IN THE MATTER OF

THE APPLICATION OF

MARS STORES, INC. -PETITIONER *

FOR A ZONING RECLASSIFICATION

FROM D.R. 5.5 TO B.L.-A.S. *

AND VARIANCE ON PROPERTY

LOCATED ON THE NEC HOLABIRD *

AVENUE (7200 HOLABIRD AVENUE)

(.224 ACRE) *

12TH ELECTION DISTRICT *

· · /

* BEFORE THE

COUNTY BOARD OF APPEALS

V OF

BALTIMORE COUNTY

CASE NO. CR-99-314-A (Out-of-Cycle 1999) Documented Site Plan

OPINION

This case comes to the Board of Appeals for Baltimore County based on a Petition for Reclassification filed by the Petitioners requesting the reclassification of the subject property from D.R. 5.5 to B.L.-A.S., accompanied with a variance request to permit a rear yard setback of 0 feet in lieu of the required 20 feet. A public hearing was conducted by the Board on March 17, 1999. John B. Gontrum, Esquire, represented the Petitioner; Nancy C. West, Assistant County Attorney, appeared on behalf of the Baltimore County Office of Law; and Peter Max Zimmerman, People's Counsel for Baltimore County, also participated in these proceedings.

Opening statements and testimony were received by the Board. Following a recess, during which the Board members individually reviewed their notes and the applicable law, a public deliberation was conducted. It should be noted that no protestants appeared at the public hearing conducted by the Board.

This reclassification is an out-of-cycle petition adopted by the Baltimore County Council by Resolution No. 5-99 at its meeting held on February 1, 1999. The Resolution was prompted by a Planning Board Resolution dated January 21, 1999 concerning a

Case No. CR-99-314-A /Mars Stores, Inc. -Petitioner

reclassification of the subject property as required in the public interest and requesting exemption for zoning reclassification from the required procedures of <u>Baltimore County Code</u> (BCC), Section 2-356.

Mr. Gontrum produced two witnesses in support of both the reclassification petition and variance request. This Board is authorized to have original jurisdiction for the purpose of hearing and deciding petitions for special exceptions and/or variances the granting of which are dependant upon the reclassification of the property involved in the Petition for Reclassification under BCC Section 2-356(p).

Mr. Gontrum offered Mr. William P. Monk, William Monk, Inc., Engineers and Planners, as his first witness. Mr. Monk was stipulated by all Counsel to be an expert in the field of land planning; and has appeared testifying before this Board on many prior occasions relative to zoning matters. Mr. Monk undertook to describe the subject property and the surrounding area. The actual site consists of 2.15 acres (93,000+/- sq. ft.) and is zoned B.L.-A.S. and exists as a use permitted by right. The site is presently improved with an existing one-story masonry food store facility consisting of approximately 25,000+/- sq. ft. with a paved parking lot in the front (south); and west of the building adjacent to Delvale Avenue. Approximately 25 feet exists between the back building wall and rear property line and serves as a service/loading and fire lane for the store. A concrete retaining wall runs along the entire length of the rear property line varying

Case No. CR-99-314-A /Mars Stores, Inc. -Petitioner

in height from 2-1/2 feet to 6 feet. The store was built in the early 1960s. In the rear of the building is located a series of grass ball fields zoned D.R. 5.5 presently owned by the Baltimore County Department of Education. To the west, a storage/dwelling and small one-story frame building used for commercial purposes exists, zoned B.L.-A.S. Holabird Avenue is toward the south; and to the west is Delvale Avenue with an automotive service garage in the northwest quadrant of Holabird and Delvale.

Mr. Monk testified as to the need for reclassification which resulted due to current plans for the presently existing Mars Supermarket to renovate the existing facility in order to keep pace with the demands of the public and their expectations relative to a broader base of offerings from such facilities of food and life necessities in a changing society. In making preparations, it came to light that the location of the existing zoning lines would not permit the renovations contemplated. The zoning lines affected bound on a public street and on the Baltimore County Public School property. The property owners, in 1961 in Case No. 5224 dated March 15, 1961, secured a zoning reclassification from an R-6 zone to a B.L. zone for Parcel 1 that was approved on March 17, 1961. However, as Mr. Monk opined, the zoning lines run through the parking areas on the property due to a drafting mistake in placing the approved lines on the zoning maps. Once this error had been discovered, discussions with the Office of Law ensued, and legal counsel for the County Council, in concert with Mr. Gontrum, on how to correct the mistake which occurred subsequent to the 1961 zoning

reclassification. A substantial number of exhibits were offered by Mr. Monk which were explained to the Board in detail and also reviewed as Mr. Monk continued his testimony. Petitioner's Exhibit No. 1 was the 1961 site plan and reclassification application. Petitioner's Exhibit No. 2 reflected the 1971 official zoning map, 200 scale, and also, by way of separate attachment, the existing zoning map. These were compared to Petitioner's Exhibit No. 3, the 1996 200-scale comprehensive zoning map and also Petitioner's Exhibit No. 4, the zoning map as proposed.

Mr. Monk also tendered a series of recent photographs which he had taken reflecting various views of the subject site. Significantly, Petitioner's Exhibit 5A and 5C indicated that portion of the property which was the subject of the reclassification request. In addition, Petitioner's Exhibit No. 8 was submitted reflecting the architect's rendering concerning the Mars Supermarket facility. The entire site which is the subject of reclassification consists of approximately 9,700 sq. ft. +/- (0.224 acre). It was quite obvious, based on the evidence produced at the hearing and Mr. Monk's testimony, that the zoning lines which were to be affected did bound on a public street, and on Baltimore County Public School property with no other properties being affected.

Mr. Monk opined that the location of the existing zoning lines precluded the contemplated plans on the part of the Mars Supermarket management relative to renovation and expansion. He stated that there did not appear to be any valid reasons why the

Case No. CR-99-314-A /Mars Stores, Inc. -Petitioner

contemplated plans should wait for another 18 months to accommodate the comprehensive zoning process. Since the store was located in a Community Conservation Area and was considered part of the overall design for the revitalization of the Dundalk area, it was manifestly in the public interest to expedite the reclassification procedure.

During the course of the hearing, Mr. Monk explained his rationale for consideration by the Board as to the uniqueness of the property concerning its size, shape and topography and the fact that the site was indeed limited for purposes of expansion. He also explained that, in his opinion, the limitations of the area on which the present store is located have extreme restrictions which create practical difficulty and undue hardship in the contemplated plans for rehabilitation and renovation of the current property.

Mr. Gontrum also called Mr. Jeffrey Long as his second witness. Mr. Long is with the Baltimore County Planning Office and has responsibility for reclassifications and consideration of variances /special exceptions, etc., and indicated to the Board that he was quite familiar with the reclassification and variance requested on this property. To a considerable extent, Mr. Long reiterated the prior testimony offered by Mr. Monk concerning the reclassification and variance request that had been reviewed by his office, and indicated that upon careful review his office had recommended the expedited reclassification process and specified the reasons why a favorable recommendation was given to the Planning Board concerning the reclassification request and variance

in that the approval of these items would enable the Petitioner to aggressively move forward with the much-needed improvements on the subject property. The need for reclassification, he stated again, was simply an oversight in drafting the zoning maps which would appropriately be corrected by the present reclassification proceedings. Mr. Long also cited the fact that the store was located in a Community Conservation Area and was generally part of the overall scheme for the revitalization of the Dundalk area. He cited the County's continuing processes to upgrade existing businesses within the Dundalk area, and in particular the County's plans for the revitalization of the area in which the store is located. Such a reclassification would assist measurably in the County's desire to stabilize job retention and provide new jobs to the Dundalk community.

Mr. Theodore V. D'Anna, a Vice President of Mars Stores, Inc., was also present at the hearing; and Mr. Gontrum proffered the prior testimony of Mr. Monk and Mr. Long as that which Mr. D'Anna would testify to, if the Board requested. The proffer was accepted by the Board and also Counsel for Baltimore County and People's Counsel.

Appropriate cross-examination was conducted by Mr. Zimmerman and Ms. West relative to the reclassification request, and elements of variance-granting relief required by statute and court decisions.

The Board, having heard the testimony and reviewed the evidence offered at the hearing, has concluded that both the

reclassification request and also the variance request should be granted. The reclassification is justified on the basis that a simple drafting error had occurred and such a reclassification is unquestionably in the public interest, and can be granted in accordance with the provisions of the Baltimore County Code, Mr. Monk having satisfactorily responded to each of the requirements under Section 2-356(j) "Findings prior to reclassification." These require that there be no detrimental impact on the community as to each item presented.

As to the variance request, the Board finds that the property does meet the requirements imposed by the <u>Cromwell v. Ward</u> decision, 102 Md.App. 691 (1995) concerning the uniqueness of the subject site as to its limited size, shape and topography -- all of which are clearly reflected in the testimony and evidence received during the hearing; and further that the present restricted area of the existing site constitutes a practical difficulty and unreasonable hardship in the present expansion/renovation activities of the Petitioner. The present-day concept of a full-service supermarket requires expansion if the business is to survive and remain competitive at its present location.

The property was properly posted, with appropriate notices being placed in appropriate local and county-wide newspapers concerning the reclassification and variance request. It is significant to note that there were no protestants appearing at the hearing, nor does the Board file reflect any letters written in opposition to the proposals. Additionally, the Board has concluded

that the reclassification and variance requests are within the "spirit and intent" of the zoning regulations as required by the Code.

Having determined the appropriateness of the reclassification request and also the variance requested, the Board concludes that both the reclassification from D.R. 5.5 to B.L.-A.S. and a variance to permit a rear yard setback of 0' in lieu of the required 20' should be granted.

ORDER

THEREFORE, IT IS THIS __ 25th day of __ March __ , 1999 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification on the property known located at 7200 Holabird Avenue from D.R. 5.5 to B.L.-A.S be and the same is GRANTED; and it is further

ORDERED that the Petition for Variance to permit a rear yard setback of 0 feet in lieu of the required 20 feet be and the same is also GRANTED.

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 of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Charles L. Marks, Chairman

Lynn Barranger

Margaret Worrall



County Board of Appeals of Baltimore County

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

March 25, 1999

John B. Gontrum, Esquire ROMADKA, GONTRUM & McLAUGHLIN 814 Eastern Boulevard Baltimore, MD 21221

RE: In the Matter of Mars Stores, Inc. Case No. CR-99-314-A

Dear Mr. Gontrum:

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. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radelyfe on Kathleen C. Bianco

Administrator

Enclosure

CC: Theodore V. D'Anna, Vice President
Mars Stores, Inc.
William Monk
James Earl Kraft /Bd of Education
People's Counsel for Baltimore Co.
Pat Keller
Jeffrey Long /Planning
Lawrence E. Schmidt
W. Carl Richards, Jr. /PDM
Arnold Jablon, Director /PDM
Nancy C. West, Assistant County Attorney
Virginia W. Barnhart, Co Atty



NO REVIEW

2/11/49 uce

Petition for Reclassification

for the property located at 7200 Holabird Avenue

to the Board of Appeals of Baltimore County

CR-99-314-A

		which is pre	sently zoned/districted _	DR 5.5	
This Petition shall be filed owner(s) of the property situal made a part hereof, hereby	ite in Baltim	nore County and which	n is described in the descript	ion and plat atta	ched hereto and
pursuant to the zoning law of reasons given in the attached herein described property for	Baltimore (and (2) for a food s	County from a <u>DR</u> 5 Ca Special Exception Store and parking	under the mening regulations as previously approv	L-AS zone of Baltimore Co red in Case#	e/district, for the eunty, to use the 5224.
and (3) for the reasons given Baltimore County:	in the attac	ched statement, a Vari	iance from the following sect	tions of the zoni	ng regulations of
Section 232.3 B	to permi	t a rear-yard se	tback of O' in lieu o	of the requi	red 20'.

Property is to be posted and a l, or we, agree to pay expenses zoning regulations and restriction	s of above p	petition(s), advertising, per	posting, etc. and further agree		•
		. A M	I/We do solemnly declare as periury, that I/we are the lea	nd affirm, under the	he penalties of e property which
Contract Purchaser/Less	<u>ee:</u>		l/We do solemnly declare as perjury, that I/we are the leg is the subject of this Petition Legal Owner(s): Mars Stores, Inc.	S. A. L. A. A.	
Name - Type or Print	, 1		Name - Type or Print	Preside	ent
Signature	<u>,, , , , , , , , , , , , , , , , , , ,</u>		Signature		
Address		Telephone No.	Name - Type or Print		
City	State	Zip Code	Signature		
Attorney For Petitioner:	→		7183 Holabird Aven	<u>iue (4</u>	10) 282-2100 Telephone No.
John Goritrum Name - Type or Print			Baltimore, City	MD	21222-1798 Zip Code
943 1	_~~		Representative to be	State Contacted:	Zib Code
Signature Romadka, Gontrum & McLa Company	ughlin		William Monk, Inc. Name		
814 Eastern Boulevard Address	(410) 686-8274	222 Bosley Avenue,	Suite B-6	(410) 494-8931 Telephone No.
Essex,	MD	Telephone No. 21220	Towson.	MD	21204
City	State	Zip Code	City	State	Zip Code
REV 9/18/98		•			n • (1
DROP-OFF					•

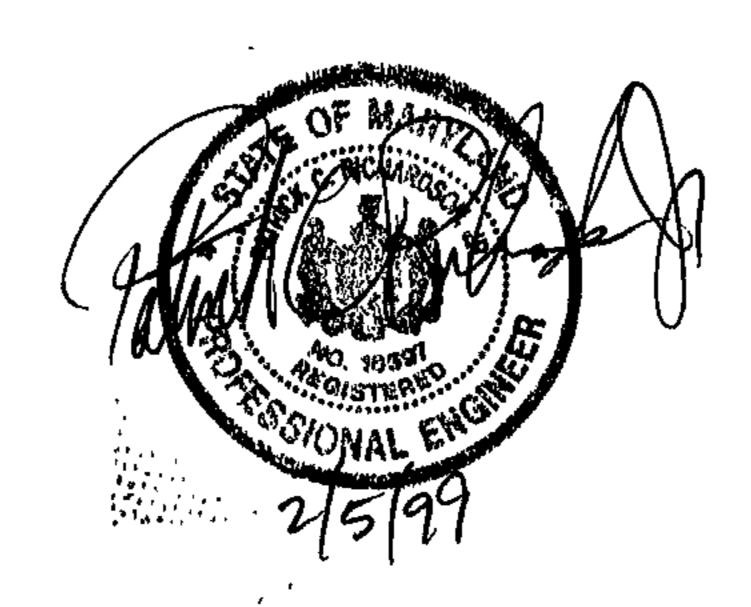
ENGINEERS • PLANNERS

ZONING DESCRIPTION

RECLASSIFICATION AREA 12TH ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

BEGINNING for the same on the Easterly side of Delvale Avenue, 155 feet North of the centerline of Holabird Avenue, running thence (1) North 06 degrees 22 minutes 07 seconds East 167.7 feet; (2) South 80 degrees 35 minutes 17 seconds East 339.26 feet; (3) South 13 degrees 37 minutes 54 seconds West 10.0 feet; (4) North 81 degrees 31 minutes 45 seconds West 304.4 feet; (5) South 05 degrees 58 minutes 41 seconds West 150.8 feet; (6) North 83 degrees 37 minutes 53 seconds West 35.0 feet.

CONTAINING 9,758 square feet+, 0.2244 acres of land, more or less.



BALTIMORE COUNTY, MA OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	AND No.	06302/	PAID RECEIPT PROUPES ACTUAL 1141. 2/16/1999 2/12/1999 16:01:21
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	ssification/Variance 7200 Holabird Avenue	Item 314	
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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: #CR-99-314-A
7200 Holabird Avenue
NEC Holabird and Delvale
Avenues
12th Election District
7th Councilmanic District
Legal Owner(s):

Legal Owner(s):
Mars Stores, Inc.
Reclassification: from
D.R.-5.5 to B.L.-A.S. Variance:
to permit a rear yard setback
of zero feet in fleu of the required 20 feet.
Hearing: Wednesday, March
17, 1999 at 10:00 a.m. in
Room 48 of the Old Courthouse, 400 Washington Avenue.

CHARLES L. MARKS

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.

2/431 Feb. 25 C293132 ___

CERTIFICATE OF PUBLICATION

TOWSON, MD.,
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper published
in Towson, Baltimore County, Md., once in each of successive
weeks, the first publication appearing on 225 , 1921.
THE JEFFERSONIAN,
D/1/DV
J. Wilkin 87
LEGAL ADVERTISING

CERTIFICATE OF POSTING

•	RE: Case No.: CR 99-314-A
	Petitioner/Developer:
•	MARS SUPER MARKET
	Date of Hearing/Closing:
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
	•
Ladies and Gentlemen:	
This letter is to certify under the penalties of perjowere posted conspicuously on the property locate	
The sign(s) were posted on 2/24/49	
(N	Ionth, Day, Year)
	Sincerely,
	Hay C June 2/24/99
•	(Signature of Sign Poster and Date)
	GARY C. FREUND
	(Printed Name)
	(Address)
	(City, State, Zip Code)
•	(Telephone Number)

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING RECLASSIFICATION HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning reclassification hearing. This is accomplished by Baltimore County posting a sign on the property at least fifteen (15) days before the hearing and advertising in local newspapers. The advertising consists of a list and map of all reclassification petitions (cost evenly distributed between all petitioners), as well as individual advertising in local newspapers. The list and map must be published in two newspapers for three different weeks and the individual advertisements must be published in two newspapers fifteen (15) days prior to the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:	
Item Number or Case Number: <u>CR-99-314-A</u>	
Petitioner: Mars Stores Inc	
Address or Location: 7200 Holabird Avenue	
PLEASE FORWARD ADVERTISING BILL TO:	
Name: William Monk Inc.	
Address: 222 Bosley Ave. Suite B-6	
Towson MD 21204	
Telephone Number: 410-494-8931	
N = N + A	CJ
Completed as a result of TIC	
from Debbie in Bill Monk's	
201000 on 2/11/99. scj	

TO: Dundalk Eagle

February 25, 1999 Issue - Dundalk Eagle

Please forward billing to:

William Monk, Inc.

410-494-8931

222 Bosley Avenue

Suite B-6

Towson, MD 21204

NOTICE OF ZONING RECLASSIFICATION HEARING

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CASE NUMBER: CR-99-314-A

7200 Holabird Avenue

NEC Holabird and Delvale Avenues

Charles Warks Sc1

12th Election District — 7th Councilmanic District

Legal Owner: Mars Stores, Inc.

Reclassification from D.R.-5.5 to B.L.-A.S. <u>Variance</u> to permit a rear yard setback of zero feet in lieu of the required 20 feet.

HEARING: Wednesday, March 17, 1999 at 10:00 a.m. in Room 48 of the Old Courthouse,

400 Washington Avenue

Charles L. Marks

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.

TO: PATUXENT PUBLISHING COMPANY February 25, 1999 Issue - Jeffersonian

Please forward billing to:

v .

William Monk, Inc.

410-494-8931

222 Bosley Avenue Suite B-6

Towson, MD 21204

NOTICE OF ZONING RECLASSIFICATION HEARING

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NEC Holabird and Delvale Avenues

12th Election District – 7th Councilmanic District

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Reclassification from D.R.-5.5 to B.L.-A.S. <u>Variance</u> to permit a rear yard setback of zero feet in lieu of the required 20 feet.

HEARING:

Wednesday, March 17, 1999 at 10:00 a.m. in Room 48 of the Old Courthouse,

400 Washington Avenue

Charles L. Marks Chairman

Charles Harks sci

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



County Board of Appeals of Baltimore County

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

February 16, 1999

NOTICE OF ZONING RECLASSIFICATION HEARING

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CASE NUMBER: CR-99-314-A
7200 Holabird Avenue
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12th Election District – 7th Councilmanic District
Legal Owner: Mars Stores, Inc.

Reclassification from D.R.-5.5 to B.L.-A.S. <u>Variance</u> to permit a rear yard setback of zero feet in lieu of the required 20 feet.

HEARING: Wednesday, March 17, 1999 at 10:00 a.m. in Room 48 of the Old Courthouse,

400 Washington Avenue

Charles Marks Scj

Charles L. Marks Chairman

c: John B. Gontrum, Esquire Mars Stores, Inc. William Monk, Inc.

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.

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Arnold Jablon, Director DATE: February 10, 1999

Department of Permits & Development Management

FROM: Kathleen C. Bianco

County Board of Appeals

SUBJECT: Out-of-Cycle Exemption

Request for Reclassification / Property located at 7200

Holabird Avenue, 7th Councilmanic District

Petition filed by: Mars Stores, Inc.

Approval by County Council February 1, 1999

Date for Hearing before the Board - 3/17/99 @ 10:00 a.m.

Pursuant to Section 2-356(i), the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, March 17, 1999 at 10:00 a.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its February 1, 1999 meeting (a copy of Resolution 5-99 is attached for your information and file).

I have copied Sophie on this memorandum so that the necessary advertising and posting can be accomplished by your office and notices sent to the appropriate parties reflecting the hearing date of March 17, 1999.

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

Attachment

cc: Carl Richards, Jr. /PDM
Sophie Jennings /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable John Olszewski, Sr.
Baltimore County Council

Sophie: Please call me with the case number as soon as one has been assigned; also, forward a copy of the Notice of Hearing for our file and information.

Thanks

Kathi

20



WCR

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

Fax: (410) 887-5862

January 22, 1999

Hon. Kevin Kamenetz Chairman, Baltimore County Council County Courthouse Towson, MD 21204

Re: Certification on Reclassification Petition - Property at 7200 Holabird Avenue

Dear Councilman Kamenetz:

At a regularly scheduled meeting on January 21, 1999, the Baltimore County Planning Board voted, in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the petition for zoning reclassification of the Mars Super Market property at 7200 Holabird Avenue is manifestly required in the public interest.

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

Sincerely,

Arnold F. 'Pat' Keller, III

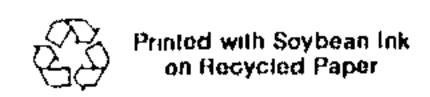
Secretary

AFK:TD:rlh

Enclosure

c: Members, Baltimore County Council
John Wasilisin, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe, County Auditor
Patrick Roddy, Assistant County Attorney
Robert J. Barrett, Spec. Asst. to the Co. Executive
Charles L. Marks, Chairman, Board of Appeals
Peter M. Zimmerman, People's Counsel
Arnold Jablon, Director, Permits & Development Management
John Gontrum, Petitioner's Attorney

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CR-99-314-A



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

Fax: (410) 887-5862

Date: January 13, 1999

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Exemption from Cyclical Procedure - Mars Super Market (7200 Holabird Ave)

The attached letter requests certification by the Planning Board for out-of-cycle action on a zoning petition for reclassification of a portion of the subject property.

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

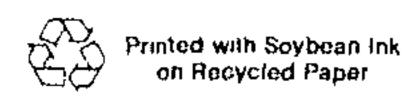
The subject request for certification has been reviewed by planning staff and without taking a position on the merits of the case, The Office of Planning recommends to the Board that certification for early action upon this zoning reclassification petition is required.

Sincerely,

Arnold F. 'Pat' Keller, III

Director

AFK/JL Attachment



ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Eastern Boulevard Baltimore, Maryland 21221 (410) 686-8274 (410) 686-0118 FAX

ROBERT J. ROMADKA JOHN B. GONTRUM J. MICHABL MoLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

January 13, 1999

Amold F. Keller, Director
Baltimore County Office of Planning
County Courts Building
401 Bosley Avenue
Towson, Maryland 21204

RE: Mars Stores, Inc. Reclassification

Dear Mr. Keller:

We wish to request an exemption from the cyclical zoning procedures to correct a map drafting error pertaining to the Mars Supermarket property at 7200 Holabird Avenue in Dundalk. This request is made pursuant to the Baltimore County Code, Section 2-356 (i). It is very different from most rezoning requests in that it pertains to a drafting error in the placement of the zoning lines.

The subject site currently is occupied by a supermarket, which has existed on the site for many decades. In 1961 the property owners obtained a commercial classification of the property putting the zoning lines on the property lines. Unfortunately, it has now been discovered that the zoning lines run through the parking areas on the property due to a drafting mistake in placing the approved lines on the zoning maps. Due to the age of the problem and after discussions with your office and with the Office of Law and Legal Counsel for the County Council it has been recommended that an expedited process be sought to correct the problem.

This problem came to light due to a desire on the part of Mars to renovate and to slightly increase the size of the store. The location of the zoning lines precludes this renovation and expansion. The store is in a community conservation area and is part of an overall scheme for the revitalization of the Dundalk area. The ugrading of existing businesses is of major importance to the County plans for the revitalization of the area. The renovations to the store represent a continued and important commitment on the part of Mars to this community.

There is no good reason to postpone the renovations for another 18 months to await the comprehensive zoning process, and the renovation of the store is manifestly in the public

01/13/99

interest. The zoning lines affected bound on a public street and on Baltimore County public school property. The property across the street is zoned residential but is used as a parking lot supporting the store. A 200' scale zoning map showing the existing lines is attached along with the proposed zoning lines. No other properties are affected.

RGM LAW FIRM

The process, however, will allow public input and full agency review of the Petition to be filed. A documented site plan will be submitted along with appropriate petitions seeking to allow the renovation and store expansion.

Your submittal and support of this request to the Planning Board of Baltimore County will be much appreciated.

Very truly yours,

John B. Gontrum

cc. Baltimore County Office of Law Ted D'Anna William Monk



BALTIMORE COUNTY COUNCIL AGENDA LEGISLATIVE SESSION 1999, LEGISLATIVE DAY NO. 3 FEBRUARY 1, 1999 7:30 P.M.

CEB = CURRENT EXPENSE BUDGET
BY REQ. = AT REQUEST OF COUNTY EXECUTIVE

A. B. C.	MOMENT OF SILENT MEDITATION PLEDGE OF ALLEGIANCE TO THE FLAG APPROVAL OF JOURNAL - Meeting of January 19, 1999 ENROLLMENT OF BILLS - 136-99 & 137-99
D.	INTRODUCTION OF BILLS Bill 12-99 - Mr. Kamenetz(By Req.) - CEB - General Fund - Injury Prevention Program Bill 13-99 - All Councilmembers - Basic Services Maps Bill 14-99 - Mr. Kamenetz(By Req.) - Temporary Controls on Building Permits Allowing Water and Sewer Service Connections
F. PASSED PASSED PASSED PASSED PASSED PASSED PASSED	CALL OF BILLS FOR FINAL READING AND VOTE Bill 1-99 - Mr. Moxley(By Req.) - CEB - Comprehensive Highway Safety Program Bill 2-99 - Mr. Moxley(By Req.) - Metropolitan District Bonds Bill 3-99 - Mr. Moxley(By Req.) - CEB - Career Connections Program Bill 4-99 - Mr. Moxley(By Req.) - CEB - Economic Development - Supplemental Appropriation Bill 5-99 - Mr. Moxley(By Req.) - CEB - The Emergency Food Assistance Program (TEFAP) Bill 6-99 - Councilmembers Kamenetz & McIntire - Landmarks Preservation Commission
G. APPROVED APPROVED APPROVED APPROVED APPROVED W/DRAWN APPROVED	APPROVAL OF FISCAL MATTERS/CONTRACTS 1. Agreement Amendment - Advanced Radiology - Radiology Services for Women's Cancer Protection Program 2. Agreement - Too Perfection Cleaning Services, Inc On-call Cleaning services for Sherwood Mansion, Merrick House & Eck Houses 3. Agreement - Designer Glass and Mirror Co., Inc On-call glass replacement at various County buildings 4. Agreement - EMS Consultants, Inc Maintenance/training-Automated Logic System 20/20 Hardware - Woodlawn Police Station 5. Agreement - Forest Hill Contracting, Inc Snow Removal and salt application services 6. Agreement - University of MD System, Towson University - Gap financing for the purchase of 31 York Road 7. Lease Agreement - Robert B. Welch - Legislative Liaison Office - Annapolis
H. PASSED PASSED	MISCELLANEOUS BUSINESS 1. Res. 4-99 - Mr. Kamenetz(By Req.) - Application for grant funds - MD Industrial and Commercial Redevelopment Fund 2. Res. 5-99 - Mr. Olszewski - Out of cycle zoning reclassification - Mars Stores, Inc.

99 FEB -5 FE 10: 59

RECEIVED

FEB - 8 1999

DEPT, OF PERMITS AND DEVELOPMENT MANAGEMENT

RE: PETITION FOR ZONING RECLASSIFICATION	N * BEFORE THE
AND ZONING VARIANCE 7200 Holabird Avenue, NEC Holabird and Delvale	* COUNTY BOARD OF APPEALS
Avenues, 12th Election District, 7th Councilmanic	* FOR BALTIMORE COUNTY
Legal Owners: Mars Stores, Inc. Petitioner(s)	* Case Number: CR-99-314-A
	*
* * * * * *	* * * * *
ENTRY (F APPEARANCE
Please enter the appearance of the People's	Counsel in the above-captioned matter. Notice should be
	is matter and of the passage of any preliminary or final
	is manor and or mo passage or any promining or min
Order,	
Dota Naw Zinneman	Axiale S. Demilio
PETER MAX ZIMMERMAN	CAROLE S. DEMILIO
People's Counsel for Baltimore County	Deputy People's Counsel Old Courthouse, Room 47
	400 Washington Avenue Towson, MD 21204
	(410) 887-2188
CERTIFIC	ATE OF SERVICE
, ~	
•	lay of March, 1999, a copy of the foregoing Entry of
Appearance was mailed to John B. Gontrum, Esq., Baltimore, MD 21221, attorney for Petitioner(s).	Romadka, Gontrum & McLaughlin, 814 Eastern Blvd.,
	Peter Mars annuman
-	PETER MAX ZIMMERMAN

MARS STORES, 7200 Holabird Evenue /NEC Holabird and Delvale Avenues 12th Election District 7th Councilmanic District

Case #CR-99-314-A (Out-of-Cycle)

Documented Site Plan

From DR 5.5 to BL-AS (.224 acre)
VAR -To permit rear yd setback of 0' ilo rquired 20'

January 21, 1999

Planning Board Meeting and recommendation for early action.

February 1

Approved by County Council.

Petition for Reclassification filed by John B. Gontrum, Esquire, on behalf of Mars Store, Inc. /Petitioner

John B. Gontrum, Esquire ROMADKA, GONTRUM & McLAUGHLIN 814 Eastern Boulevard Baltimore, MD 21221 Counsel for Petitioner

Petitioner

Theodore V. D'Anna, Vice President
Mars Stores, Inc.
6721-B Chesapeake Center Drive
Glen Burnie, MD 21060 (Note: New corp address)
Telephone: 410-590-0500

William Monk 222 Bosley Avenue, Suite B-6 Towson, MD 21204

James Earl Kraft /Bd of Education

People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
Arnold Jablon, Director / PDM
Virginia W. Barnhart, County Attorney

7th /J. Olszewski, Sr.



County Council of Baltimore County

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

S. G. Samuel Moxley
FIRST DISTRICT

Vincent J. Gardina

Kevin Kamenetz SECOND DISTRICT Joseph Bartenfelder SIXTH DISTRICT

T. Bryan McIntire
THIRD DISTRICT

John Olszewski, Sr.

Wayne M. Skinner FOURTH DISTRICT

February 2, 1999

Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

Charles L. Marks, Chairman Board of Appeals for Baltimore County 400 Washington Avenue Towson, Maryland 21204

Dear Mr. Marks:

Attached please find a copy of Resolution 5-99 to approve the Planning Board's certification that the zoning reclassification petition filed by Mars Stores, Inc., for the property located at 7200 Holabird Avenue and situated in the Seventh Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

This Resolution was unanimously approved by the County Council at its February 1, 1999 meeting and is being forwarded to you for appropriate action.

Sincerely,

Thurs Meddinord

Thomas J. Peddicord, Jr.

Legislative Counsel/Secretary

TJP:dp Enclosure

R00599

COUNTY BOARD OF ALFERNALD

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND Legislative Session 1999, Legislative Day No. 3

Resolution No. <u>5-99</u>

Mr. John Olszewski, Sr., Councilman

By the County Council, February 1, 1999

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Mars Stores, Inc., for the property located at 7200 Holabird Avenue and situated in the Seventh Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated January 21, 1999, has certified that early action on the Petition for Zoning Reclassification filed by the Mars Stores, Inc., requesting a reclassification of the above described property is manifestly required in the public interest; and

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

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

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

READ AND PASSED this / day of hebruary, 1999.

BY ORDER

Thomas J. Peddicord, Jr.

Secretary

ITEM: Resolution 5-99

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY MINUTES OF DELIBERATION

IN THE MATTER OF: Mars Stores, Inc. -Petitioner

Case No. CR-99-314-A

DATE : March 17, 1999

BOARD / PANEL : Charles L. Marks

Charles L. Marks (CLM)
Margaret Worrall (MW)
Lynn Barranger (LB)

SECRETARY: Kathleen C. Bianco

Administrator

PURPOSE: To deliberate Case No. CR-99-314-A /Petition for

Reclassification /Mars Stores, Inc.; and Petition for Variance /Documented Site Plan (out of cycle); hearing on this matter held by the Board of Appeals this date.

Upon deliberation between panel members, the following decision was reached by the Board:

Opening comments by CLM -- reclassification must be decided as matter of law as defined in BCC; cited testimony of Mr. Monk and Mr. Long -- clear that error was made in maps; transcript of record will speak for itself. Error can be corrected by this Board by out of cycle reclassification to BL-AS; reasons to be more thoroughly discussed in official Opinion and Order.

As to variance -- Board must be law in Opinion and Order describe why the variance should be granted /County law and case law, including Cromwell v. Ward, among other cases; most noteworthy being North v. St. Mary's County. To grant variance (1) uniqueness - shape, topography, subsurface, and so forth; conclusion based on Mr. Monk - situation where property's shape and topography classify it as unusual /unique property. Also need for this type of operation. Based on photographs presented and other exhibits - unusual and unique and can justify in the Opinion and Order that variance can be granted as to unusual or unique.

Turning to (2) practical difficulty aspect -- no place for this operation to go except in direction presented on documented site plan. Practical difficulty aspects of the case have also been satisfied.

In conclusion, both reclassification and variance should be granted for reasons as stated and more fully explored in written Opinion and Order, assuming associates agree.

MW upon deliberation had little to add; clear drafting error was made per Mr. Monk and Mr. Long's testimony and documents entered into evidence, including documented site plan.

Deliberation /Mars Stores, Inc. -Petitioner Case No. CR-99-314-A

Agreed as to variance would add <u>Cromwell v. Ward</u> relative to spirit and intent -- important here to note that this, as Ms West pointed out, is area of community revitalization -- this type of business is important and the variance requested would fulfill that third prong.

Would simply agree that reclassification should be granted, and variance also.

LB, as third Board member, had little to add; concurred with colleagues; obviously there was a line error. Also that since this was the first community conservation area for Baltimore County, spirit and intent of that program should be continued. No other comments; in complete compliance as to both requests.

CLM: Will issue Opinion and Order within next 5 to 7 days; can be appealed to the Circuit Court within 30 days after official Order is issued.

NOTE: These minutes serve as verification that the subject case was publicly deliberated and will be included as part of the subject file; that the instant Petition for Reclassification was GRANTED; Petition for Variance GRANTED.

Respectfully submitted,

Kathleen C. Bianco

Administrator

- #CR-99-314-A /Mars Stores, Inc. / 7200 Holabird Avenue, NEC Holabird and Delvale Avenues 12th Election District; 7th Councilmanic District
- 2/01/99 -Out of Cycle Exemption approved by County Council by resolution 5-99 at its 2/01/99 hearing.
- 2/10/99 -Copy of Resolution to PDM; holding date of Wednesday, March 17, 1999 at 10:00 a.m. for hearing in this matter pursuant to Section 2-356 of the Code (60 to 90 days for hearing from date of Council approval for out of cycle).
- 2/15/99 -Letter to PDM from Bill Monk advising that corporate address for applicant /property owner (Mars Stores, Inc.) has changed. File noted.
- 2/16/99 -Notice of Zoning Reclassification Hearing sent to Petitioner, Petitioner's Counsel, and Mr. Monk; hearing scheduled for Wednesday, March 17, 1999 at 10:00 a.m.
- 3/01/99 -Entry of Appearance filed by People's Counsel.
- 3/17/99 -Hearing concluded; deliberated at conclusion of hearing this date; Petition for Reclassification & Petition for Variance GRANTED; written opinion and order to be issued; appellate period to run from date of written Order. (C.B.W.)

ZONING ADVISORY COMMITTEE AGENDA DISTRIBUTION MEETING OF

* Agenda Only + Agenda and Petition & Agenda and Plat # Agenda, Petition and Plat

Distribution:

- Board of Appeals (Kathi Bianco); MS #2013
- Zoning Commissioner's Office (Lawrence Schmidt); MS #2112
- PDM, Zoning Review H.O. Hearing File (Sophia Jennings)
- PDM, Zoning Review Work File (Gwendolyn Stephens)
- PDM, Code Enforcement (Helene Kehring) PDM, Building Inspection (Karen Hopkins)
- PDM, Development Plans Review (Robert W. Bowling)
- Planning Office (Jeffrey Long); *Director (Pat Keller)
- Recreation and Parks (Jean Tansey); MS #52
- DEPRM (Bruce Seeley) 2 plats
- & & State Highway Administration, Access Permits Division (Michael M. Lenhart)
- PDM, Building Plans Review (Lt. Robert Sauerwald); MS #1102F
- Economic Development Commission, Business Develop. (Robert Hannon); MS #2M07
- Highways (Tim Burgess); MS #1003
- Community Conservation (David Fields); MS #1102M
- People's Counsel (Peter Zimmerman); MS #2010
- Honorable McIntire, County Council, District 3; MS #2201
- IF CRITICAL AREA, Maryland Office of Planning (Charles Armstrong)
- IF FLOODPLAIN, Department of Natural Resources (John Joyce)
- IF FLOODPLAIN, Public Works (David Thomas); MS #1315
- IF FLOODPLAIN, Permits (John Reisinger)
- IF FLOODPLAIN, Code Enforcement (Rick Wisnom)
- IF ELDERLY HOUSING, Community Development; MS #1102M
- IF HELICOPTER, Police Department, Aviation Unit (Officer Taylor or Sgt. Wines)
- IF PAWN SHOP, Police Department, Burglary/Pawn Unit (Det. Kropfelder); MS #1102E
- IF TOWER, Tower Coordinator, c/o OIT; MS #2007

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

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Gwendolyn Stephens. If you have any questions regarding these zoning petitions, please contact either Sophia Jennings or Carl Richards at 410-887-3391 (FAX - 410-887-5708).

ZONING ADVISORY COMMITTEE MEETING OF FEBRUARY 16, 1999

Case Number:

CR-99-314-A

Item Number:

314

Hearing Date/Time:

March 17, 1999 at 10:00 a.m.

Legal Owner:

Mars Stores, Inc.

Contract Purchaser:

N/A

Location:

NEC Holabird and Delvale Avenues

(7200 Holabird Avenue)

Existing Zoning:

D.R.-5.5

Proposed Zoning:

B.L.-A.S. Variance to permit a rear yard setback of

zero feet in lieu of the required 20 feet.

Area:

.224 acre

District:

12th Election District

7th Councilmanic District

Attorney:

John Gontrum

Miscellaneous:

Previous Zoning Case #5224

Current Zoning Case #99-289-SPHA

BALTIMORE COUNTY, MARYLAND Inter-Office Memorandum

DATE:

February 11, 1999

TO:

Baltimore County Zoning Advisory Committee

FROM:

W. Carl Richards, Jr.

Zoning Review Supervisor (410-887-3391)

SUBJECT:

Out-of-Cycle Documented Zoning Reclassification Petition

Case Number CR-99-314-A Legal Owner: Mars Stores, inc.

Contract Purchaser: N/A

Address: 7200 Holabird Avenue

Description: NEC Holabird and Delvale Avenues 12th Election District; 7th Councilmanic District

THE ABOVE REFERENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON 1/21/99 AND BY RESOLUTION NO. 5-99 OF THE BALTIMORE COUNTY COUNCIL DATED 2/1/99 (ATTACHED). PURSUANT TO SECTION 2-356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE OF 3/17/99. YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS TO THIS OFFICE UNDER THE ABOVE REFERENCE PRIOR TO THE HEARING DATE. IF YOU NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY, OR MYSELF IMMEDIATELY.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND Legislative Session 1999, Legislative Day No. 3

Resolution No. 5-99

Mr. John Olszewski, Sr., Councilman

By the County Council, February 1, 1999

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Mars Stores, Inc., for the property located at 7200 Holabird Avenue and situated in the Seventh Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated January 21, 1999, has certified that early action on the Petition for Zoning Reclassification filed by the Mars Stores, Inc., requesting a reclassification of the above described property is manifestly required in the public interest; and

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

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

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



February 8, 1999

Subject:

7200 Holabird Avenue - Mars Stores, Inc.

Statement of Justification in support of reclassification petition.

Attn: Baltimore County Board of Appeals

We wish to request an exemption from the cyclical zoning procedures to correct a map drafting error pertaining to the Mars Supermarket property at 7200 Holabird Avenue in Dundalk. This request is made pursuant to the Baltimore County Code, Section 2-356 (i). It is very different from most rezoning requests in that it pertains to a drafting error in the placement of the zoning lines.

The subject site currently is occupied by a supermarket, which has existing on the site for many decades. In 1961 the property owners obtained a commercial classification of the property putting the zoning lines on the property lines. Unfortunately, it has now been discovered that the zoning lines run through the parking areas on the property due to a drafting mistake in placing the approved lines on the zoning maps. Due to the age of the problem and after discussions with your office and with the Office of Law and Legal Counsel for the County Council it has been recommended that an expedited process by sought to correct the problem.

The problem came to light due to a desire on the part of Mars to renovate and expand the size of the store. The location of the zoning lines to the north and west precludes this renovation and expansion. The zoning lines affected bound on a public street and on Baltimore County public school property. The property across the street is zoned residential but is used as a parking lot supporting the store. No other properties are affected.

The store is in a community conservation area and is part of an overall scheme for the revitalization of the Dundalk area. The upgrading of existing businesses is of major importance to the County's plans for the revitalization of the area. These private sector improvements will be leveraged with public funds to revitalize this community shopping area. Mars presently employees 40 to 45 people at this store. Job retention and new jobs to be created supports the County's financial commitment to the Dundalk community.

These much needed improvements represent a continued and important commitment on the part of Mars to this community and we believe that the renovation of the store is manifestly in the public interest.

Cordially,

William P. Monk

CR-99-314-A



ENVIRONMENTAL IMPACT STATEMENT FOR MARS SUPERMARKET EXPANSION 7200 HOLABIRD AVENUE, BALTIMORE CO., MD

Consistent with the requirements as set forth in Section 101 of the Baltimore County Zoning Regulations we offer the following environmental assessment of the proposed food store expansion.

BACKGROUND

The subject property is located in the northeast quadrant of the intersection formed by Holabird Avenue and Delvale Avenue in the Dundalk area of Baltimore County. The property consists of approximately 2.15 acres (93,654 square feet). The property is zoned BL-AS (Business-Local) which permits the use by right. The site is improved with an existing 1-story masonry food store building of 25,879 square feet. The balance of the site is paved in its entirety with parking fields situated to the south (front), and west of the building adjacent to Delvale Avenue. The area between the back building wall and rear property line is approximately 25 feet in depth and is presently paved in its entirety serving as a service/loading and fire lane for the store. A concrete retaining wall runs along the entire length of the rear property line. It varies in height from 2 ½ to 6'. This food store and the site improvements thereon were built 1961/62.

The surrounding properties are as follows:

- To the north (rear) is located a series of grassed ball fields owned by the Board of Education of Baltimore County and zoned DR 5.5.
- To the east a 2-story frame structure (store/dwelling) and a small 1-story frame building which houses a commercial use. On-site parking is provided. The zoning is BL-AS.
- To the south is Holabird Avenue, a public road. Commercial uses are located on the south side of Holabird Avenue (zoned BL-AS).
- To the west is Delvale Avenue, a public road. An automobile service garage is located in the northwest quadrant of the intersection (Holabird and Delvale).



PROPOSED DEVELOPMENT

Mars proposes to build an addition to the existing building. The addition would extend in a northerly direction from the rear of the store to the rear property line adjacent to the aforementioned concrete retaining wall. The entire area being impacted by the proposed building expansion is presently paved. The proposed expansion is two (2) levels. Each level comprising approximately 4,400 square feet. The first level will be utilized for food delivery, prep and storage. The second level will house mechanical equipment rooms and additional storage area for food products. No grassed or pervious surface areas will be impacted by this proposal.

IMPACT ON THE ENVIRONMENT

It is our opinion that the proposed food store expansion will have no discernible negative impact on the environment. In fact, ground noise levels will be reduced by totally enclosing or screening all mechanical systems. The equipment will be housed in the addition on the second level or roof mounted behind parapet walls. All equipment will be vented skyward, replacing existing mechanical units, that vent horizontally through louvered panels. The new equipment will meet all applicable Federal, State and local standards for noise emanation. All existing HVAC units will be replaced with non-CFC based refrigerants. New state of the art equipment will reduce noise levels, which presently range between 55 to 75 db at ground level to 45 to 50 db. The mechanical room, which is situated at the northwest corner of the proposed building addition, will replace existing roof mounted systems and importantly, not be situated within a distance of 350 feet of the closest residence. The grassed ball fields immediately adjacent to the site provide a 700 foot (±) buffer area between the subject and the school, situated further to the north.

UNAVOIDABLE ENVIRONMENTAL AFFECTS

It is our opinion that there are no adverse environmental affects created by this proposed building expansion.

ALTERNATIVES ASSESSMENT

The "no-build" option would be the only alternative to the proposed expansion. However, in our opinion, the proposed expansion would be a significant improvement by reducing the noise levels and eliminating all CFC based refrigerants.

LONG TERM IMPACTS ON THE ENVIRONMENT

The proposed development will have no long-term negative impact on the environment or the productivity of the site. Given the present usage of the property (paved-impervious surface area) no negative impact will be generated. Rain leaders carrying the run-off from the roof will be piped to an acceptable outfall as required by Baltimore County. The long-term impact will be positive by reducing noise levels and pollutants (CFC based refrigerant).

The new mechanical equipment, which will be housed in the proposed addition, or roof mounted behind parapet walls, will significantly improve the environmental and noise conditions.

In our opinion there will be no negative or irreversible commitments of resources that would result from this proposed building addition.



February 15, 1999

PDM Baltimore County 111 West Chesapeake Avenue Towson, MD 21204

Subject:

7200 Holabird Avenue

Change of Address

WMI Project No.: 98-071

Gentlemen:

The applicant and property owner has changed their corporate address. It is as follows:

Mars Stores, Inc.

6721-B Chesapeake Center Drive

Glen Burnie, MD 21060

(410) 590-0500

If you have any questions regarding this matter, please do not hesitate to contact me.

Thank you.

Cordially,

William P. Monk

99-289-5PHA CR-99-314-A

99 FEB



February 5, 1999

PDM 1st Floor 111 W. Chesapeake Avenue Towson, MD 21204

Subject: Zoning reclassification/variance drop-off petition

7200 Holabird Avenue, 'Mars' Supermarket

Baltimore Co., MD

WMI Project No.: 98-071

Gentlemen:

Attached please find the application forms, plats and exhibits to accompany our drop-off. There are no outstanding zoning violations for this property. This plan has been reviewed by PDM staff (John Lewis).

Cordially,

William P. Monk

Encl.

THE HOUSING BEFORE THE POWER OF APPISALS HAS BEEN SET THE POWER TO THE POWER TO THE POWER THE PO

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: August 5, 1999

Permits & Development Management

FROM:

Charlotte E. Radcliffe

County Board of Appeals

SUBJECT: Closed Files /Case Nos.:

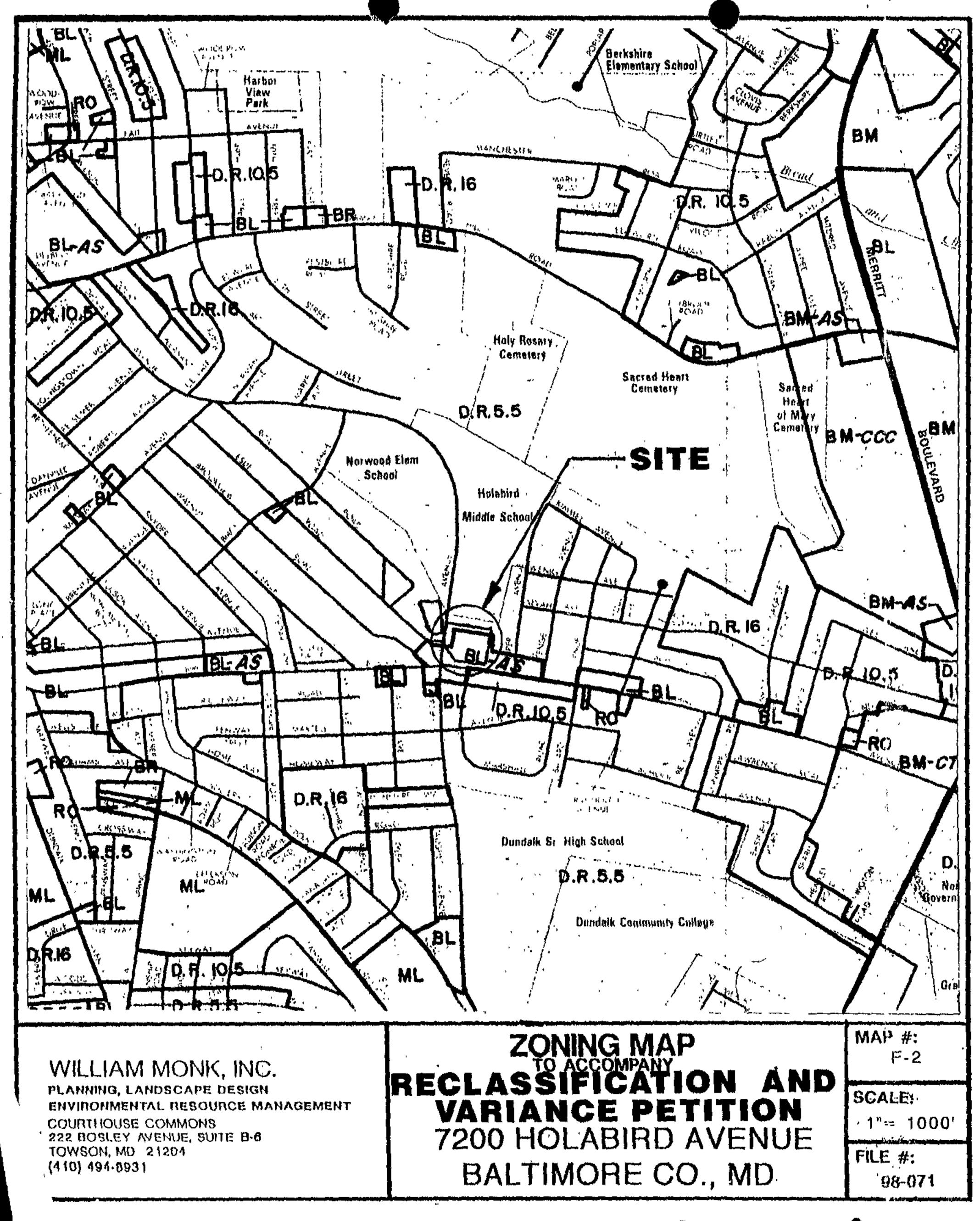
R-98-366 /Eichelman Brothers, Inc. R-99-184 /Robert S. Bundy, Sr., and

Susan M. Bundy

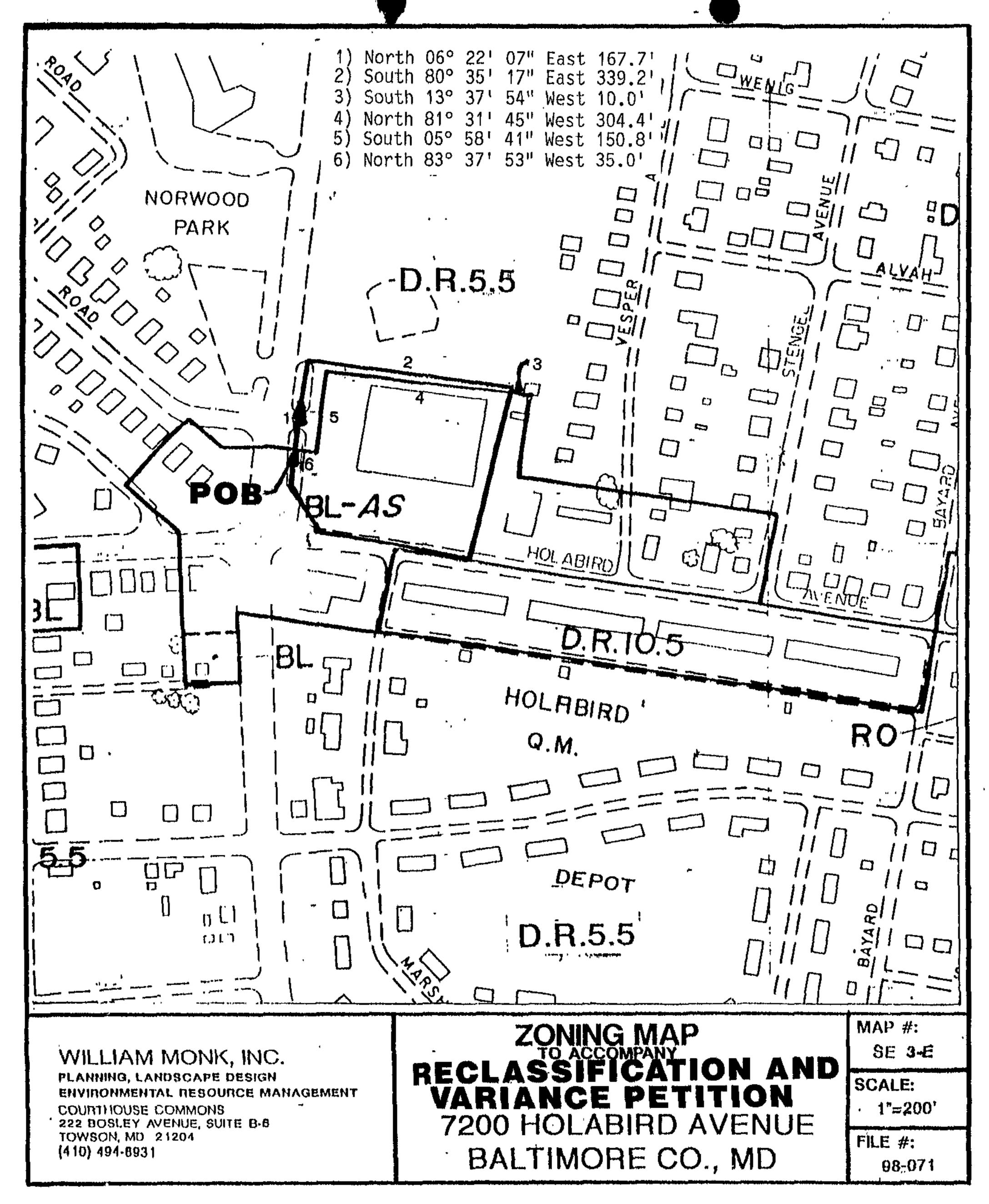
CR-99-314-A /Mars Stores, Inc.

Since no appeals were taken from the Board's Orders in the above captioned cases, we are hereby closing the files and returning same to you herewith.

Attachment (Case No. R-98-366; R-99-184 and CR-99-314-A)



CR-99-314-A



CR-99-314-A

23410 686 0118

ROMADKA, GONTRUM & McLAUGHLIN, P.A.

814 Bastern Boulevard Baltimore, Maryland 21221 (410) 686-8274 · (410) 686-0118 FAX

ROBERT J. ROMADKA JOHN B. GONTRUM J. MICHAEL MOLAUGHLIN, JR.*

* Also Admitted In the District of Columbia

January 13, 1999

Arnold F. Keller, Director Baltimore County Office of Planning County Courts Building 401 Bosley Avenue Towson, Maryland 21204

RE: Mars Stores, Inc. Reclassification

Dear Mr. Keller:

We wish to request an exemption from the cyclical zoning procedures to correct a map drafting error pertaining to the Mars Supermarket property at 7200 Holabird Avenue in Dundalk. This request is made pursuant to the Baltimore County Code, Section 2-356 (i). It is very different from most rezoning requests in that it pertains to a drafting error in the placement of the zoning lines.

The subject site currently is occupied by a supermarket, which has existed on the site for many decades. In 1961 the property owners obtained a commercial classification of the property putting the zoning lines on the property lines. Unfortunately, it has now been discovered that the zoning lines run through the parking areas on the property due to a drafting mistake in placing the approved lines on the zoning maps. Due to the age of the problem and after discussions with your office and with the Office of Law and Legal Counsel for the County Council it has been recommended that an expedited process be sought to correct the problem,

This problem came to light due to a desire on the part of Mars to renovate and to slightly increase the size of the store. The location of the zoning lines precludes this renovation and expansion. The store is in a community conservation area and is part of an overall scheme for the revitalization of the Dundalk area. The ugrading of existing businesses is of major importance to the County plans for the revitalization of the area. The renovations to the store represent a continued and important commitment on the part of Mars to this community.

There is no good reason to postpone the renovations for another 18 months to await the comprehensive zoning process, and the renovation of the store is manifestly in the public **23**410 686 0118

interest. The zoning lines affected bound on a public street and on Baltimore County public school property. The property across the street is zoned residential but is used as a parking lot supporting the store. A 200' scale zoning map showing the existing lines is attached along with the proposed zoning lines. No other properties are affected.

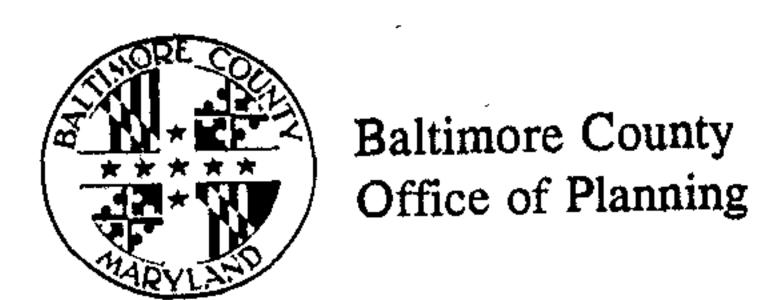
The process, however, will allow public input and full agency review of the Petition to be filed. A documented site plan will be submitted along with appropriate petitions seeking to allow the renovation and store expansion.

Your submittal and support of this request to the Planning Board of Baltimore County will be much appreciated.

Very truly yours,

John B. Gontrum

cc. Baltimore County Office of Law Ted D'Anna William Monk



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

Date: January 13, 1999

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Exemption from Cyclical Procedure - Mars Super Market (7200 Holabird Ave)

The attached letter requests certification by the Planning Board for out-of-cycle action on a zoning petition for reclassification of a portion of the subject property.

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

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

Sincerely,

Arnold F. 'Pat' Keller, III

Director

-AFK/JL Attachment

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BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Mr. Charles L. Marks, Chairman

DATE: March 16, 1999

Board of Appeals

FROM:

Jeffrey Long, Section Chief

Office of Planning
Development Review

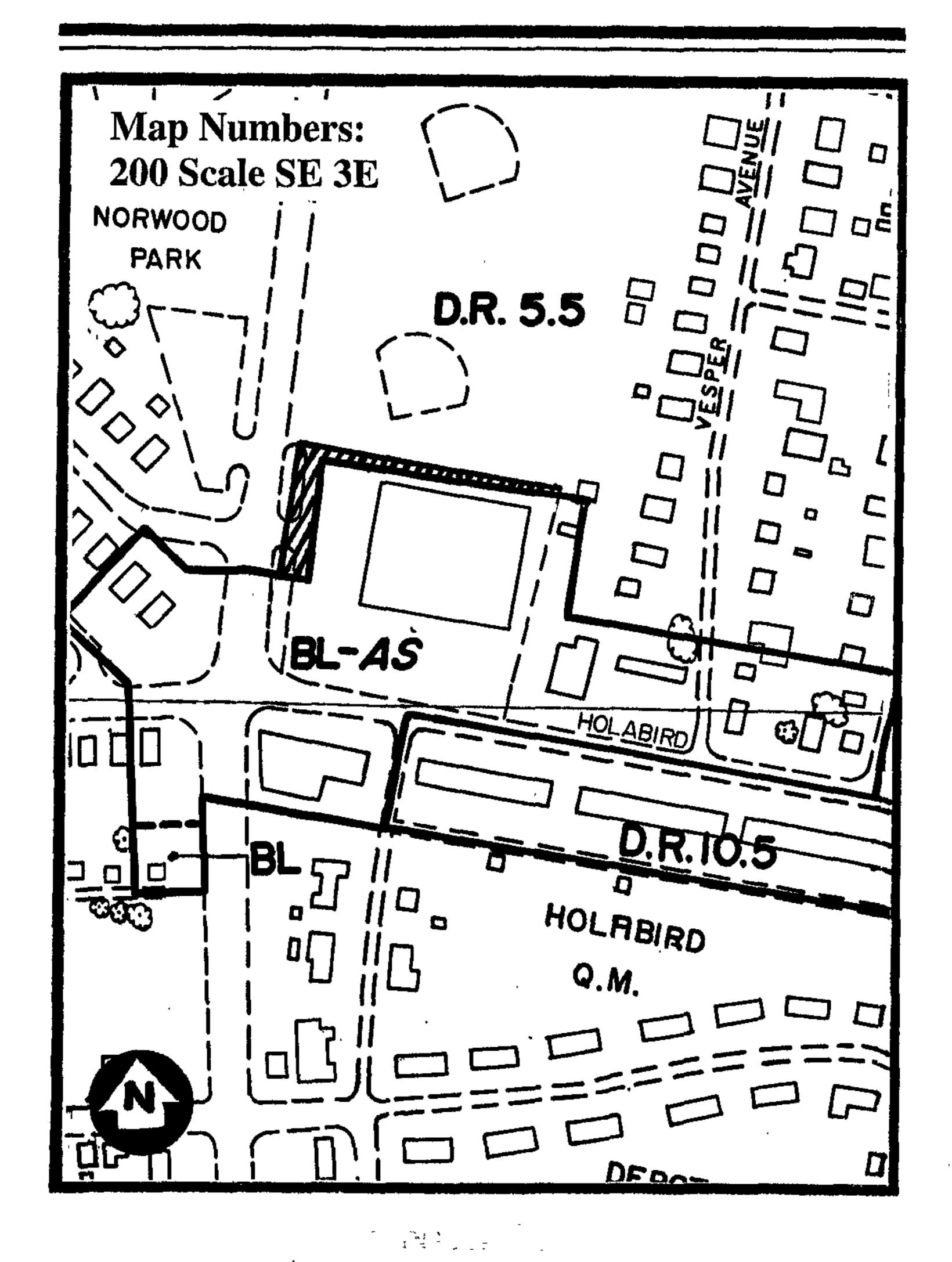
SUBJECT:

7200 Holabird Avenue

(Mars Stores Inc.)

Attached, please find a copy of Office of Planning's report regarding the subject property.

JL:kma Attachment



Location of Property Under Petition

Scale: 1"= 200'

Case No:

CR-99-314-A

Petitioner:

Mars Stores, Inc.

Requested Action:

Reclassification to BL-AS and a Petition for Variance to permit a rear yard setback of 0 feet in lieu of the required 20 feet.

Existing Zoning:

DR 5.5

Location:

7200 Holabird Avenue

Area of Site:

9,758 square feet (.2244 acres of land)

Zoning of Adjacent Properties/Use:

North: DR 5.5 Holabird Middle School Athletic Field

South: BL-AS Commercial

East: BL-AS/DR 5.5 Commercial/Residential

West: BL-AS Commercial

Site Description:

The subject property is part of a larger area of land that is improved with a grocery store.

Water and Sewerage:

The site is served by public water and sewer and is designated as W-1, S-1 (Existing Service Area) according to the Master Water and Sewer Plan.

Traffic and Roads:

Holabird Road is designated as a collector road.

Zoning History:

The property's zoning classification has remained unchanged since 1971.

Master Plan/Community Plan:

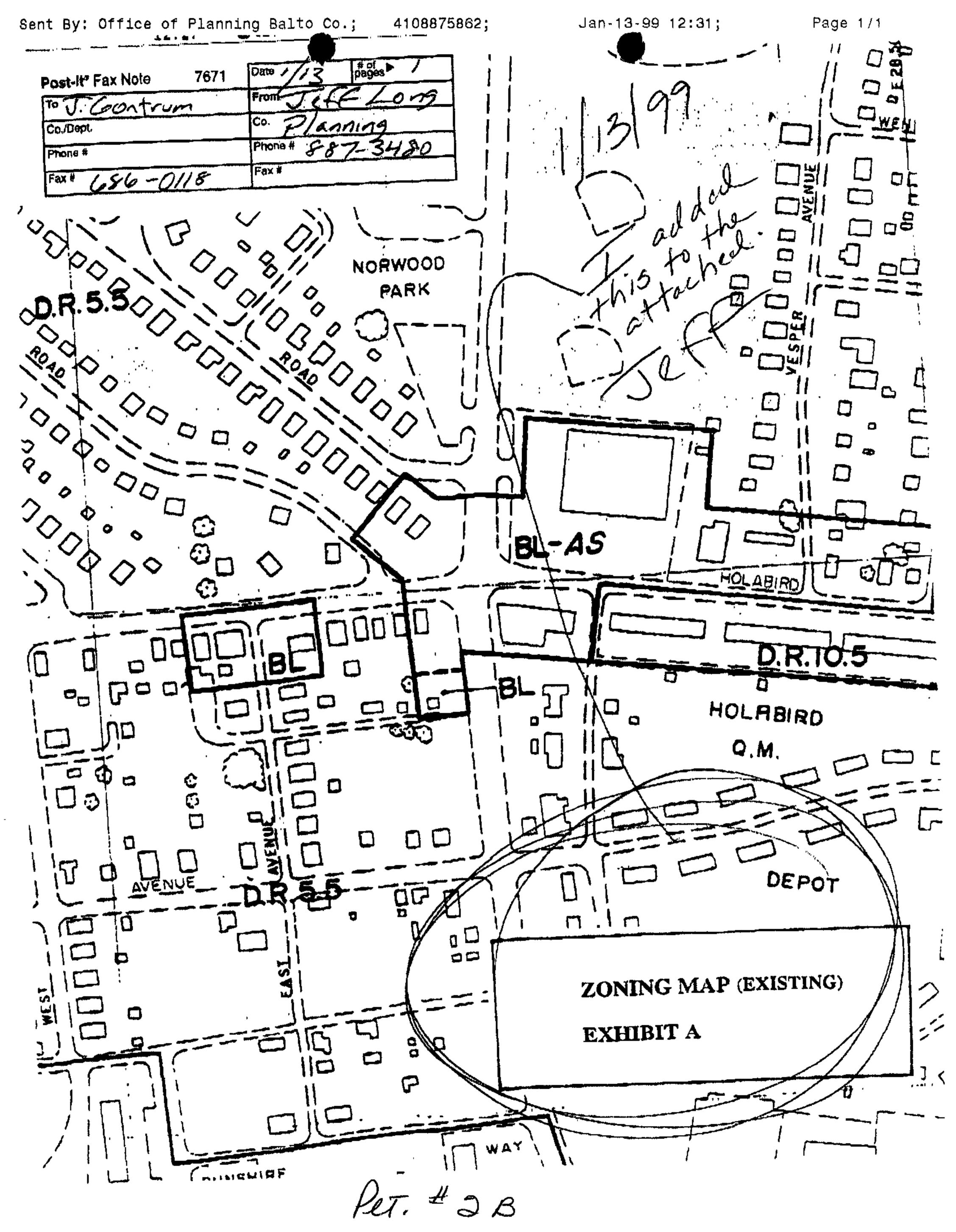
The subject property is located within the boundaries of the Greater Dundalk Community Conservation Plan. None of the plan's recommendations make reference to the subject property or make specific recommendations that would impact this reclassification petition.

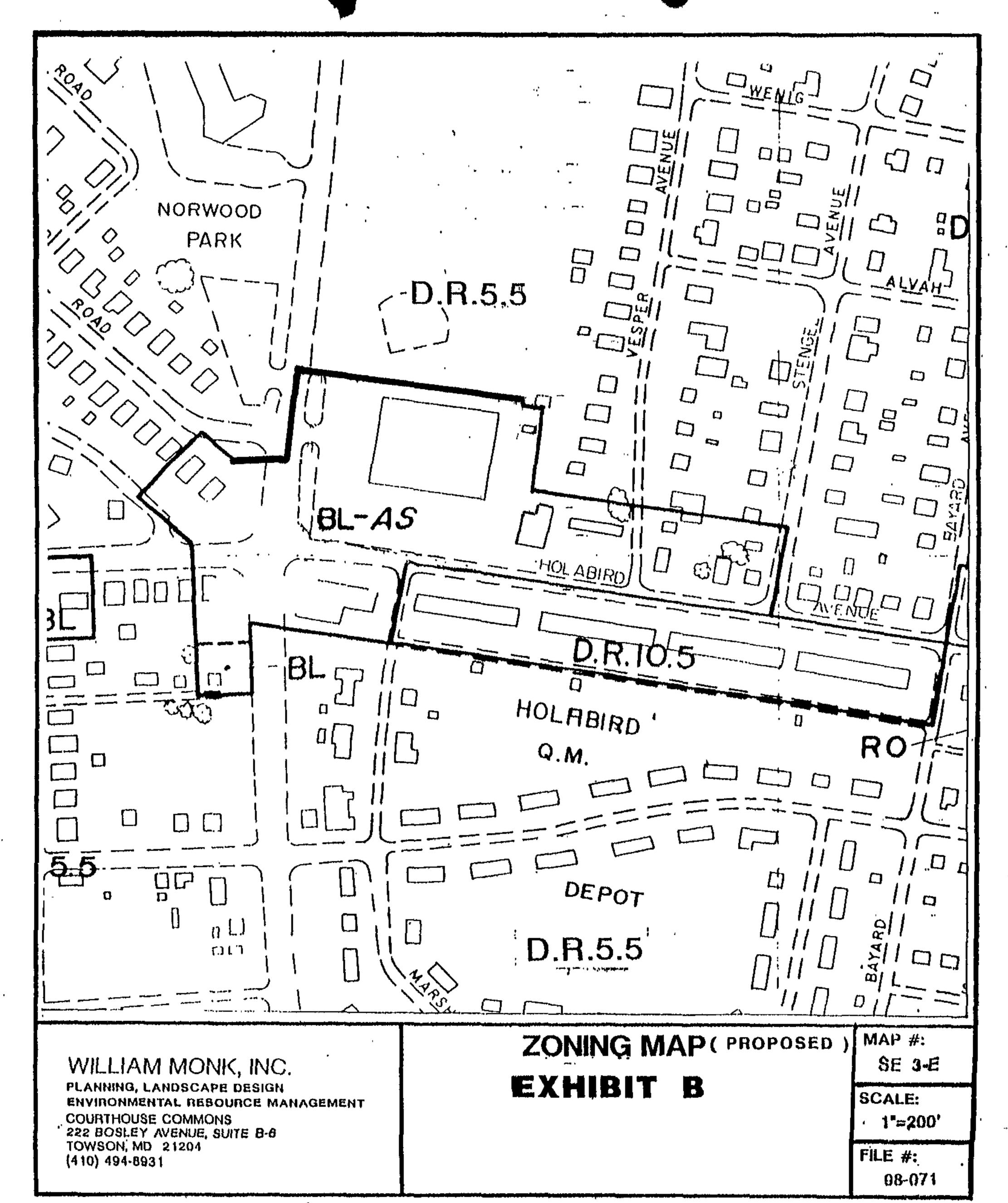
Office of Planning Recommendation:

Based upon the information provided and analysis conducted, the Office of Planning recommends that the subject property be rezoned to the BL-AS classification.

Mistake/Change/Error:

The zoning commissioner granted a reclassification petition in 1961 to rezone, in its entirety, the property located at 7200 Holabird Avenue to BL. When the Zoning Commissioner's approved zoning was transferred to the zoning maps, a drafting error occurred leaving a small portion of the property in its former zoning classification. Therefore, the Office of Planning believes that an error occurred when the first Comprehensive Zoning Maps were adopted in 1971, and that error has been perpetuated in each successive Comprehensive Zoning Map Process.





Ret. #4

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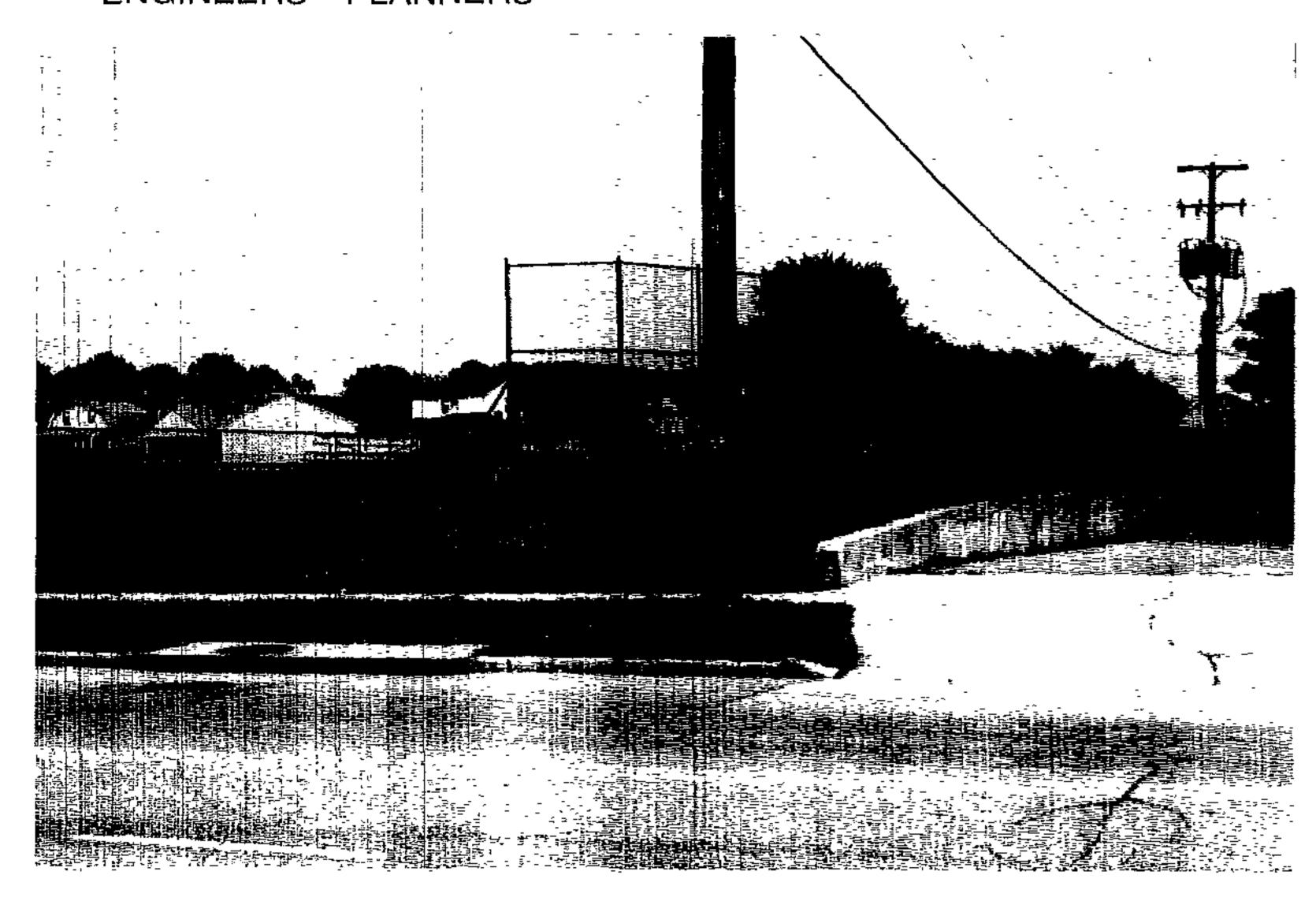




VIEW TOWARDS RETAINING WALL AT SOUTHWEST CORNER OF PROPERTY

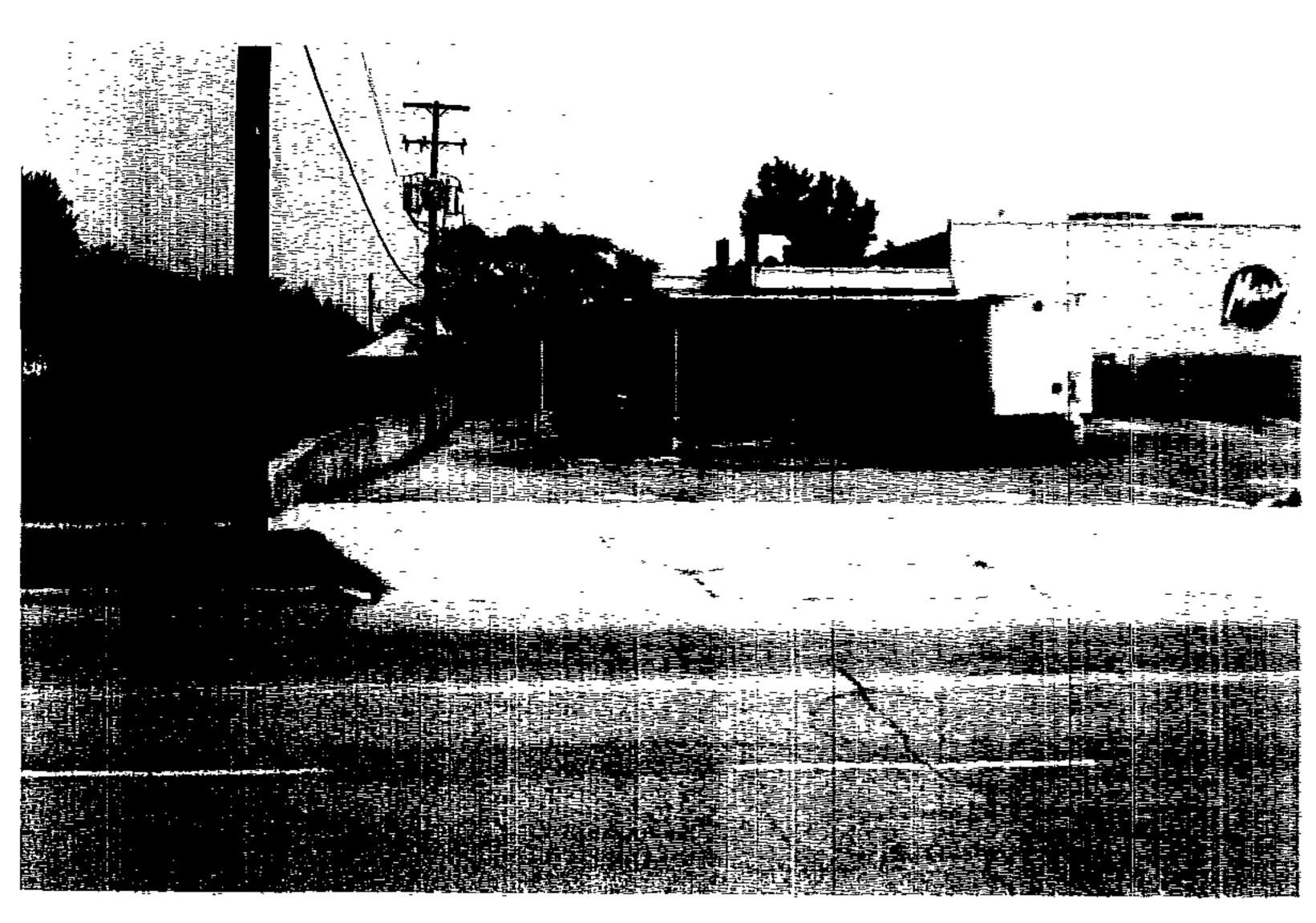
Pet. 5B

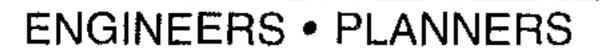




RETAINING WALL ALONG REAR PROPERTY LINE ADJACENT TO BOARD OF EDUCATION PROPERTY

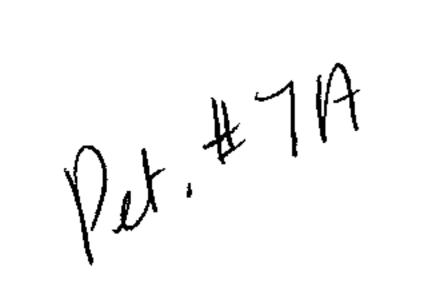
Per, 5C







7200 HOLABIRD AVENUE







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