of BR-CR Part





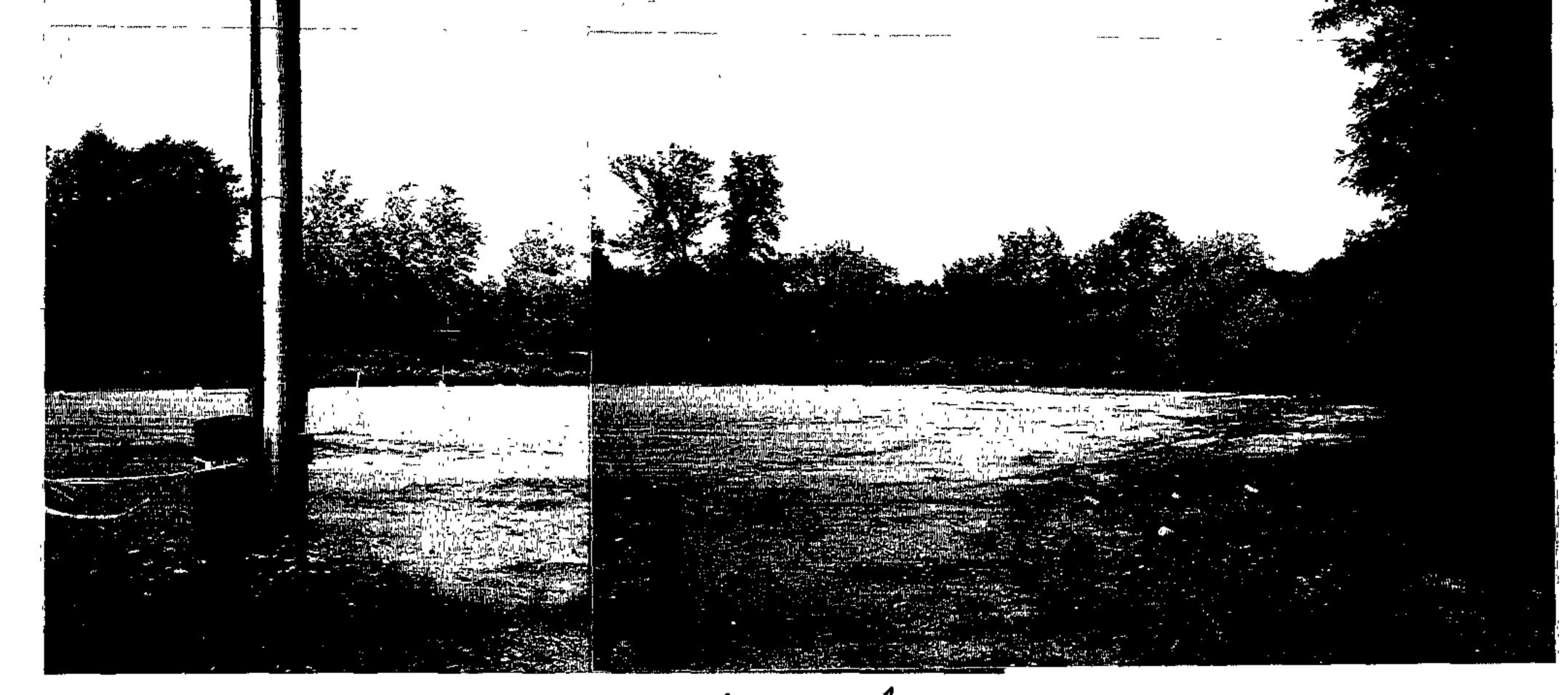
B, and C. Market Belly. on BR-CR.



c. Entrevel to subject property

Add Millid #2

Radioal at nar.



D. Subject Property - July paved. -Requested C. R. Removal.

Crown Stores in front



Pulaski Highway, looking toward Joppatowne Plaza in Harford Co.

E. Crown Station in sport of site




F. Crown Station - looking toward Narford Co. - Joppstowne Shopping Center



6. Front of Crown Station looking East to Harpord Co... Pulaski Hypway




BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
PHOTOGRAPHIC MAP



N 31'36'07'W 361,59 SAMUEL MOGAVERO
9036/158
DEED PARCEL#2 BL-CR 2016 ; ;; ;; ; ; ; ; ;  $\bowtie$  ::  $\sqsubseteq$ PARCEL'A" BECINNING POINT 3185141555 'E. SOS -AKEA TO BE USED

FOR ACCESS TO ---REZONED AREA 



this case. He stated that the information received from the Petitioners had been reviewed and County agency comments received; and, based on all relevant factors, it was determined that removal of the C.R. overlay was appropriate.

Mr. Nolan questioned Mr. Long concerning the requirements of the zoning regulations, and if they would be satisfied if the Board determined that the C.R. removal was appropriate. He opined that removal would be consistent with the goals of the Master Plan and that the subject property was not remotely rural in nature, the general area was industrial, and commercial uses along Pulaski Highway were quite evident. He cited areas such as Jacksonville, Glen Arm, and Hereford as being more appropriate to the C.R. designations. The C.R. removal, he stated, would be consistent with the population trends, and particularly with the advent of the Honeygo Plan. He also testified that the removal would not have any impact on the County budget, nor any other significant negative factors relating to County regulations. Petitioner's Exhibit No. 2 was admitted and represented Mr. Long's views as to the reclassification and Planning Staff comments.

On cross-examination by Mr. Zimmerman, Mr. Long described the nearby Joppatowne community and shopping center, the present commercial and industrial uses in the immediate area, the proximity of the site to the Harford County line (400-500 feet), the business nature of Pulaski Highway, and Bill No. 103-88 which defined the C.R. district. Mr. Long testified that the site no longer meets