7/3/02

IN THE MATTER OF THE APPLICATION OF ALBERT J. BIERMAN, ET AL - PETITIONERS FOR RECLASSIFICATION FROM D.R. 5.5 TO ML-IM ON PROPERTY LOCATED NORTH- WEST HENGEMIHLE AVENUE, 400-500' SOUTHWEST GOLDEN RING ROAD; ALSO SOUTHEAST SIDE PENNSYLVANIA RR BETWEEN MD ROUTE 702 AND GOLDEN RING ROAD 15TH ELECTION DISTRICT 7TH COUNCILMANIC DISTRICT	* * * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. R-02-403 Out-of-Cycle 2002

* * * * * * * * *

OPINION

This case comes to the Baltimore County Board of Appeals based on a request by the Petitioner to reclassify the referenced property from D.R. 5.5 to ML-IM as reflected on the Undocumented Plan to Accompany Reclassification Petition. The case was originally opened and continued on the record on Tuesday, April 16, 2002, and the actual public hearing on the merits took place on May 28, 2002. The Petitioner was represented by Howard L. Alderman, Jr., Esquire. Peter Max Zimmerman, People's Counsel for Baltimore County, also participated in the proceedings.

The subject request for out-of-cycle certification had been reviewed by the Planning staff. Without taking a position on the merits of the case, the Office of Planning recommended to the Planning Board that certification for early action upon the zoning reclassification petition was required. At its meeting on January 3, 2002, the Baltimore County Planning Board voted, in accordance with § 2-356(i) of the *Baltimore County Code*, to certify to the County Council that early action upon the Petition for zoning reclassification was manifestly required in the public interest. The Board was also notified by the Legislative Counsel /Secretary for the Baltimore County Council that Resolution 7-02 approved the Planning Board's certification relative to the zoning reclassification petition for the property located at MD 702 and the Amtrak railroad line

that should be exempted from the regular cyclical procedure of § 2-356(c) through (h), inclusive, of the *Baltimore County Code*. The resolution was approved by the County Council at its February 4, 2002 meeting.

Mr. A. Dwight Little testified on behalf of the Petitioner. Mr. Little has had considerable experience in land development matters in Baltimore County for the past 20 years. He is a registered professional engineer licensed in both Maryland and Pennsylvania, and was quite acquainted with the zoning maps in Baltimore County. Mr. Little had prepared the undocumented site plan and was familiar with the area. Petitioner's Exhibit #1, the undocumented site plan, was introduced into evidence along with Petitioner's Exhibit #2, the 200' scale zoning map adopted in 2000; and Petitioner's Exhibit #3, the 1000' scale zoning map, 1994. Also, offered into evidence was Petitioner's Exhibit 4B (Essex /Middle River area):

A. Official 200 Scale Zoning Map NE 3-G adopted in 1971
B. Official 200 Scale Zoning Map NE 3-G adopted in 1976
C. Official 200 Scale Zoning Map NE 3-G adopted in 1980
D. Official 200 Scale Zoning Map NE 3-G adopted in 1984
E. Official 200 Scale Zoning Map NE 3-G adopted in 1992
F. Official 200 Scale Zoning Map NE 3-G adopted in 1996

Mr. Little described at length the publicly held land adjacent to the subject property currently zoned D.R. 5.5 and also privately held land adjacent thereto zoned ML-IM. He opined that the subject property has access to both public sewer and water, and that there were no residential uses on adjoining property. In fact, there were no residential uses comparable within a vast area to the subject area.

Mr. Zimmerman extensively cross-examined Mr. Little relative to the general area and the proximity of the Eastern Vo-Tech High School along with the current uses of the property now owned by the Petitioner and used for his pallet operations. Mr. Little again related that, aside from the school, the immediate area was dominated by industrial uses, a railroad to the north, the pallet operation, and numerous trucking operations. Access to the property would be

from Golden Ring Road off Stemmers Run and Rossville Boulevard. Mr. Little indicated that he had not considered certain special exception uses for the property but did not believe that a special exception would be compatible, such as assisted living, because, again, all that surrounds the area is either industrial or manufacturing operations.

On re-direct, Mr. Little indicated, referring to Petitioner's Exhibit #2, that the Eastern Vo-Tech School was about 500 feet from the subject property and that there were railroad tracks to the north and to the northwest.

Mr. Jeffrey Long also testified on behalf of the Petitioner's request. Mr. Long has been employed by Baltimore County for 23 years, the last 15 of which have been with the Office of Planning. He was accepted by counsel as an expert planner. Mr. Long opined that he was quite familiar with the subject property and that he had actually visited the site. Mr. Long also described in detail the complete Comprehensive Zoning Map Process for the benefit of the Board, and that the Office of Planning did maintain a series of Logs of Issues kept for each district. This particular property was located in the Seventh Councilmanic District. The witness opined that, if no one raised an issue, the existing zoning would remain the same. Mr. Long stated that the subject property never has been an issue during any comprehensive map rezoning process. Therefore, no changes were made, leaving essentially the same map as adopted during each four years of the CZMP.

Mr. Long reviewed the various offered 200-scale zoning maps A-F and indicated that there had been no change in zoning during those timeframes. Mr. Long also stated that, since 1976, all "public" lands had been classified as D.R. inside the URDL. Petitioner's Exhibit #5, the County's Master Plan and proposed land use (page 25F), was also introduced into evidence, reflecting the subject property as industrial on the maps, with the adjacent properties

predominantly zoned ML-IM. It was Mr. Long's opinion that the requested change in zoning would be consistent with the land use on the subject property.

On cross-examination by Mr. Zimmerman, Mr. Long opined that residential zoning would not be appropriate for this property, primarily due to the fact that anyone driving to the location would have to go through a series of heavily used trucking and manufacturing uses. The property is in an enclave between railroad tracks and industrial uses, and, in his opinion, rezoning to ML-IM would provide for uses more consistent with the neighborhood and also avoid conflicts between those existing residences quite a distance away and the more easily accessible manufacturing companies.

Petitioner's Exhibit #6 was admitted into evidence, which reflected the Office of Planning Report to the County Board of Appeals dated May 17, 2002, along with Petitioner's Exhibit #7 which was a letter from the Bureau of Solid Waste Management sent to the Planning Board on November 14, 2001 which indicated that it would be of public benefit to take the case out of cycle, since Baltimore County might avail itself of the recycling activities proposed for the site. Petitioner's Exhibit #8 was also admitted which was a letter from the Department of Economic Development dated October 30, 2001 in which that County agency supported the reclassification, along with Petitioner's Exhibit #9 from Councilman Olszewski which supported the rezoning proposal. Mr. Long continued his testimony, recommending the approval of the rezoning request.

On cross-examination, Mr. Zimmerman questioned whether or not special exception uses could be considered for this property, and Mr. Long indicated that it was not appropriate for this particular site. He did indicate that there were some single-family developments substantially away from the location, along with the intervening school, but that the subject property was not visible from those existing single-family units. Mr. Zimmerman continued his cross-

examination relative to other uses that would be possible for this site, and also the disadvantages of having an open site plan as compared to a documented site plan. Mr. Long indicated that the property could be used for recycling, and that the Office of Planning conditions could be made a part of the documented site plan if the Board felt that advisable.

On further cross-examination, Mr. Long continued to stress that he did not see any other practical uses for the subject site; that driving through the area one would notice relatively bad roads that were dusty and bumpy, and that even if the operation would not support a yard waste unit, he still would support the ML-IM rezoning.

Mr. Albert J. Bierman also testified. He indicated that he and his two sons owned the subject property as well as the adjoining property on which the pallets are made. He described at length the property and also the immediately surrounding property, and indicated that he operated King Pallets. Also in proximity was Bierman Trucking that had been in business for almost 30 years. The family has been in the area for many years. He also opined that there was no residential development in proximity to the site. He acquired the property from the State of Maryland on January 24, 2001 (Petitioner's Exhibit 10), and at that time he was aware of the limitations imposed on the property because of its zoning. King Pallets, he opined, rebuilds and refurbishes pallets. They also grind up the pallets for use as mulch. This latter operation requires both County and State permits and is subject to biannual inspections. He stated that the County was in dire need for a location to place grass cuttings and tree trimmings, and because of the distances involved, it would be more convenient for the County if a contract were entered into that would make the subject site more accessible for County disposition purposes. At the current time, this refuse is now taken to Columbia, Maryland. He also described the property, the beltway and Route 702, the railroad tracks, Rossville Boulevard, and Sullivan's Towing Company, which are in proximity to his property, and also some of the various manufacturing companies nearby. It was his opinion that the site, if rezoned, would be compatible with existing businesses. Mr. Bierman was the last witness for the Petitioner.

Thereafter, Mr. Alderman made his closing statement, indicating that the subject property was classified as D.R. 5.5 in the 1970s, was still owned by the State Highway Administration in the year 2000, and that the County Council had made a mistake in continuing the D.R. 5.5 zoning; and, furthermore, that the existing zoning uses would not be compatible with adjacent uses, and certainly residential uses were not desirable. Nothing really had changed until January 24, 2001, when Mr. Bierman purchased the property. The County Council could not have known of the changes of use.

Mr. Zimmerman also offered his closing statements. He stated that, while he agreed that the zoning was incorrect, it would have been better had the Petitioner amended the document the site plan with the Office of Planning's recommendations. The Office of People's Counsel was not opposed to the ML zoning conceptually, but suggested that the Office of Planning's conditions should be a part of the process.

At the conclusion of the case, the Board members took a recess and reconvened, and at that time held a public deliberation.

Statement of the Law

The Board of Appeals may grant a reclassification of zoning on property if the Petitioner can show either substantial change in the character of the neighborhood where the property is located or that the last classification was established in error. *Baltimore County Code* § 2-356(j)(1)-(2). The issue before the Board was whether the Baltimore County Council erred during the 2000 Comprehensive Zoning Map Process (CZMP). There is a strong presumption of correctness in the comprehensive rezoning by the County Council. *Anne Arundel County v. A-Pac, Ltd.*, 67 Md.App. 122 [Md CSA 1986]; *Boyce v. Sembly*, 25 Md.App. 43, 49 [Md CSA 1975]. Therefore, "...strong evidence of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting a reclassification is arbitrary and capricious." *Boyce*, 25 Md.App. 50 Further, if the Board does find change or error, the Board must then determine whether reclassification is warranted by that change. *BCC* § 2-356(j)(2); see also *People's Counsel v. Beechwood*, 107 Md.App. 659. The *Baltimore County Code* also sets forth a list of factors the Board must consider in making this determination. *Baltimore County Code* § 2-356(j)(2).

In the case, it is alleged by the Petitioner that the 2000 zoning classification was established in error. There are two ways to establish error: Error can be established by showing that, at the time of the comprehensive zoning, the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect. The facts in the instant case are undisputed. In 1969, the State Highway Administration ("SHA") acquired approximately 40 acres of property as part of the expansion of the interstate highway system in the eastern area of Baltimore County which included the subject property. Subsequent to that time, the Baltimore Beltway, Windlass Freeway, and Maryland Route 702 have been constructed. Testimony and evidence was quite conclusive that, like most of the vacant land owned by the SHA, the subject property was zoned in a residential classification notwithstanding the fact that it was neither desirable nor likely that it would ever be developed residentially while it was in the hands of the State. Testimony and evidence was also quite conclusive that all of the subject property and private property adjacent to the subject site are clearly marked as industrial land use classification in the Master Plan. The Board is also convinced that there is no possibility that the current zoning of D.R. 5.5 will ever be used for residential housing in light of the surrounding area.

Based upon the testimony and abundance of evidence that was presented to the Board and was documented in the file, it is quite clear that the information that was relied upon by the Council, that the subject property was and would continue to be State-owned, was clearly a mistake. The Council at the time of the adoption of the Comprehensive Zoning Maps failed to contemplate the disposal of the subject property by the State Highway Administration as excess lands, that were subsequently sold and conveyed to private ownership for private use. Because the property is now privately owned land, bordered to the north by the railroad tracks and industrially zoned land beyond, and also on the west by the State Highway and on the south and east by land zoned for industrial uses, it clearly is not desirable nor suitable for residential development.

The facts and evidence warrant that the presumption by the County Council of continued

ownership by the State Highway Administration was clearly erroneous. The requested zoning is clearly warranted to implement the Master Plan as adopted and to prevent undesirable living conditions that would result from development of the subject property in its existing classification.

Based on the testimony of Mr. Little and Mr. Long, the Board also finds that the factors that the Board must consider in determining that the reclassification is warranted by change or error under § 2-356(j)(2) have been satisfied. For the reasons stated above, the Board will order that the Petition for Reclassification is hereby granted.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 3rd day of July, 2002, that the Petitioner's request to reclassify the subject property from D.R. 5.5 to ML-IM as shown on the Undocumented Plan to Accompany Petition (Petitioner's Exhibit #1) be and the same is hereby **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*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Chairman

Lawrence M. Stahl

Margaret Worrall

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

July 3, 2002

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

RE: *In the Matter of: Albert J. Bierman, et al.*
Case No. R-02-403

Dear Mr. Alderman:

Enclosed please find a copy of the final Majority 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 of 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,

Kathleen C. Bianco /tts

Kathleen C. Bianco
Administrator

Enclosure

c: Albert J. Bierman; Von-Joseph Bierman;
and Jon Daniel Bierman
G. Dwight Little, Jr., P.E. /Little & Associates, Inc.
Robert J. Haines, Esquire /Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Jeffrey Long /Planning
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM
Baltimore County Council (7th District)
Edward J. Gilliss, County Attorney

Printed with Soybean Ink
on Recycled Paper

3/18/02

BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY

IN RE: PETITION FOR RECLASSIFICATION **N/E of Windlass Freeway, S/S B&O Railroad** **15th Election District** **7th Councilmanic District** **Albert J. Bierman, *et al*,** ***Petitioners/Owners***	**Case No.: R- _____**

MEMORANDUM IN SUPPORT OF PETITION

Albert J. Bierman, Von-Joseph Bierman and Jon Daniel Bierman (referred to hereafter as "Owner" or "Bierman family"), by and through their undersigned legal counsel and in support of their Petition for Reclassification of a portion of the property which they own on the north east side of the Windlass Freeway, south of the B&O Railroad (the "Property") submit the following information for consideration by the Office of Planning ("Office of Planning"), the Baltimore County Planning Board ("Planning Board") and the County Board of Appeals for Baltimore County ("Board").

Location/Zoning

The Property is located in the Seventh (7th) Councilmanic District, on the east side of the Baltimore Beltway, south of and adjoining the B&O railroad and northwest of Hengemihle Avenue. The portion of the Property proposed for

reclassification comprises approximately 15.97± acres, is irregular in shape (the "subject property") and the private lands that adjoin it are all zoned MH-IM or ML-IM. The publically owned land which adjoins the subject property (owned by the Maryland State Highway Administration) and which was acquired for highway purposes is zoned DR 5.5.

Prior to the sale to the Bierman family in 2001[1] the subject property was owned by the State Highway Administration as part of the overall acquisition made by that State agency for public highway purposes. Thus, the subject property now sits as an enclave of private, residentially zoned land amid all other privately owned land which is zoned for manufacturing.

History

The State Highway Administration (State Roads Commission) ("SHA") acquired approximately 40 acres of property in 1969 as part of the expansion of the Interstate Highway system in the eastern area of Baltimore County, including the subject property. Since that acquisition, the Baltimore Beltway, Windlass Freeway and Maryland Route 702 have been constructed. The subject property, like most of the vacant land owned by the SHA, was zoned in a residential classification

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[1] The deed, dated January 24, 2001, from the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of Maryland, and the Board of Public Works of Maryland, collectively as Grantors and the Petitioners as Grantees is recorded among the Land Records of Baltimore County in Liber 15353, folio 695.

notwithstanding the fact that it was neither desirable nor likely that it would be developed residentially while it was in the hands of the State.

Master Plan

The *Master Plan* is a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the County. The proposed zoning on the Subject property is consistent with the policies and objectives of the *Baltimore County Master Plan 2010* and with the all of the zoning of privately owned land adjacent to the subject property. All of the subject property and all private property adjacent to it are identified as an "industrial" land use classification in the *Master Plan.*

Change/Mistake

The County Council has the responsibility to draw the zoning lines and locate zoning districts consistent with the *Master Plan*, as the zoning maps are the key tool for implementation of that *Plan.* The issue presented on the subject property is not a case of bad judgment by the Council based on accurate information. Rather, the information relied on by the Council, i.e. that the subject property was and would continue to be State owned, was a mistake. The Council failed to anticipate the disposal of the subject property by the State Highway Administration as excess lands, sold and conveyed to private ownership for private use. This now privately owned land, bordered on the north by the railroad tracks

and industrially zoned land beyond, on the west by State Highway land and highways and the south and east by land zoned for industrial uses is not desirable nor suitable for residential development. The Office of Planning and the Planning Board have, after public input, clearly recognized the subject property and the area in which it is located as appropriate and desirable for zoning that permits industrial uses. The failure of the County Council to take into account the trend of State disposition of excess land in the area and/or its reliance on information that retained the existing Density Residential zoning was erroneous.

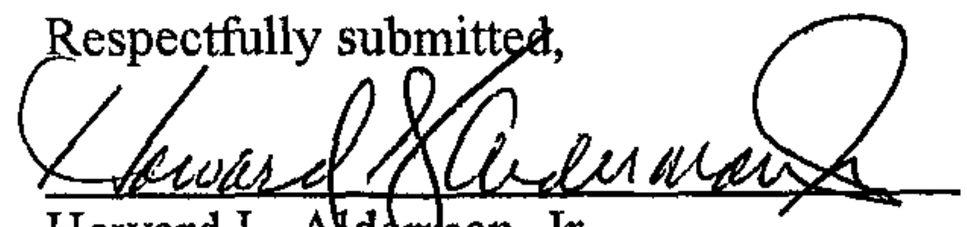
Summary

The facts and circumstances which form the basis for this request are not in dispute. While the State owned the subject property it was to be used for highway and/or highway related purposes, *irrespective* of the zoning attached to it by the County Council. The presently existing enclave of residentially zoned land in private ownership is completely contrary to the *Master Plan* and its policies, objectives and land use designation. The presumption by the County Council of continued ownership by the State Highway Administration was erroneous. The requested rezoning is warranted to implement the *Master Plan* as adopted and to prevent undesirable living conditions that would result from development of the subject property in its existing classification.

For all of the above-described reasons, as well as those which will be

presented to this Board at the time of the hearing on this Petition, the Bierman family members respectfully request that their Petition for Reclassification be granted. The Owners and their undersigned legal counsel remain available to answer any questions that the staff of reviewing County agencies may have or any questions of this Board.

Respectfully submitted,

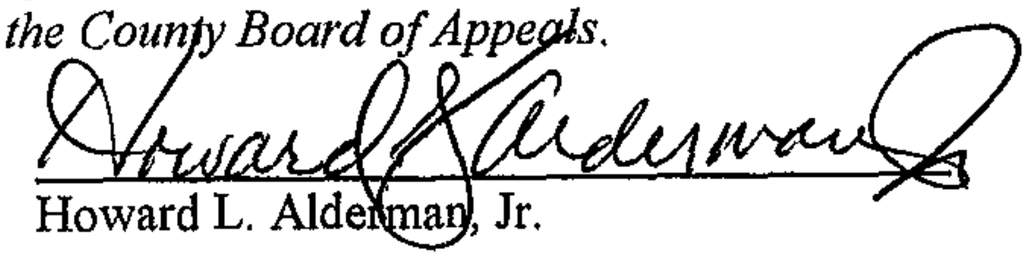


Howard L. Alderman, Jr.
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204
410.321.0600 [voice]
410.296.2801 [fax]
Halderman@LevinGann.com [e-mail]

Attorneys for Albert J. Bierman *et al*

CERTIFICATION

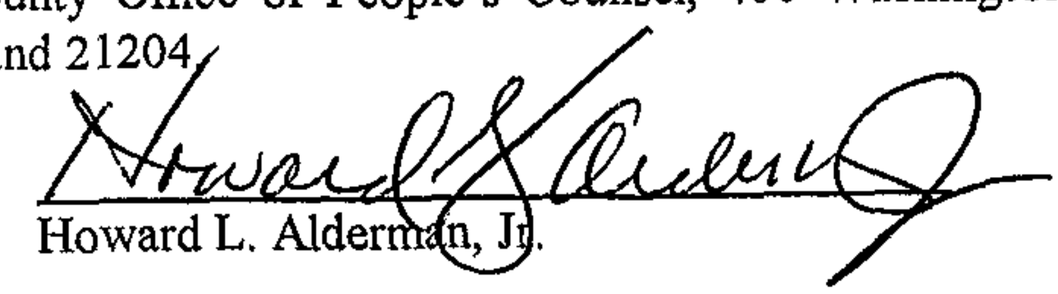
I HEREBY CERTIFY [in accordance with *Baltimore County Code* §2-356(b)] that the *Petition for Reclassification*, the materials accompanying that *Petition* and the foregoing *Memorandum in Support of Petition* meets the requirements of Rule 9.c of the *Rules of Practice and Procedure of the County Board of Appeals*.



Howard L. Alderman, Jr.

CERTIFICATION

I HEREBY CERTIFY that on this 18th day of March, 2002, a copy of the foregoing *Memorandum in Support of Petition* was mailed via, First Class, United States mail, postage prepaid, to: Baltimore County Office of People's Counsel, 400 Washington Avenue, Room 47, Towson, Maryland 21204.



Howard L. Alderman, Jr.

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at N/E Windlass Freeway, S/S B&O Railroad
which is presently zoned/districted DR 5.5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and
made a part hereof, hereby petition: (1) that the zoning/district status of the herein described property be reclassified,

pursuant to the zoning law of Baltimore County from a DR 5.5 zone/district to a ML-IM zone/district, 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~~

~~and (3) for the reasons given in the attached statement, a variance from the following sections of the zoning regulations of Baltimore County~~

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

N/A

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire

Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor

Company

502 Washington Avenue 410-321-0600

Address Telephone No.

Towson, MD 21204

City State Zip Code

Legal Owner(s):

SEE ATTACHED SIGNATURE SHEET

Name - Type or Print

Signature

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Representative to be Contacted:

G. Dwight Little, PE

Name

Little & Associates, Inc.
1045 Taylor Avenue, Suite 111 410-296-1636

Address Telephone No.

Towson Maryland 21286

City State Zip Code

REV 9/18/98

Attachment 1

PETITION FOR RECLASSIFICATION

SIGNATURE SHEET

CASE NO: R-02-

Requested Reclassification: from DR 5.5 to ML-IM

Address: N/E of Windlass Freeway, S/S B&O Railroad

Legal Owners:

Albert J. Bierman | Von-Joseph Bierman | Jon Daniel Bierman

At the following address/phone:

1112 Hengemihle Avenue
Baltimore, Maryland 21221
410-682-2992

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

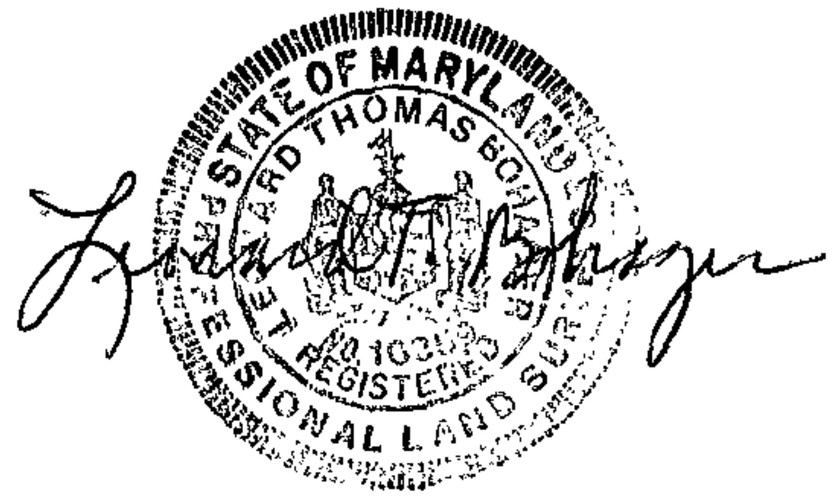
(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

February 18, 2002

ZONING DESCRIPTION FOR THE BIERMAN PROPERTY
HENGEMIHLE AVENUE

15th Election District; 7th Councilmanic District

Commencing at the centerline of Hengemihle Avenue and Golden Ring Road; thence binding in or near the center of Hengemihle Avenue the following eight courses and distances: **(1)** South 67 degrees 27 minutes 35 seconds West 13.40 feet; thence **(2)** by a curve to the left having a radius of 200.00 feet, an arc length of 137.22 feet and being subtended by a chord bearing South 47 degrees 50 minutes 51 seconds West 134.48 feet; thence **(3)** South 28 degrees 16 minutes 14 seconds West 407.40 feet; thence **(4)** by a curve to the left having a radius of 430.00 feet, an arc length of 134.19 feet and being subtended by a chord bearing South 19 degrees 19 minutes 49 seconds West 133.65 feet; thence **(5)** South 10 degrees 23 minutes 25 seconds West 131.41 feet; thence **(6)** by a curve to the right having a radius of 325.00 feet, an arc length of 176.74 feet and being subtended by a chord bearing South 24 degrees 49 minutes 41 seconds West 174.57 feet; thence **(7)** by a curve to the right having a radius of 600.00 feet, an arc length of 209.11 feet and being subtended by a chord bearing South 55 degrees 55 minutes 48 seconds West 208.06 feet; thence **(8)** South 66 degrees 26 minutes 51 seconds West 133.23 feet; thence leaving Hengemihle Avenue **(9)** North 50 degrees 28 minutes 51 seconds West 102.80 feet; thence **(10)** South 44 degrees 49 minutes 10 seconds West 120.02 feet *to the true point of beginning*. Thence for the outline of an area to be rezoned the following seven courses and distances: **(11)** by a curve to the right having a radius of 829.55 feet, an arc length of 407.33 feet and being subtended by a chord bearing North 00 degrees 29 minutes 20 seconds West 403.25 feet; thence **(12)** by a curve to the right having a radius of 2558.44 feet, an arc length of 788.27 feet and being subtended by a chord bearing North 24 degrees 57 minutes 03 seconds East 785.16 feet; thence **(13)** by a curve to the left having a radius of 6264.36 feet, an arc length of 439.40 feet and being subtended by a chord bearing South 73 degrees 30 minutes 43 seconds West 439.31 feet; thence **(14)** North 47 degrees 45 minutes 36 seconds West 57.24 feet; thence **(15)** by a curve to the left having a radius of 6314.36 feet, an arc length of 1017.96 feet and being subtended by a chord bearing South 66 degrees 37 minutes 49 seconds West 1016.86 feet; thence **(16)** South 57 degrees 24 minutes 23 seconds East 1227.26 feet; thence **(17)** North 44 degrees 49 minutes 10 seconds East 50.09 feet *to the true point of beginning*. Containing 15.970 acres of land, more or less. Being a part of that land conveyed by the State Highway Administration of the Department of Transportation and The Board of Public Works of Maryland unto Albert J. Bierman, Von-Joseph Bierman and Jon Daniel Bierman as shown on State Highway Administration Plat number 55446.



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

April 3, 2002

NOTICE OF REASSIGNMENT

CASE #: R-02-403
(Out of Cycle, 2002)

IN THE MATTER OF: ***Albert J. Bierman, et al –Legal Owners /Petitioners;***
NW Hengemihle Avenue, 400-500' SW Golden Ring Road. Also SE/s
Pennsylvania RR between Md. Rt 702 and Golden Ring Road
15th Election Distirct; 7th Councilmanic District

Reclassification: From D.R. 5.5 to M.L.-I.M. as shown on Undocumented Plan to Accompany Reclassification Petition

This case **will be opened and continued as scheduled** on the assigned hearing date of **4/16/02**. However, the **hearing on the merits** of this out-of-cycle reclassification request **has been reassigned**** to a date closer to 4/16/02; and has been

REASSIGNED FOR: **TUESDAY, APRIL 16, 2002 at 10:00 a.m. /Open & Continue on record**
** **TUESDAY, MAY 28, 2002 at 10:00 a.m.** **/ Hearing on the merits**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners /Legal Owners : Albert J. Bierman; Von-Joseph Bierman; and Jon Daniel Bierman

G. Dwight Little, Jr., P.E. /Little & Associates, Inc.

Robert J. Haines, Esquire /Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Jeffrey Long /Planning
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM
Baltimore County Council (7th District)
Edward J. Gilliss, County Attorney

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Postponed on merits hearing to 5/28/02 (still open on 4/16/02)

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

March 25, 2002

NOTICE OF ASSIGNMENT FOR HEARING

CASE #: R-02-403
(Out of Cycle, 2002)

IN THE MATTER OF: ***Albert J. Bierman, et al –Legal Owners /Petitioners;***
NW Hengemihle Avenue, 400-500' SW Golden Ring Road. Also SE/s
Pennsylvania RR between Md. Rt 702 and Golden Ring Road
15th Election Distirct; 7th Councilmanic District

Reclassification: From D.R. 5.5 to M.L.-I.M. as shown on Undocumented Plan to Accompany Reclassification Petition

This case will be opened and continued on the assigned hearing date of 4/16/02 at the request of Counsel for Petitioner due to schedule conflict; and has been assigned to 7/16/02 for hearing on the merits.

ASSIGNED FOR: **TUESDAY, APRIL 16, 2002 at 10:00 a.m. /Open & Continue on record**
TUESDAY, JULY 16, 2002 at 10:00 a.m. / Hearing on the merits

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.

IMPORTANT: 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).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioners : Howard L. Alderman, Jr., Esquire
Petitioners /Legal Owners : Albert J. Bierman; Von-Joseph Bierman; and Jon Daniel Bierman

G. Dwight Little, Jr., P.E. /Little & Associates, Inc.

Robert J. Haines, Esquire /Board of Ed. /MS 1102-J
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W. Carl Richards /PDM
Arnold Jablon, Director /PDM
Baltimore County Council (7th District)
Edward J. Gilliss, County Attorney

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WCR

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

*** **HEARING ROOM** – *Room 48* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF MAY 27, 2002

TUESDAY . **5/28** **10:00 am** **Case No.: R-02-403** **/HEARING**
Out of Cycle 2002

In the Matter of:
Albert Bierman – Legal Owner – Petitioner
NW Hengemihle Ave., 400-500' SW Golden Ring Rd.
Also E/s Pennsylvania RR between MD Rt 702 and Golden Ring Road
15th Election District; 7th Councilmanic District

RE: Reclassification: From D.R. 5.5 to M.L. – I.M.

(opened 4/16/02)

WEDNESDAY **5/29** **10:00 am** **Case No.: 01-520-X** **/HEARING**

In the Matter of:
Carl T. Julio, Edward V. Julio, and Phyllis J. Della Rocca – Owners
WaWa, Inc.., Alex Krowzow – CP
4043 North Point Boulevard, SW/S of North Point Boulevard @ corner
SE/s Saint Monica Drive
15th Election District; 7th Councilmanic District

RE: To permit fuel service station and convenience store and carry-out restaurant in combo w/proposed fuel service station

---

THURSDAY **5/30** **10:00 am** **Case No.: 02-225-A** **/HEARING**

In the Matter of:
Naomi Obianozie – Legal Owner
8114 Analee Avenue
15th Election District; 7th Councilmanic District

RE: VAR – To permit existing SFD w/open projection (carport) to have side yd setback of 'ilo req'd 6'

MAY 21 2002

c: Executive Office
Law Office
Director /PDM
People's Counsel
Planning Office
Court Info. Desk
County Council
Board Members
Court Reporter

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Baltimore County
Fire Department

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

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

March 27, 2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF March 25, 2002

Item No.: See Below

Dear Mr. Zahner:

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

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

403

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File
COUNTY REVIEW GROUP MEETING{PRIVATE }

Baltimore County
Fire Department

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

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

April 12,2002

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF April 8, 2002

Item No.: See Below

Dear Mr. Zahner:

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

The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

403

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File
COUNTY REVIEW GROUP MEETING{PRIVATE }

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BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO: Arnold Jablon, Director
Department of Permits
& Development Management

DATE: February 19, 2002

FROM: Kathleen Bianco
Board of Appeals

SUBJECT: Out-of-Cycle Exemption
Request for Reclassification /Property of Albert Bierman
located at MD 702 and the Amtrak Railroad line (State Highway
Right-of-Way Plat #55446
Petition filed by: Albert Bierman –Legal Owner
Approval by County Council February 4, 2002
Date for Hearing before the Board – April 3, 2002 at 10:00 a.m.

Pursuant to Section 2-356(i), which mandates that this Board "shall schedule a public hearing for a date not less than thirty (30) nor more than ninety (90) days after the county council's approval" (between 3/06/02 and 5/05/02), the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, April 3, 2002 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 4, 2002 meeting (a copy of Resolution 7-02 is attached for your information and file).

I have copied Carl Richards 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 April 3, 2002.

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

Attachment

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

2002 OUT OF CYCLE RECLASSES Pending

Approved by Council:	Bierman Property / State Hwy Admin R/W Plat Numbered 55446	From: D.R. 5.5 to ML-IM 7th Councilmanic District	(Bierman /Infus
R-02-_____			

(NOTE: Certification to County Council on 1/04/02; awaiting approval.)

Council Agenda 1/22/02 (?)

ZONING ADVISORY COMMITTEE AGENDA
DISTRIBUTION MEETING OF MONDAY, MARCH 25, 2002

* 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 (George Zahner)
\# PDM, Zoning Review DRC/ZAC Meeting File (W. Carl Richards, Jr.)
* PDM, Code Enforcement (Helene Kehring)
* PDM, Building Inspection (Karen Hopkins)
& PDM, Development Plans Review (Robert W. Bowling)
\# Planning Office (Mark Cunningham); *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. Herb Taylor); 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

02 MAR 25 PM 3:45

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: George Zahner. If you have any questions regarding these zoning petitions, please contact Carl Richards at 410-887-3391 (FAX - 410-887-5708).

Revised 8/11/00

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: March 21, 2002

TO: Baltimore County Zoning Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Review Supervisor (410-887-3391)

SUBJECT: Out-of-Cycle Open Zoning Reclassification Petition
Case Number R-02-403
Legal Owner: Albert J. Bierman et. Al.
Contract Purchaser:
Address: Hengemihle Avenue
Description: NW Hengemihle Avenue, 400-500' SW Golden Ring Road. Also SE/S Pennsylvania R/R between MD. Rt 702 and Golden Ring Road.
Election District 15th; Councilmanic District 7th

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 01/03/02 AND BY RESOLUTION OF THE BALTIMORE COUNTY COUNCIL 07/02 DATED 02/04/02 (ATTACHED). PURSUANT TO SECTION 2-356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE TUESDAY, APRIL 16, 2002 AT 10:00 A.M.. 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.

WCR:

ZONING ADVISORY COMMITTEE
MEETING OF MONDAY, MARCH 25, 2002

Case Number: R-02-403

Item Number: 403

Hearing Date/Time: Tuesday, April 16, 2002 at 10:00 a.m.

Legal Owner: Albert J. Bierman et al.

Contract Purchaser:

Location: NW Hengemihle Avenue, 400-500' SW golden Ring Road. Also SE/S Pennsylvania R/R between MD Rt 702 and Golden Ring Road.

Existing Zoning: D.R.5.5

Proposed Zoning: ML - IM

Area: 15.970 acres

District: 15th Election District
7th Councilmanic District

Attorney: Howard L. Alderman, Jr., Esquire

Miscellaneous: Flood Plain

Baltimore County
Planning Board

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

January 4, 2002

The Hon. S. G. Samuel Moxley
Chairman, Baltimore County Council
County Courthouse
Towson, MD 21204

Re: Certification on Reclassification Petition -
Albert Bierman Property

Dear Councilman Moxley:

At its meeting on January 3, 2002, 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 Albert Bierman property ("State Highway Right-of-Way Plat # 55446") 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,

Pat Keller

Arnold F. 'Pat' Keller, III
Secretary

AFK:TD:rlh

Enclosure

c: Members, Baltimore County Council
Thomas J. Peddicord, Jr., Legislative Counsel/Secretary
Brian J. Rowe, County Auditor
John M. Wasilisin, Administrative Officer
Edward J. Gilliss, County Attorney
Lawrence S. Wescott, Chairman, Board of Appeals
Peter M. Zimmerman, People's Counsel
Arnold Jablon, Director, Permits & Development Management
Robert M. Infussi, Sr., Petitioner's Representative

02 JAN -9 PM 1:08

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Out of Cycle Reclass

Baltimore County
Office of Planning

401 Bosley Avenue - Ste 406
Towson, Maryland 21204
410-887-3211
Fax: 410-887-5862
E-mail: planning@co.ba.md.us

Date: December 24, 2001

To: Baltimore County Planning Board

From: Arnold F. 'Pat' Keller, III

Re: Albert Bierman Property State Highway Right-of-Way Plat # 55446

The attached letter requests certification by the Planning Board for out-of-cycle action on a zoning petition for reclassification 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 Planning Board that certification for early action upon this zoning reclassification petition is required.

Sincerely,

Arnold F. 'Pat' Keller, III
Director

AFK:JL
Attachment

W:\DEVREV\Jeff\Biermanproperty.doc

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Come visit the County's Website at www.co.ba.md.us

Expedite, LLC

Robert M. Infussi, Sr Principal

August 28, 2001

Mr. Arnold F. "Pat" Keller, Director
Office of Planning
Baltimore County Government
401 Bosley Avenue
Towson, Maryland 21204

Dear Mr. Keller:

I would first like to introduce myself as principal of Expedite, LLC. My company is representing Mr. Bierman in the request for a rezoning change with regards to the below property.

We would like to formerly request an out-of-cycle zoning change for the property known as State Highway Administration Right-Of-Way Plat Numbered 55446. It is deeded to Mr. Albert Bierman of 1116 Hengemihle Avenue, Essex, Maryland 21221, located in the 7th Councilmanic District of Baltimore County, which is currently zoned residential DR 5.5. We think that this was an oversight in the Comprehensive Rezoning Map Process due to the fact that all of the parcels that surround the land in question is zoned industrial which is zoned MLIM. We have discussed this zoning change with Councilman John Olszewski whose district the property is located in, as well as the other two neighboring councilmen, and they all are in agreement with this request for a zoning change.

To facilitate this zoning change, we have taken the following steps:

- Met with the Area Planner in the Planning Department
- Met with the Planning Director
- Met with the 7th District Councilman where the property is located

All of the above have toured the property and are in agreement with our request for a zoning change.

Mr. Bierman, who is a local businessman, would like to have this property rezoned for the good of the neighborhood and to expand his current business. He has

PO Box 1043-7043 Bel Air Maryland 21014 410 817 2226 e-mail: 4108172226@cellu.tovtmsg.com

been a good neighbor of the community and to the local high school, Eastern Technical High School, which has received many of his inkind contributions. We are currently working with the Baltimore County Economic Development Department for information on expanding his business and also the prospect of securing low interest loans through Baltimore County.

We would like to **expedite** this zoning change with a Board of Appeals hearing as soon as possible so that we may proceed with the other steps in the process.

Please find enclosed a site map of the property for your convenience.

Best regards,

Robert M. Infussi, Sr.
Principal
Expedite, LLC

RMI:cci:keller.doc

Enc.

Baltimore County Government
Department of Economic Development

400 Washington Avenue
Towson, MD 21204

(410) 887-8000
Fax (410) 887-8017

MEMORANDUM

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

From: Robert L. Hannon
Executive Director

Date: October 30, 2001

Re: Expedite, LLC

Recently, I met with Robert Infussi of Expedite, LLC regarding the request for zoning change for his client, Albert Bierman.

I understand that the subject property is currently being used for an industrial operation even as it currently carries DR 5.5 zoning. I also understand the subject property is bordered by MD 702, Amtrak Railroad line and property zoned ML-IM.

Mr. Infussi has represented that his client also has interest in expanding his business. Under these circumstances, the Department of Economic Development would support the effort to rezone the subject property to ML zone.

c: Rick Cobert

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

JOHN OLSZEWSKI, SR.
COUNCILMAN, SEVENTH DISTRICT

DISTRICT OFFICE:
NORTH POINT GOVERNMENT CENTER
7701 WISE AVENUE
DUNDALK, MARYLAND 21222
410-887-7174
COUNCIL OFFICE: 410-887-3196

December 5, 2001

Mr. Arnold F. "Pat" Keller
Director, Baltimore County Office of Planning
401 Bosley Avenue
Towson, Maryland 21204

Dear Pat:

I am writing to you to express my support for the out-of-cycle zoning change request for the 20-acre property owned by Mr. Albert Bierman. The property is known as State Highway Administration Right-Of-Way Plat #55446. Mr. Bierman is asking for a zoning designation of IM for this property.

As you are aware, the property is zoned DR 5.5 and is surrounded by industrial zoned land. It makes perfect sense to re-zone this property as it is being used as an industrial operation at the present time anyway. In addition, the property is bordered by MD 702 and the Amtrak Railroad line.

I understand Mr. Bierman is looking to expand his existing business operation to include recycling yard waste. According to Chuck Weiss, the future of recycling yard waste and other materials in Baltimore County will be tremendous in the years to come. We need to be ready to accommodate this material.

I am in agreement to give this property the type of zoning that is in accordance with the surrounding properties. Therefore, I support the change from DR 5.5 to IM.

Sincerely,

John Olszewski, Sr.
County Council, 7th District

JAO:dmk

cc: Mr. Robert M. Infussi, Sr.
Mr. Robert L. Hannon
Mr. Edward C. Adams
Mr. Charles K. Weiss
Mr. Rick Cobert
Mr. Albert J. Bierman

BALTIMORE COUNTY, MARYLAND

Bureau of Solid Waste Management

Interoffice Correspondence

DATE: November 14, 2001

TO: Pat Keller, Director
Office of Planning

FROM: Charles K. Weiss, Chief C.K.W.

SUBJECT: Bierman Property

Recently I met with Bob Infussi of Expedite, L.L.C., who represents A.J. Bierman of King Pallet, 116 Hengemihle Avenue, Essex, Maryland 21221. We understand that Mr. Bierman has 20 acres of land in which he is asking to be rezoned from DR 5.5 to IM for the purpose of expanding his existing business operation to include recycling **Yard Waste**.

Although the Baltimore County Bureau of Solid Waste Management cannot commit to use this facility at this time, we think the expansion is a good use for the property. The future of recycling yard waste and other materials in Baltimore County will be tremendous in the years to come.

We, as a department, would support this change in zoning.

Thank you.

CKW:cae

cc: Edward C. Adams

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: Mr Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals

DATE: May 17, 2002

FROM: Arnold F. 'Pat' Keller, III, Director
Baltimore County Office of Planning

SUBJECT: Case # CR-02-403
Albert J. Bierman Property

At its regularly scheduled monthly meeting on January 3, 2002, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the Petition for Zoning Reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on February 4, 2002.

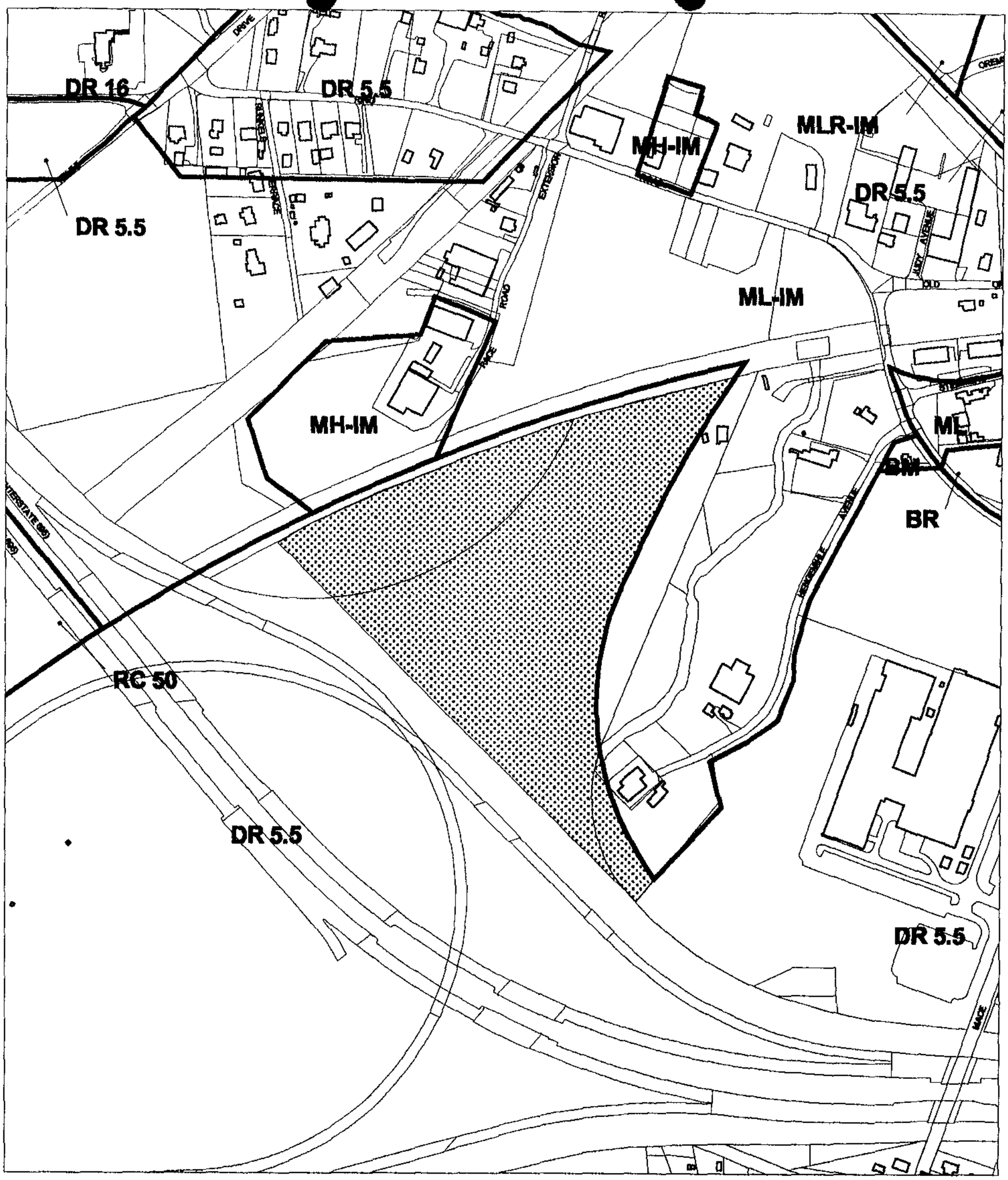
Enclosed herewith is a copy of the report of the Office of Planning.

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:LL:kma

02 MAY 21 P 12:37



N

Case Number CR -02-403
Location of Property Under Petition

Scale 1" = 400'

Zoning: Baltimore County Office of Planning
1:2400
Parcel Boundaries: Baltimore County OIT
1:2400
Planimetric Data: Baltimore County OIT
1:2400
URDL: Baltimore County Office of Planning
1:12000

Note:
This map is for display purposes only. Land use decisions involving zoning designations should be verified with the zoning office.

CASE NO:
CR-02-403

PETITIONER:
Albert J. Bierman, et al (contract purchaser)

REQUESTED ACTION:
Reclassification to ML-IM

EXISTING ZONING:
DR 5.5 (Density Residential, 5.5 dwelling units per acre)

LOCATION:
The property is located in the 7th Councilmanic District, on the east side of the Baltimore Beltway, south of and adjoining the B & O railroad and northwest of Hengemihle Avenue

AREA OF SITE:
15.97± acres

ZONING OF ADJACENT PROPERTY/USE:

North:	MH-IM	Industrial
South:	DR 5.5	Route 702
East:	ML-IM, DR 5.5	Institutional (Eastern Vo-Tech High School)
West	ML-IM	Industrial, Residential

SITE DESCRIPTION:
The property is located in the 7th Councilmanic District, on the east side of the Baltimore Beltway, south of and adjoining the B&O Railroad and northwest of Hengemihle Avenue. The portion of the property proposed for reclassification compromises approximately 15.97+/- acres, and is irregular in shape. Prior to the sale to the Bierman family in 2001, the subject property was owned by the State Highway Administration as part of the overall acquisition made by that state agency for public highway purposes. Thus, the property now sits as an enclave of private, residentially zoned land among other privately owned land which is zoned for manufacturing.

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:
The site has direct access to Golden Ring Road, a minor arterial, and indirectly to Hengemihle Avenue, which is designated as a local road.

ZONING HISTORY:

This property has not been the subject of an issue filed as part of a Comprehensive Zoning Map Process.

MASTER PLAN:

The proposed land use map, adopted by the County Council on February 22, 2000, indicates the site is designated for "Industrial." The Master Plan Land Management Area designation is "Community Conservation".

PROPOSED vs. EXISTING:

The use regulations for the DR and ML zones may be found in Sections 1B01.1A and 253, respectively, of the Baltimore County Zoning Regulations.

The DR 5.5 zone permits residential development with a density of 5.5 dwelling units per acre.

The ML zone permits a number of light manufacturing uses by right. The zone also allows auxiliary retail or service uses, provided that any such use is situated within an IM district or is located in a planned industrial park of a least 25 acres in net area.

OFFICE OF PLANNING RECOMMENDATION:

Based upon the analysis conducted and information provided, the Office of Planning supports the applicant's request provided the following conditions are met:

1) Provide building elevations including information regarding exterior materials for all proposed improvements;
2) Provide a site plan for review and approval by the Office of Planning;
3) Provide a landscape plan and show the dumpster location, if one is proposed, and any outside storage areas; and,
4) No signs shall be permitted on site.

The above conditions should be met prior to the issuance of building permits.

County Council
of
Baltimore County

Court House
Towson, Maryland 21204

410-887-3196
Fax: 410-887-5791

S.G. Samuel Moxley
FIRST DISTRICT

Kevin Kamenetz
SECOND DISTRICT

T. Bryan McIntire
THIRD DISTRICT

Wayne M. Skinner
FOURTH DISTRICT

Vincent J. Gardina
FIFTH DISTRICT

Joseph Bartenfelder
SIXTH DISTRICT

John Olszewski, Sr.
SEVENTH DISTRICT

Thomas J. Peddicord, Jr.
LEGISLATIVE COUNSEL
SECRETARY

February 14, 2002

Charles L. Marks, Chairman
Baltimore County Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Marks:

Attached please find a copy of Resolution 7-02 approving the Planning Board's certification that the zoning reclassification petition filed by Albert Bierman, for the property located at MD 702 and the Amtrak Railroad line, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code.

This Resolution was unanimously approved by the County Council at its February 4, 2002 meeting and is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr,
Legislative Counsel/Secretary

TJP:dp
r00702.bdofappeals.wpd

02 FEB 14 PM 3:02

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2002, Legislative Day No. 3
Resolution No. 7-02

Mr. John Olszewski, Sr., Councilman

By the County Council, February 4, 2002

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Albert Bierman, for the property located at MD 702 and the Amtrak Railroad line, known as State Highway Right-of-Way Plat #55446 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 3, 2002 , has certified that early action on the Petition for Zoning Reclassification filed by Albert Bierman, 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 Albert Bierman is manifestly required in the public interest, 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 4th day of February, 2002.

BY ORDER

Thomas J. Peddicord, Jr.
Secretary

ITEM: Resolution 7-02

RE: PETITION FOR ZONING RECLASSIFICATION	*	BEFORE THE
Hengemihle Avenue	*	COUNTY BOARD OF APPEALS
NW/S Hengemihle Ave, 400-500' SW of Golden Ring Rd. Also SE/S Pennsylvania R/R betw Md 702 & G. Ring Rd	*	FOR
15th Election District, 7th Councilmanic	*	BALTIMORE COUNTY
Albert Bierman, Von-Joseph Bierman, and Jon Daniel Bierman	*	**Case No. R-02-403**
Petitioners	*	Out-of-Cycle

* * * * * * * * * * * * *

02 APR 2 PM 3:56

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel for Baltimore County 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. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

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

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 26th day of March, 2002, a copy of the foregoing Entry of Appearance was mailed to Howard L. Alderman, Jr. Esq., Levin & Gann, 502 Washington Avenue, 8th Floor, Towson, MD 21204, attorney for Petitioners.

Peter Max Zimmerman

PETER MAX ZIMMERMAN

Case No. R-02-403 ALBERT J. BIERMAN, ET AL –Legal Owners /Petitioners

Out of Cycle, 2002

Reclassification from D.R. 5.5 to M.L.-I.M. (Open Plan) 15.970 acres

---

Holding Wednesday, 4/03/02, for hearing date: Approved by County Council for out of cycle hearing 2/04/02; window for hearing between 3/06/02 and 5/05/02 [§ 2-356(i), BCC].

3/19/02 – Letter from Howard L. Alderman, Jr., Esquire, Counsel for Petitioners; filed Petition this date; tentative date of 4/03/02 provides insufficient time for required posting and advertising; requesting hearing date be reassigned.

-- Date of April 16, 2002 is available on schedule. Mr. Alderman indicated by telephone that this date conflicts with Court schedule (2-day trial). Will open and continue this date to next available date on schedule.

3/25/02 – Notice of Assignment sent by this office to the following. Case to be opened and continued on the advertised date of Tuesday, April 16, 2002 at 10:00 a.m.; matter to be heard on the merits on Tuesday, July 16, 2002 at 10:00 a.m.:

Howard L. Alderman, Jr., Esquire
Albert J. Bierman; Von-Joseph Bierman;
and Jon Daniel Bierman
G. Dwight Little, Jr., P.E. /Little & Associates, Inc.
Robert J. Haines, Esquire /Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Jeffrey Long /Planning
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM
Baltimore County Council (7th District)
Edward J. Gilliss, County Attorney

3/26/02 – Entry of Appearance filed by Office of People's Counsel.

4/03/02 – Notice of Reassignment sent in this matter; to be opened and continued as scheduled on 4/16/02; however, hearing on the merits has been reassigned to an available date closer to 4/16/02 (approved for out of cycle hearing by the County Council); and has been reassigned to Tuesday, May 28, 2002 at 10:00 a.m.

4/16/02 – Opened and continued on the record (Marks and Stahl); hearing on merits scheduled for May 28, 2002 as indicated in notice dated 4/03/02. Board will convene for hearing on the merits on Tuesday, May 28, 2002 at 10:00 a.m.; no further notice to be sent.

5/21/02 – Report of Office of Planning submitted by Pat Keller, Planning Director, by memo dated May 17, 2002.

5/28/02 – Board convened for hearing (Marks, Stahl, Worrall); completed case this date; deliberated after brief recess; request for reclassification was granted. Written Opinion and Order to be issued; appellate period to run from date of written Order.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:	Albert Bierman – Legal Owner - Petitioner Case No.: R-02-403	
DATE:	May 28, 2002	
BOARD/PANEL:	Charles L. Marks Lawrence M. Stahl Margaret Worrall	CLM LMS MW
RECORDED BY:	Theresa R. Shelton / Legal Secretary	

PURPOSE: To deliberate the Petitioners Reclassification request from D.R. 5.5 to M.L. – I.M.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- D.R. 5.5 is not viable / M.L. – I.M. is a workable solution
- The comprehensive zoning map carried over an error from map to map
- To ask the owners to wait until 2004 is not appropriate
- Conditions do not pertain to use; however, conditions have been agreed to

FINAL DECISION: Unanimous decision by the Board to GRANT the Reclassification from D.R. 5.5 to M.L. – I.M.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton
County Board of Appeals

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
FACSIMILE 410-296-2801

ELLIS LEVIN (1893-1960)

March 18, 2002

02 MAR 18 PM 12:36

VIA TELEFAX & REGULAR MAIL
Kathleen Bianco, Administrator
County Board of Appeals for Baltimore County
Old Courthouse, Suite 49
400 Washington Avenue
Towson, Maryland 21204

RE: Albert J. Bierman, *et al*, Petitioners
Case No. R-01-_____
Out of Cycle Petition for Reclassification
Rescheduling of Hearing

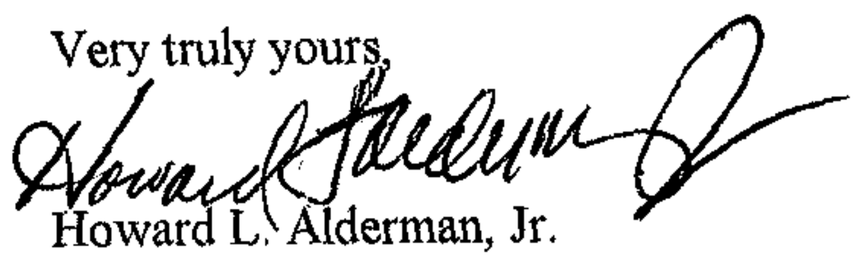
Dear Ms. Bianco:

After visiting your office earlier today in my attempt to file the above-referenced Petition, I met with Carl Richards in the Baltimore County Department of Permits and Development Management as suggested. To my surprise, Mr. Richards advised that the hearing on the Petition has already been scheduled for April 3, 2002. Obviously, there is insufficient time for the required posting and legal notification for such hearing date.

Therefore, I am requesting that the Board coordinate with Mr. Richards' office and reschedule the hearing date on this Petition. Mr. Richards or his staff will be able to advise you and the Board of the time needed for posting and advertising.

Should you need additional information from me to schedule the hearing, as always, please do not hesitate to call me. Thank you for your advise in and attention to this matter.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
c: Albert J. Bierman, *et al*
Mr. Carl Richards (via telefax only)

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: September 26, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILES**

The following case(s) have been finalized and the Board of Appeals is closing the copy of the appeal case file(s) and returning the file(s) and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
R-02-403	***PDM No.: R-02-403 Out of Cycle – 2002***	Albert J. Bierman,, et al	NW Hengemihle Avenue, 400-500' SW Golden Ring Road. From D.R. 5.5. to ML-IM

Attachment: SUBJECT FILE(S) ATTACHED

Case # R-02-403 Verified 5-28-02

Exhibits

May 28, 2002

Petitioners
See attached sheet

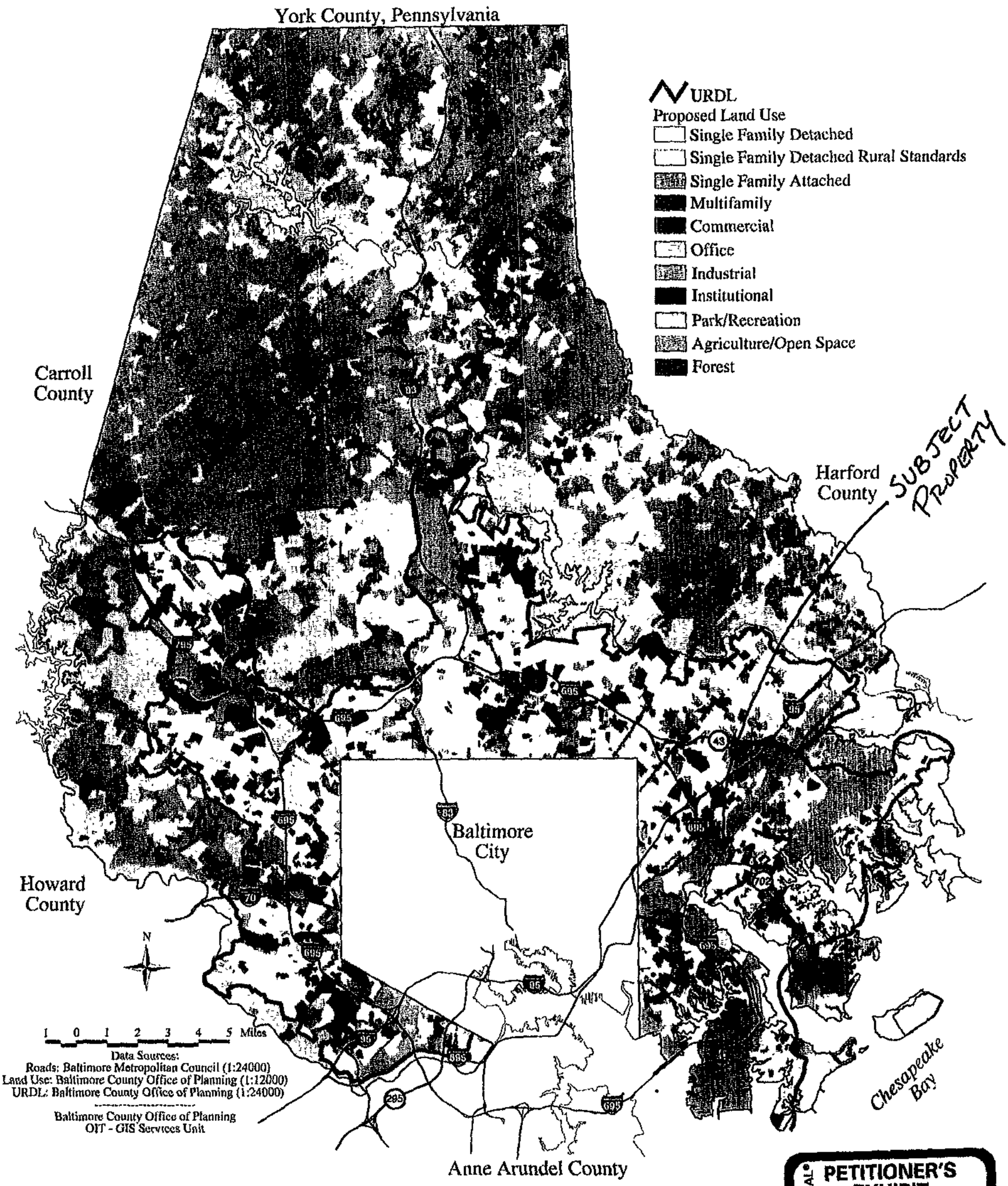
P.C.
No exhibits offered

Petitioner Exhibit

BIERMAN FAMILY PROPERTY
CBA RECLASSIFICATION HEARING
May 28, 2002
Case No. R-02-403

LIST OF EXHIBITS

EXHIBIT NUMBER	DESCRIPTION
1	Undocumented Site Plan to Accompany Petition for Reclassification
2	Official 200 Scale Zoning Map NE 3-G adopted in 2000
3	Official 1000 Scale Zoning Map 4B - Essex / Middle River Spr. 1994
4 A	Official 200 Scale Zoning Map NE 3-G adopted in 1971
4 B	Official 200 Scale Zoning Map NE 3-G adopted in 1976
4 C	Official 200 Scale Zoning Map NE 3-G adopted in 1980
4 D	Official 200 Scale Zoning Map NE 3-G adopted in 1984
4 E	Official 200 Scale Zoning Map NE 3-G adopted in 1992
4 F	Official 200 Scale Zoning Map NE 3-G adopted in 1996
5	Map 39, Proposed Land Use - *Baltimore County Master Plan* & Page 258 - *Baltimore County Master Plan*
6	Office of Planning Report to CBA - May 17, 2002
7	Bureau of Solid Waste Interoffice Correspondence - November 14, 2001
8	Department of Economic Development Memorandum - October 30, 2001
9	Councilman John Olszewski Letter to Office of Planning - December 5, 2001
10	Standard Deed from **State Highway Administration** to **Albert J. Bierman** ***et al***, dated January 24, 2001 recorded among the Land Records of Baltimore County in Liber 15353, folio 695



MAP 39
PROPOSED LAND USE

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5

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

To: Mr Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals

DATE: May 17. 2002

FROM: Arnold F. 'Pat' Keller, III, Director
Baltimore County Office of Planning

SUBJECT: Case # CR-02-403
Albert J. Bierman Property

At its regularly scheduled monthly meeting on January 3, 2002, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the Petition for Zoning Reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on February 4, 2002.

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

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:LL:kma

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6

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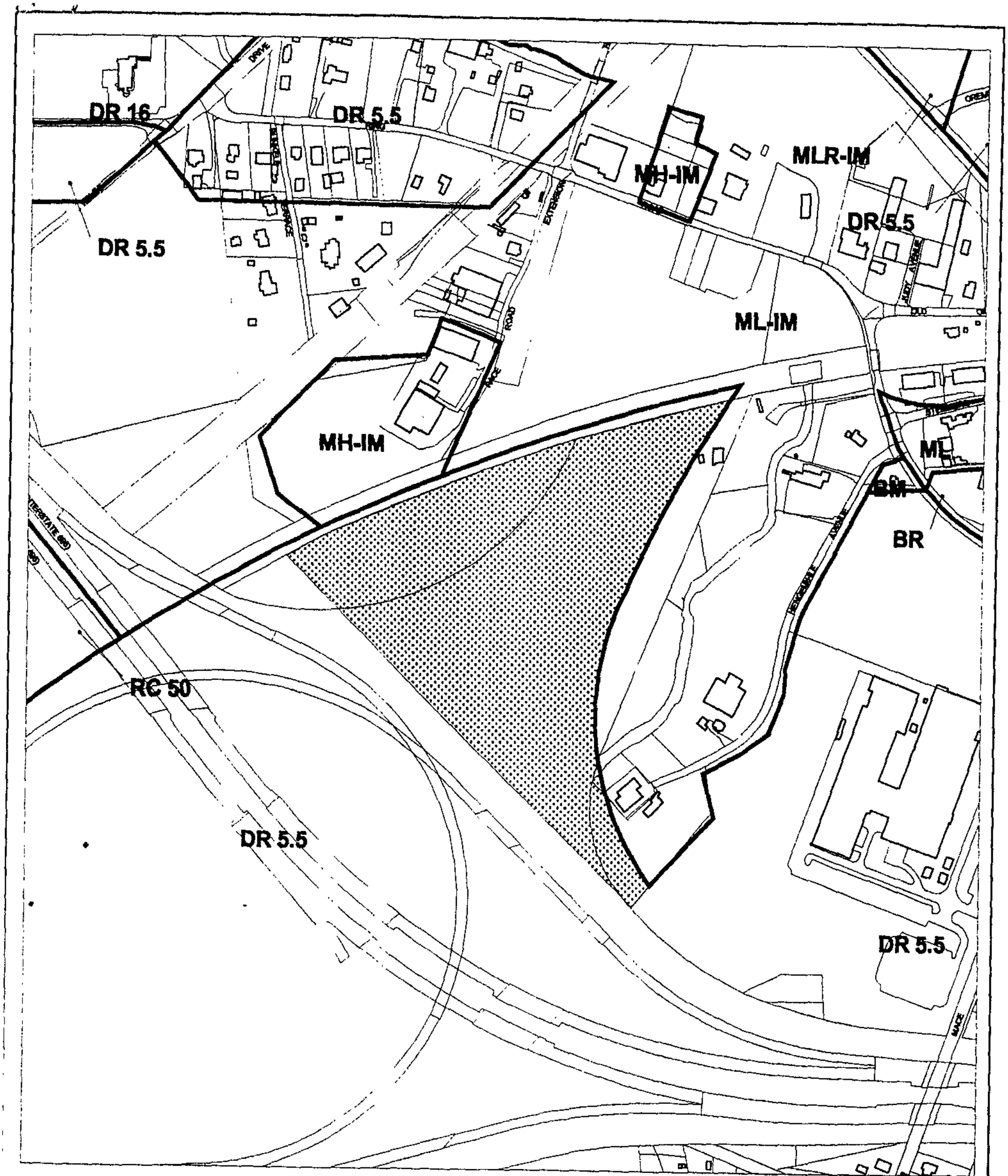

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Case Number CR -02-403
Location of Property Under Petition

Scale 1" = 400'

Zoning: Baltimore County Office of Planning
1:2400
Parcel Boundaries: Baltimore County OIT
1:2400
Planimetric Data: Baltimore County OIT
1:2400
URDL: Baltimore County Office of Planning
1:12000

Note:
This map is for display purposes only. Land use decisions involving zoning designations should be verified with the zoning office.

REGULATIONS

Land use and development regulations and standards are adopted by the Baltimore County Council. Certain county agencies and departments are authorized by the Council to administer or enforce these regulations and standards. The primary land use regulations and standards adopted by the Council are:

- The *Baltimore County Zoning Regulations* specify what land uses can be developed on a piece of property based on the property's designated zoning classification, as depicted on the "Baltimore County Zoning Map." The zoning regulations also contain area and setback requirements and other regulations related to site design.
- *The Development Regulations* elaborate the procedures required to subdivide and develop land, including requirements for the preparation and review of site plans, and provisions for public infrastructure to serve the new development. They also contain general design standards and the authority to create other regulations and standards, such as the *Local Open Space Manual,* the *Landscape Manual, Public Works Design Standards,* and *Environmental Standards and Requirements.* The Department of Permits and Development Management is the principal agency responsible for administering site plan review.

The authority for an agency to promulgate regulations is limited by the procedural safeguards established by the County Council to ensure that all such regulations are lawfully adopted and are within the scope of the statutory grant which authorizes their adoption.

THE MAJOR LAND USE CONTROL IN BALTIMORE COUNTY IS ZONING.

The major land use control in Baltimore County is zoning. Many of the land use policies of the master plan will be implemented through the application of zoning. Map 39, "Proposed Land Use," provides general recommendations for future land use in the county based on these policies. The map is conceptual and general; it is intended to reflect land use patterns rather than identify the land use of individual properties or parcels. The proposed map is designed to provide general rezoning recommendations for consideration in the Comprehensive Zoning Map Process, the Cycle Zoning Process, and the Out-of-Cycle Zoning Process, as well as in the review of water and sewer master plan petitions and development projects. The proposed land use map will provide the general direction for county land use decisions. The map may be amended periodically as needed.

CASE NO:
CR-02-403

PETITIONER:
Albert J. Bierman, et al (contract purchaser)

REQUESTED ACTION:
Reclassification to ML-IM

EXISTING ZONING:
DR 5.5 (Density Residential, 5.5 dwelling units per acre)

LOCATION:
The property is located in the 7th Councilmanic District, on the east side of the Baltimore Beltway, south of and adjoining the B & O railroad and northwest of Hengemihle Avenue

AREA OF SITE:
15.97± acres

ZONING OF ADJACENT PROPERTY/USE:

North:	MH-IM	Industrial
South:	DR 5.5	Route 702
East:	ML-IM, DR 5.5	Institutional (Eastern Vo-Tech High School)
West	ML-IM	Industrial, Residential

SITE DESCRIPTION:
The property is located in the 7th Councilmanic District, on the east side of the Baltimore Beltway, south of and adjoining the B&O Railroad and northwest of Hengemihle Avenue. The portion of the property proposed for reclassification compromises approximately 15.97+/- acres, and is irregular in shape. Prior to the sale to the Bierman family in 2001, the subject property was owned by the State Highway Administration as part of the overall acquisition made by that state agency for public highway purposes. Thus, the property now sits as an enclave of private, residentially zoned land among other privately owned land which is zoned for manufacturing.

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:
The site has direct access to Golden Ring Road, a minor arterial, and indirectly to Hengemihle Avenue, which is designated as a local road.

ZONING HISTORY:

This property has not been the subject of an issue filed as part of a Comprehensive Zoning Map Process.

MASTER PLAN:

The proposed land use map, adopted by the County Council on February 22, 2000, indicates the site is designated for "Industrial." The Master Plan Land Management Area designation is "Community Conservation".

PROPOSED vs. EXISTING:

The use regulations for the DR and ML zones may be found in Sections 1B01.1A and 253, respectively, of the Baltimore County Zoning Regulations.

The DR 5.5 zone permits residential development with a density of 5.5 dwelling units per acre.

The ML zone permits a number of light manufacturing uses by right. The zone also allows auxiliary retail or service uses, provided that any such use is situated within an IM district or is located in a planned industrial park of a least 25 acres in net area.

OFFICE OF PLANNING RECOMMENDATION:

Based upon the analysis conducted and information provided, the Office of Planning supports the applicant's request provided the following conditions are met:

1) Provide building elevations including information regarding exterior materials for all proposed improvements;
2) Provide a site plan for review and approval by the Office of Planning;
3) Provide a landscape plan and show the dumpster location, if one is proposed, and any outside storage areas; and,
4) No signs shall be permitted on site.

The above conditions should be met prior to the issuance of building permits.

BALTIMORE COUNTY, MARYLAND

Bureau of Solid Waste Management

Interoffice Correspondence

DATE: November 14, 2001

TO: Pat Keller, Director
Office of Planning

FROM: Charles K. Weiss, Chief C.K.W.

SUBJECT: Bierman Property

Recently I met with Bob Infussi of Expedite, L.L.C., who represents A.J. Bierman of King Pallet, 116 Hengemihle Avenue, Essex, Maryland 21221. We understand that Mr. Bierman has 20 acres of land in which he is asking to be rezoned from DR 5.5 to IM for the purpose of expanding his existing business operation to include recycling **Yard Waste.**

Although the Baltimore County Bureau of Solid Waste Management cannot commit to use this facility at this time, we think the expansion is a good use for the property. The future of recycling yard waste and other materials in Baltimore County will be tremendous in the years to come.

We, as a department, would support this change in zoning.

Thank you.

CKW:cae

cc: Edward C. Adams

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Baltimore County Government
Department of Economic Development

400 Washington Avenue
Towson, MD 21204

(410) 887-8000
Fax (410) 887-8017

MEMORANDUM

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

From: Robert L. Hannon RLH
Executive Director

Date: October 30, 2001

Re: Expedite, LLC

Recently, I met with Robert Infussi of Expedite, LLC regarding the request for zoning change for his client, Albert Bierman.

I understand that the subject property is currently being used for an industrial operation even as it currently carries DR 5.5 zoning. I also understand the subject property is bordered by MD 702, Amtrak Railroad line and property zoned ML-IM.

Mr. Infussi has represented that his client also has interest in expanding his business. Under these circumstances, the Department of Economic Development would support the effort to rezone the subject property to ML zone.

c: Rick Cobert

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8

COUNTY COUNCIL OF BALTIMORE COUNTY
COURT HOUSE, TOWSON, MARYLAND 21204

JOHN OLSZEWSKI, SR.
COUNCILMAN, SEVENTH DISTRICT

DISTRICT OFFICE:
NORTH POINT GOVERNMENT CENTER
7701 WISE AVENUE
DUNDALK, MARYLAND 21222
410-887-7174
COUNCIL OFFICE: 410-887-3198

December 5, 2001

Mr. Arnold F. "Pat" Keller
Director, Baltimore County Office of Planning
401 Bosley Avenue
Towson, Maryland 21204

Dear Pat:

I am writing to you to express my support for the out-of-cycle zoning change request for the 20-acre property owned by Mr. Albert Bierman. The property is known as State Highway Administration Right-Of-Way Plat #55446. Mr. Bierman is asking for a zoning designation of IM for this property.

As you are aware, the property is zoned DR 5.5 and is surrounded by industrial zoned land. It makes perfect sense to re-zone this property as it is being used as an industrial operation at the present time anyway. In addition, the property is bordered by MD 702 and the Amtrak Railroad line.

I understand Mr. Bierman is looking to expand his existing business operation to include recycling yard waste. According to Chuck Weiss, the future of recycling yard waste and other materials in Baltimore County will be tremendous in the years to come. We need to be ready to accommodate this material.

I am in agreement to give this property the type of zoning that is in accordance with the surrounding properties. Therefore, I support the change from DR 5.5 to IM.

Sincerely,

John Olszewski, Sr.
County Council, 7th District

JAO:dmk

cc: Mr. Robert M. Infussi, Sr.
Mr. Robert L. Hannon
Mr. Edward C. Adams
Mr. Charles K. Weiss
Mr. Rick Cobert
Mr. Albert J. Bierman

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9

SHA 63.00-26D 3/1/90
Mailing Address:
Records and Research Section
707 North Calvert Street
Baltimore, Maryland 21202

STANDARD DEED

FROM THE STATE HIGHWAY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION AND THE BOARD OF PUBLIC WORKS OF MARYLAND

(A)

Right of Way Item No.: 58802

THIS DEED, made this 24th day of January in the year ~~2000,~~ 2001 from the STATE HIGHWAY ADMINISTRATION OF THE DEPARTMENT OF TRANSPORTATION, acting for and on behalf of the STATE OF MARYLAND, party of the first part; and the BOARD OF PUBLIC WORKS OF MARYLAND, party of the second part, hereinafter sometimes collectively called the "GRANTORS"; unto **ALBERT J. BIERMAN, VON-JOSEPH BIERMAN and JON DANIEL BIERMAN,** hereinafter sometimes called the "GRANTEES."

WHEREAS, the State Highway Administration of the Department of Transportation, acting for and on behalf of the State of Maryland, has heretofore acquired certain property and rights, situate, lying and being in Baltimore County, State of Maryland; and

WHEREAS, the State Highway Administration has constructed, or is about to construct a certain State Highway and/or Bridge known and designated as Southeast Freeway - Penn Central R.R. to Mace Ave.; and

WHEREAS, the State Highway Administration has prepared, or caused to be prepared a Right of Way Plat designated as State Highway Administration Plat numbered **55446** which Plat has been recorded or is intended to be recorded among the Land Records of the aforesaid County in the appropriate Plat Book; and

WHEREAS, the said Plat shows the land, easements, rights and controls of access which have been determined by the State Highway Administration as necessary to be retained by the State for the construction, operation, maintenance, use and protection of the highway and/or bridge constructed, or to be constructed, as aforesaid; and

WHEREAS, the State Highway Administration has agreed, for good and valuable consideration to convey unto the GRANTEES herein certain land, hereinafter described, which the State Highway Administration has determined is no longer needed by it in connection with the construction, operation, maintenance, use and protection of the State Highway System; and

WHEREAS, under the provisions of Section 8-309 of the Transportation Article of the Annotated Code of Maryland, it is necessary for the Board of Public Works of Maryland to join in the conveyance of any land by the State Highway Administration of the Department of Transportation.

NOW, THEREFORE, THIS DEED WITNESSETH: That for and in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the said parties of the first and second parts do hereby grant, convey and quit claim unto **ALBERT J. BIERMAN, VON-JOSEPH BIERMAN and JON DANIEL BEIRMAN,** as joint tenants and not as tenants in common, their assigns or the survivor of them, and the heirs, personal representatives and assigns of the survivor, all right, title and interest of the State

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10

Highway Administration and the State of Maryland, in and to all of that piece or parcel of land situate, lying and being in Baltimore County, State of Maryland, containing 21.006 acres of land, more or less, and shown border shaded thus [illegible] on State Highway Administration Plat numbered **55446**, a reduced copy of which is attached hereto and incorporated herein as Exhibit No. 1.

IT BEING a part of the same property which was acquired by a Jury Award dated 5/26/70 in Condemnation Proceedings filed in the Circuit Court for Baltimore County in the case of the State Roads Commission v. Anna Kikas.

RESERVING, HOWEVER, UNTO THE STATE OF MARYLAND TO THE USE OF THE STATE HIGHWAY ADMINISTRATION, its successors and assigns forever, all of the following described land, easements, rights, privileges and controls.

ANY AND ALL RIGHT WHATSOEVER of the GRANTEES, their assigns or the survivor of them, and the heirs, personal representatives and assigns of the survivor, of any means whatsoever of ingress or egress between the Through Highway and the remaining property across the lines which are designated "Right Of Way Line Of Through Highway," to the end that there never will be any vehicular, pedestrian and/or animal access to or from said highway and the remaining property across those lines which are so marked on the above mentioned Plat, except by means of such public road connections as are authorized by law.

SUBJECT TO and excepting from the operation and effect of this deed any and all rights and reservations that may have been granted or reserved by former owners of this property or their predecessors in title and/or covenants or restrictions which may have been established with respect to said land by such former owners or their predecessors in title.

SUBJECT TO and excepting from the operation and effect of this deed any and all existing rights now held or used by any public utility or public utilities across or adjacent to the land herein conveyed.

TOGETHER with the buildings and improvements thereon, and the rights, roads, ways, waters, privileges and appurtenances thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the land and premises, hereinbefore described and mentioned, to the extent of the State's right, title and interest thereto, unto **ALBERT J. BIERMAN, VON-JOSEPH BIERMAN and JON DANIEL BIERMAN**, as joint tenants and not as tenants in common, their assigns or the survivor of them, and the heirs, personal representatives and assigns of the survivor.

SUBJECT, HOWEVER, TO EACH AND EVERY RESERVATION, RESTRICTION, CONDITION, COVENANT AND CONTROL SET FORTH IN THIS INSTRUMENT OF WRITING.

AND THE GRANTEES HEREIN, by the acceptance of this deed, do hereby covenant and agree, on behalf of themselves, their assigns or the survivor of them, and the heirs, personal representatives and assigns of the survivor, to abide by and respect each and every reservation, restriction, condition, covenant and control set forth in this instrument of writing, it being the intention hereof to perpetuate all of the rights and privileges retained by the State of Maryland, to the use of the State Highway Administration of the Department of Transportation, by this deed. It is expressly understood and agreed that these covenants shall run with and bind the property hereby conveyed and the remaining property of the GRANTEES and shall be binding upon the GRANTEES, their assigns or the survivor of them, and the heirs, personal representatives and assigns of the survivor, forever.

The actual consideration paid by the GRANTEES unto GRANTORS is One Hundred Five Thousand and 00/100 Dollars ($105,000.00).

IN TESTIMONY WHEREOF, Witness the hands and seals of the parties hereto:

WITNESS:

STATE HIGHWAY ADMINISTRATION OF THE MARYLAND DEPARTMENT OF TRANSPORTATION

By: _____ (Seal)
Parker F. Williams
State Highway Administrator

Approved as to Form and Legal Sufficiency

Assistant Attorney General

_____ (Seal)
Parris N. Glendening
Governor of Maryland

Concurred in by:

Christian C. Larson
Director, Office of Real Estate

_____ (Seal)
William Donald Schaefer
Comptroller of Maryland

WITNESS:

Secretary

_____ (Seal)
Richard N. Dixon
Treasurer of Maryland

Constituting the BOARD OF PUBLIC WORKS OF MARYLAND

3/1/90 SHA 63.00-26D (D)

STATE OF MARYLAND - COUNTY/CITY OF Baltimore To Wit:

I HEREBY CERTIFY that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for the County/City aforesaid, personally appeared Parker F. Williams, State Highway Administrator and acknowledged the foregoing deed to be the act of the State Highway Administration and, at the same time, made oath in due form of law that he is fully authorized to execute and acknowledge the same.

AS WITNESS MY HAND AND NOTARIAL SEAL, this 27th day of December in the year 2000.

James E. Franklin (Seal)
Notary Public

My Commission Expires: 01/01/03

STATE OF MARYLAND, COUNTY OF ANNE ARUNDEL, To Wit:

I HEREBY CERTIFY that, before me, the subscriber, a NOTARY PUBLIC of the STATE OF MARYLAND, in and for the County aforesaid, personally appeared

Parris N. Glendening - Governor of Maryland

William Donald Schaefer - Comptroller of Maryland

Richard N. Dixon - Treasurer of Maryland

constituting the BOARD OF PUBLIC WORKS OF MARYLAND, and acknowledged the foregoing deed to be the act of the said Board of Public Works of Maryland.

AS WITNESS MY HAND AND NOTARIAL SEAL, this 11th day of January in the year 2001.

Marion J Boschert (Seal)
Notary Public

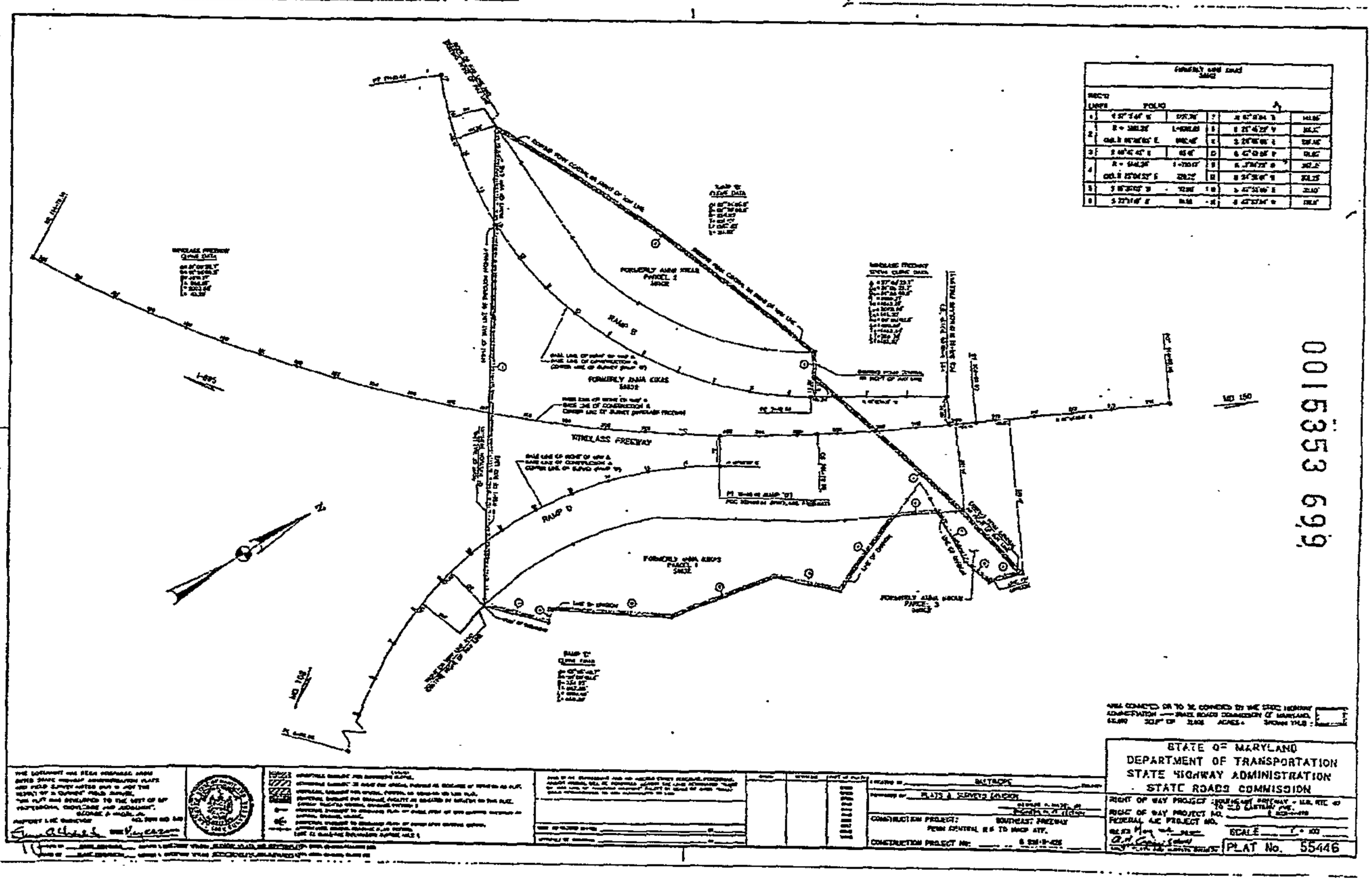
Marion Boschert
NOTARY PUBLIC
Anne Arundel County, Maryland
My Commission Expires 12/01/03

My Commission Expires

I hereby certify that this instrument was prepared under my supervision, an attorney admitted to practice by the Court of Appeals of Maryland.

Libby C Rappaport
Assistant Attorney General

EXHIBIT NO. 1



00153353 699

00015353 700

State of Maryland Land Instrument Intake Sheet

☐ **Baltimore City** ☐ **County:** _____

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office only.

(Type or Print In Black Ink Only — All Copies Must Be Legible)

Space Reserved for Clerk Recording Validation

TRANSFER FEE SURE $ 5.00
RECORDING FEE $ 23.00
RECORDATION T $ 525.00
TAX STATE $ 525.00
CASH $ 1,075.00
CHECK # 2481 Rcpt # 79510
BY SR Blk # 3457
JUL 22, 2001 11:25 am

1 Type(s) of Instruments (☐ Check Box If Addendum Intake Form Is Attached.)

☐ Deed ☐ Mortgage ☐ Other _____ ☐ Other _____
☐ Deed of Trust ☐ Lease

2 Conveyance Type Check Box

☐ Improved Sale Arms-Length [1] ☐ Unimproved Sale Arms-Length [2] ☐ Multiple Accounts Arms-Length [3] ☐ Not an Arms-Length Sale [9]

3 Tax Exemptions (If Applicable) Cite or Explain Authority

Recordation
State Transfer
County Transfer

4 Consideration and Tax Calculations

Consideration Amount		Finance Office Use Only	
Purchase Price/Consideration	$	Transfer and Recordation Tax Consideration	
Any New Mortgage	$	Transfer Tax Consideration	$
Balance of Existing Mortgage	$	X ( ) % =	$
Other:	$	Less Exemption Amount —	$
		Total Transfer Tax =	$
Other:	$	Recordation Tax Consideration	$
		X ( ) per $500 =	$
Full Cash Value	$	TOTAL DUE	$

5 Fees

Amount of Fees	Doc. 1	Doc. 2
Recording Charge	$	$ 20
Surcharge	$	$
State Recordation Tax	$	$ 525
State Transfer Tax	$	$ 525
County Transfer Tax	$	$
Other	$	$ 5
Other	$	$

Agent: GB
Tax Bill: —
C.B. Credit: —
Ag. Tax/Other: —

Part of

6 Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).

District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG
15	15-19-848715		90	1057	☐(5)

Subdivision Name	Lot (3a)	Block (3b)	Sect/AR(3c)	Plat Ref.	SqFt/Acreage (4)

Location / Address of Property Being Conveyed (2)
~~[illegible]~~ ~~[illegible]~~ 21Ac

Other Property Identifiers (if applicable) | Water Meter Account No.

Residential ☐ or Non-Residential ☐ | Fee Simple ☐ or Ground Rent ☐ Amount:
Partial Conveyance? ☒ Yes ☐ No | Description/Amt. of SqFt/Acreage Transferred:

If Partial Conveyance, List Improvements Conveyed:

7 Transferred From

Doc. 1 - Grantor(s) Name(s): STATE OF MD
Doc. 2 - Grantor(s) Name(s):
Doc. 1 Owner(s) of Record, if Different from Grantor(s)
Doc. 2 Owner(s) of Record, if Different from Grantor(s)

8 Transferred To

Doc. 1 - Grantee(s) Name(s): BIERMAN ALBERT
BIERMAN VON-JOSEPH
Doc. 2 - Grantee(s) Name(s):

New Owner's (Grantee) Mailing Address
✓ 416 Hengemihle Ave. Essex, Md 21221

9 Other Names to Be Indexed

Doc. 1 - Additional Names to be Indexed (Optional)
Doc. 2 - Additional Names to be Indexed (Optional)

10 Contact/Mail Information

Instrument Submitted By or Contact Person
Name: Robert M. DeFussi, Sr.
Firm: Expedite, LLC
Address: P.O. Box 1043
Bel Air, Md 21014 Phone: (410) 812-2236

☒ Return to Contact Person
☐ Hold for Pickup
☐ Return Address Provided

11 Assessment Information

IMPORTANT: *BOTH* THE ORIGINAL DEED *AND* A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER

☐ Yes ☒ No Will the property being conveyed be the grantee's principal residence?
☐ Yes ☒ No Does transfer include personal property? If yes, identify: _____
☐ Yes ☒ No Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).

Assessment Use Only - Do Not Write Below This Line

☐ Terminal Verification ☐ Agricultural Verification ☐ Whole ☐ Part ☐ Tran. Process Verification
Transfer Number: Date Received: Deed Reference: Assigned Property No.:

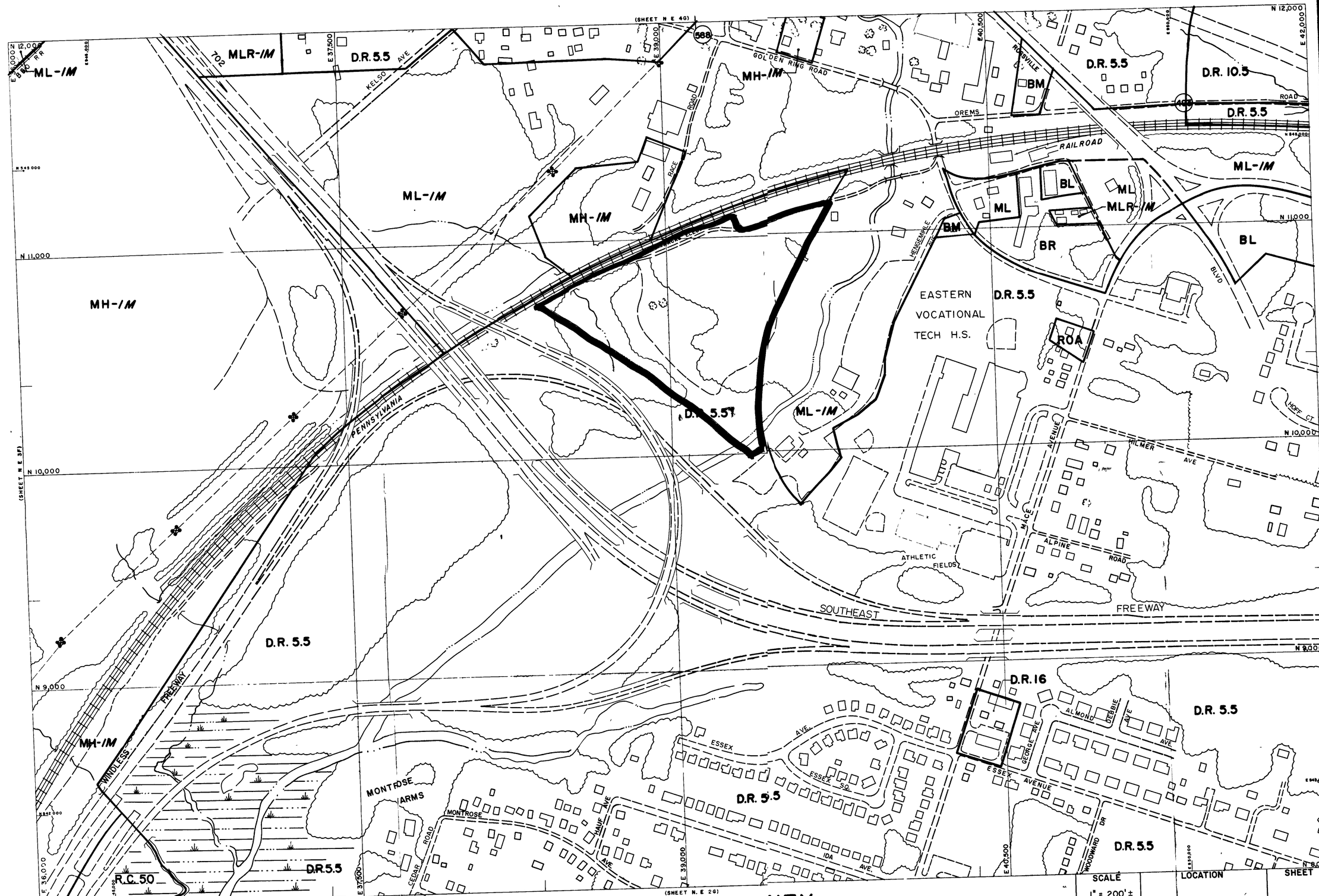
Year	20	20	Geo.	Map	Sub	Block
Land			Zoning	Grid	Plat	Lot
Buildings			Use	Parcel	Section	Occ. Cd.
Total			Town Cd.	Ex. St.	Ex. Cd.	

REMARKS:

Space Reserved for County Validation

TRANSFER TAX NOT REQUIRED
Director of Budget and Finance
BALTIMORE COUNTY MARYLAND
Per Tony Blugeon
Authorized Signature
Date 6-28-2001 Sec. 33-139 A

Distribution: White - Clerk's Office
Canary - SDAT
Pink - Office of Finance
Goldenrod - Preparer
AOC-CC-300 (8/95)



1996 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 8, 1996
Bills Nos. 129-96, 130-96, 131-96, 132-96, 133-96, 134-96, 135-96

Kevin Kamenetz
Chairman, County Council

I - SW
I - NW

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

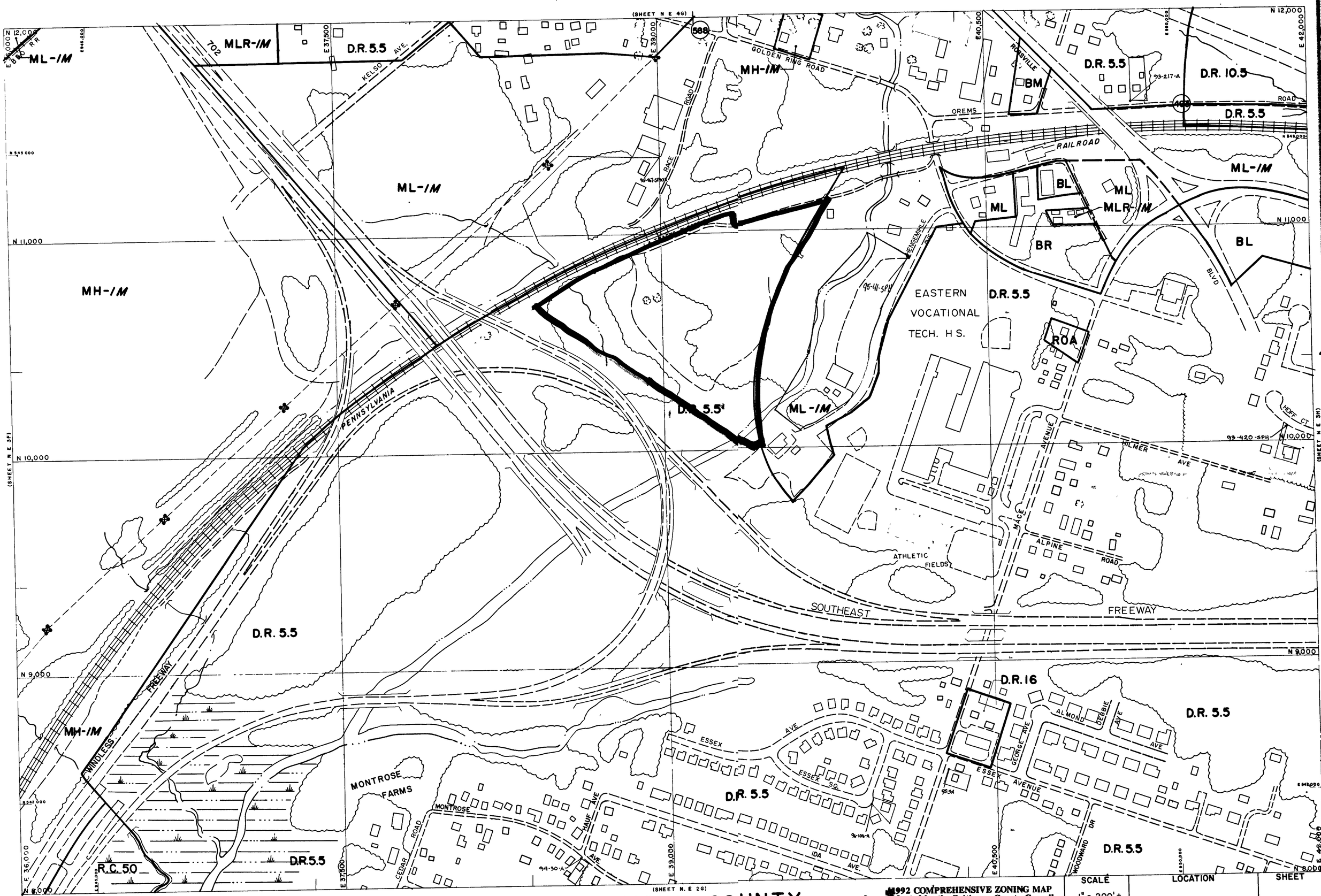
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	STEMMERS RUN	N.E. 3-G
DATE OF PHOTOGRAPHY JANUARY 1986		

PETITIONER'S EXHIBIT 4F

DRAWING NUMBER

NE 3-G



I - SW

I - NW

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

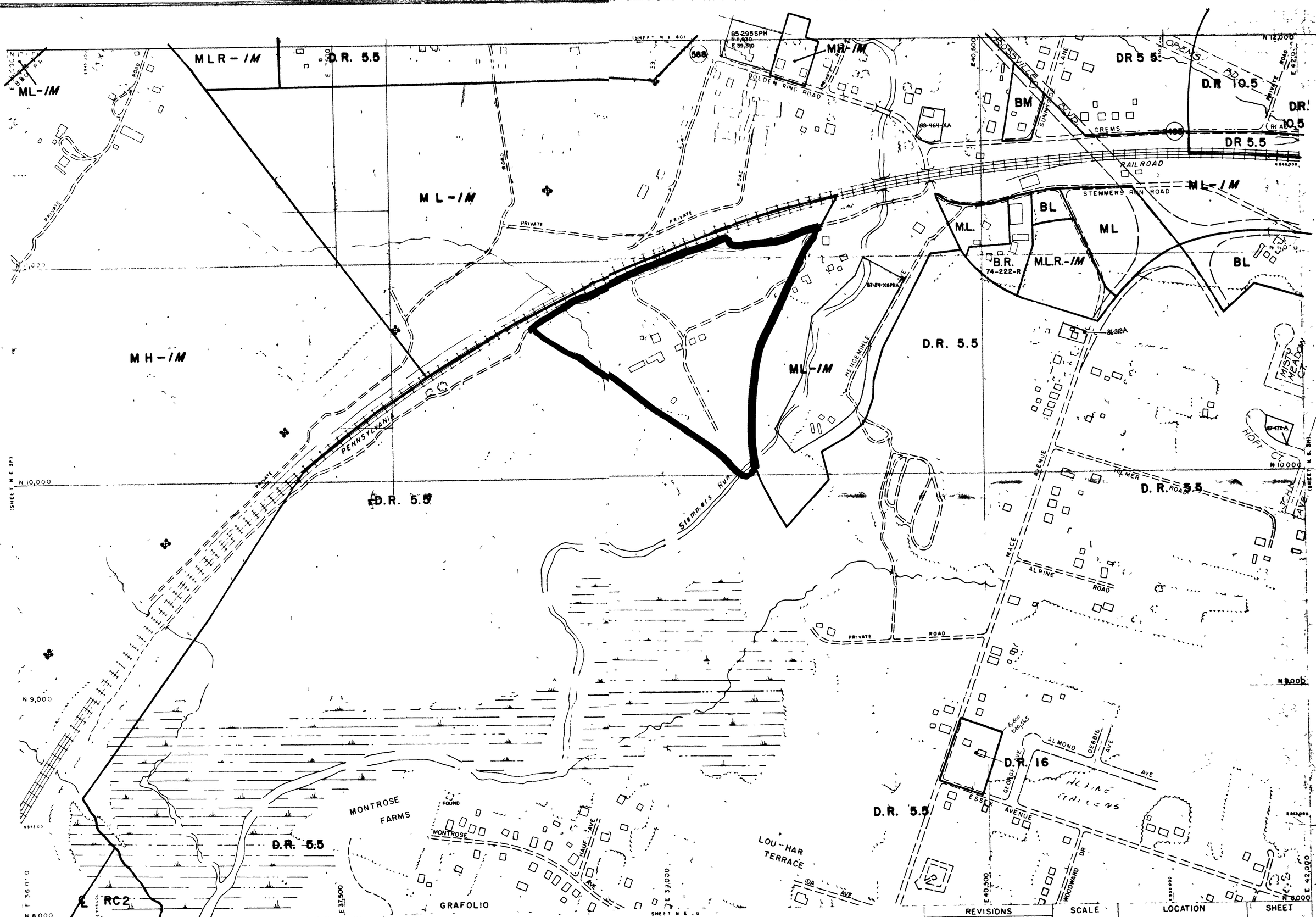
BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Bill Nos. 183-92,184-92,185-92,186-92,187-92,188-92,189-92

William A. Howard IV
Chairman, County Council

SCALE	LOCATION	SHEET
1" = 200'±	STEMMERS RUN	N E. 3-G
DATE OF PHOTOGRAPHY JANUARY 1986		

PETITIONER'S EXHIBIT
4E



1984 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
NOV. 13, 1984
BILL NOS. 133-84, 134-84, 135-84,
136-84, 137-84, 138-84 AND 139-84

CHAIRMAN, COUNTY COUNCIL

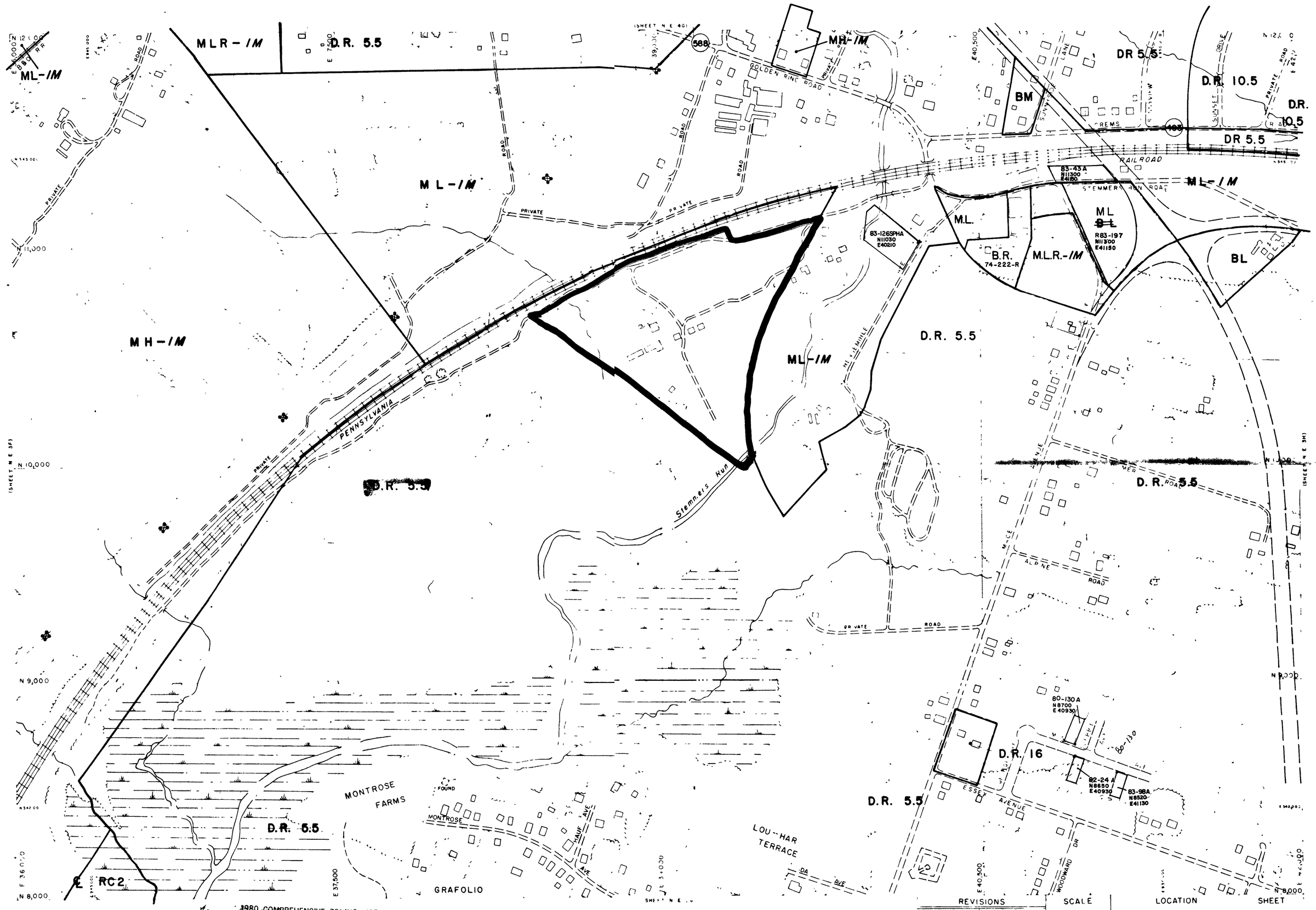
I - SW
I - NW

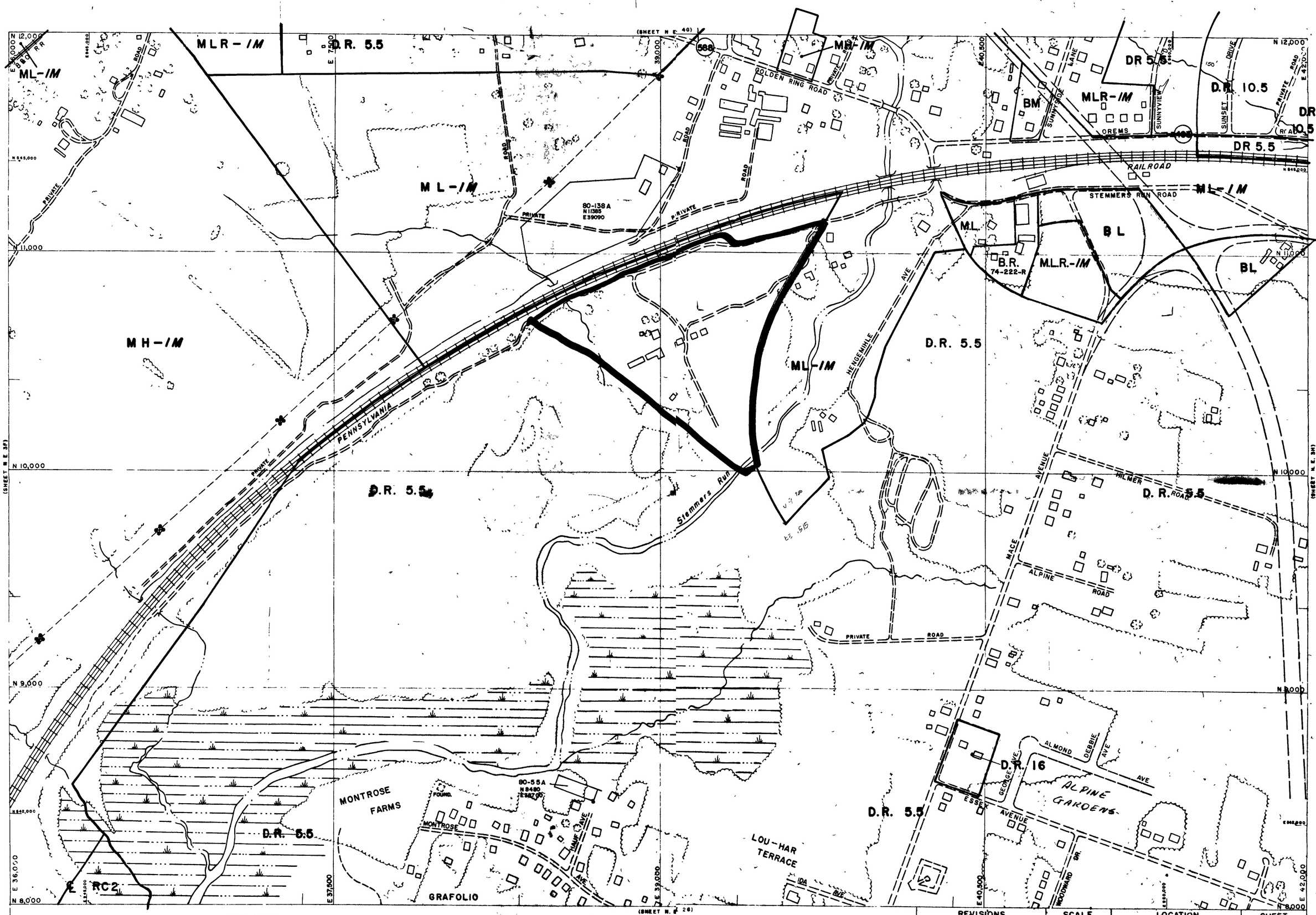
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

REVISIONS			SCALE	LOCATION	SHEET
	BY	DATE	1" = 200'	STEMMERS RUN	N.E. 3-G
			DATE OF PHOTOGRAPHY DEC 1954		

Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP LANSING MICH

PETITIONER'S EXHIBIT 40


ML-IM
MLR-IM
D.R. 5.5
MH-IM
GOLDEN RING ROAD
BM
DR 5.5
D.R. 10.5
D.R. 10.5
DR 5.5
RAILROAD
STEMMERS RUN ROAD
ML-IM
83-43 A
N11300
E41150
ML
~~BL~~
R83-197
N11300
E41150
M.L.
B.R.
74-222-R
M.L.R.-IM
BL
83-126SPHA
N11030
E40210
ML-IM
D.R. 5.5
MH-IM
PRIVATE
ROAD
PENNSYLVANIA
Stemmers Run
D.R. 5.5
D.R. 5.5
ALPINE ROAD
PRIVATE ROAD
80-130 A
N8700
E40930
D.R. 16
82-24 A
N8650
E40930
83-98A
N8520
E41130
D.R. 5.5
ESSEX AVENUE
MONTROSE FARMS
MONTROSE
GRAFOLIO
LOU-HAR TERRACE
D.R. 5.5
RC2
N 11,000
N 10,000
N 9,000
N 8,000
E 37,500
E 40,500
I - SW
I - NW
1980 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT 14, 1980
BILL NOS 184-80, 185-80, 186-80,
187-80, 188-80, 189-80 AND 190-80
CHAIRMAN, COUNTY COUNCIL
PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP
REVISIONS
BY
DATE
SCALE
1" = 200'
DATE OF PHOTOGRAPHY
DEC 1954
Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP LANSING MICH
LOCATION
STEMMERS RUN
SHEET
NE
3-G
PETITIONER'S EXHIBIT
4C



I - SW
I - NW

1976 COMPREHENSIVE ZONING MAP
ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
OCT 7, 1976 & OCT 8, 1976
BILL NOS 108 76, 109 76, 110-76, 111-76,
112 76, 113 76, and 114-76

CHAIRMAN COUNTY COUNCIL

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

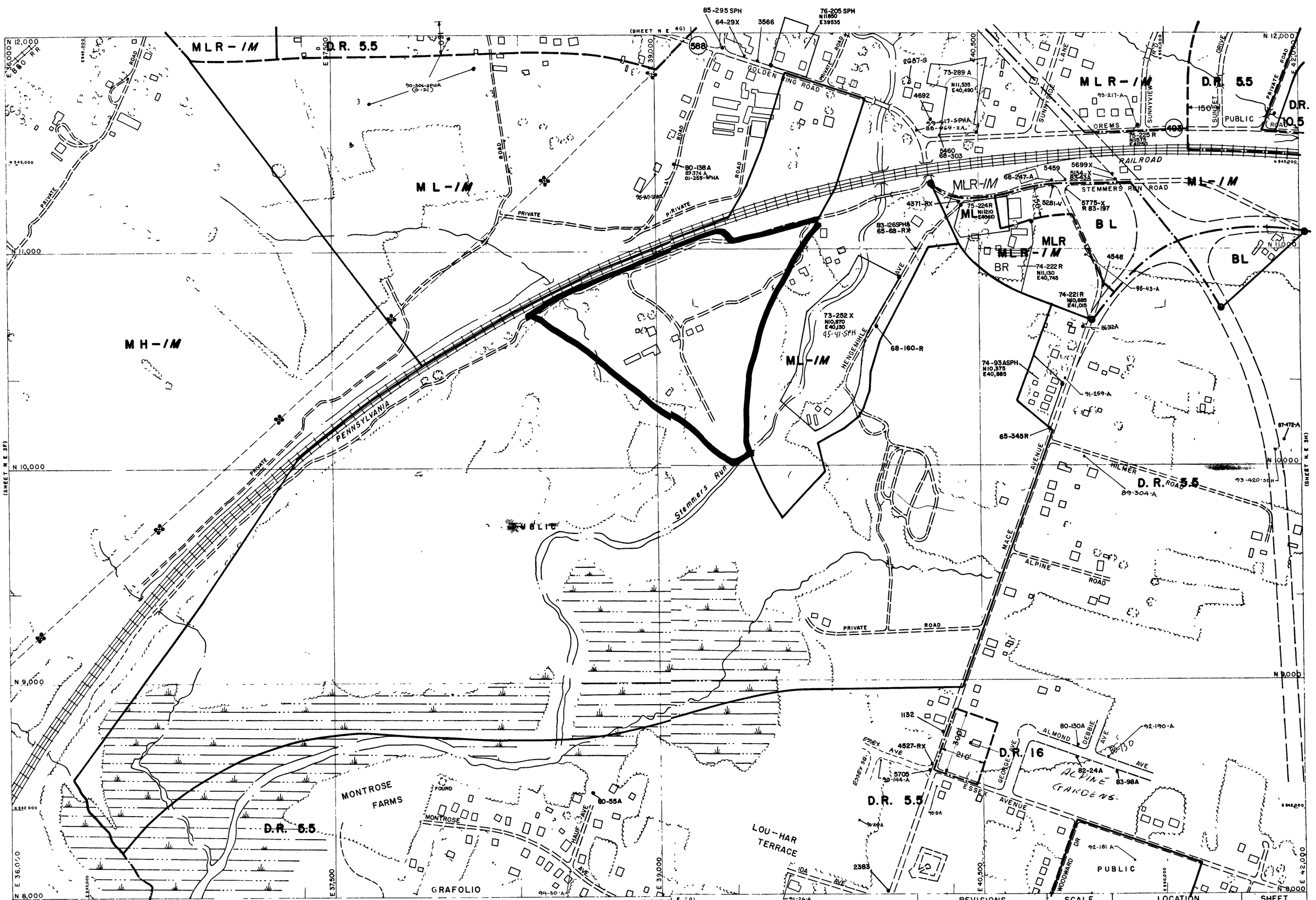
REVISIONS		
	BY	DATE

Topography Compiled By Photogrammetric Methods
ADAMS AERIAL SURVEY CORP. LANSING MICH.

SCALE	LOCATION	SHEET
1" = 200'	STEMMERS RUN	N.E. 3-G
DATE OF PHOTOGRAPHY DEC 1954		

PETITIONER'S EXHIBIT 4B

1976



I - SW
I - NW

ADOPTED BY THE
BALTIMORE COUNTY COUNCIL
MARCH 24, 1971
BY BILLS NOS. 28, 29, 30, 31, and 32

PHOTOGRAMMETRIC MAP OF
BALTIMORE COUNTY METROPOLITAN AREA
OFFICIAL ZONING MAP

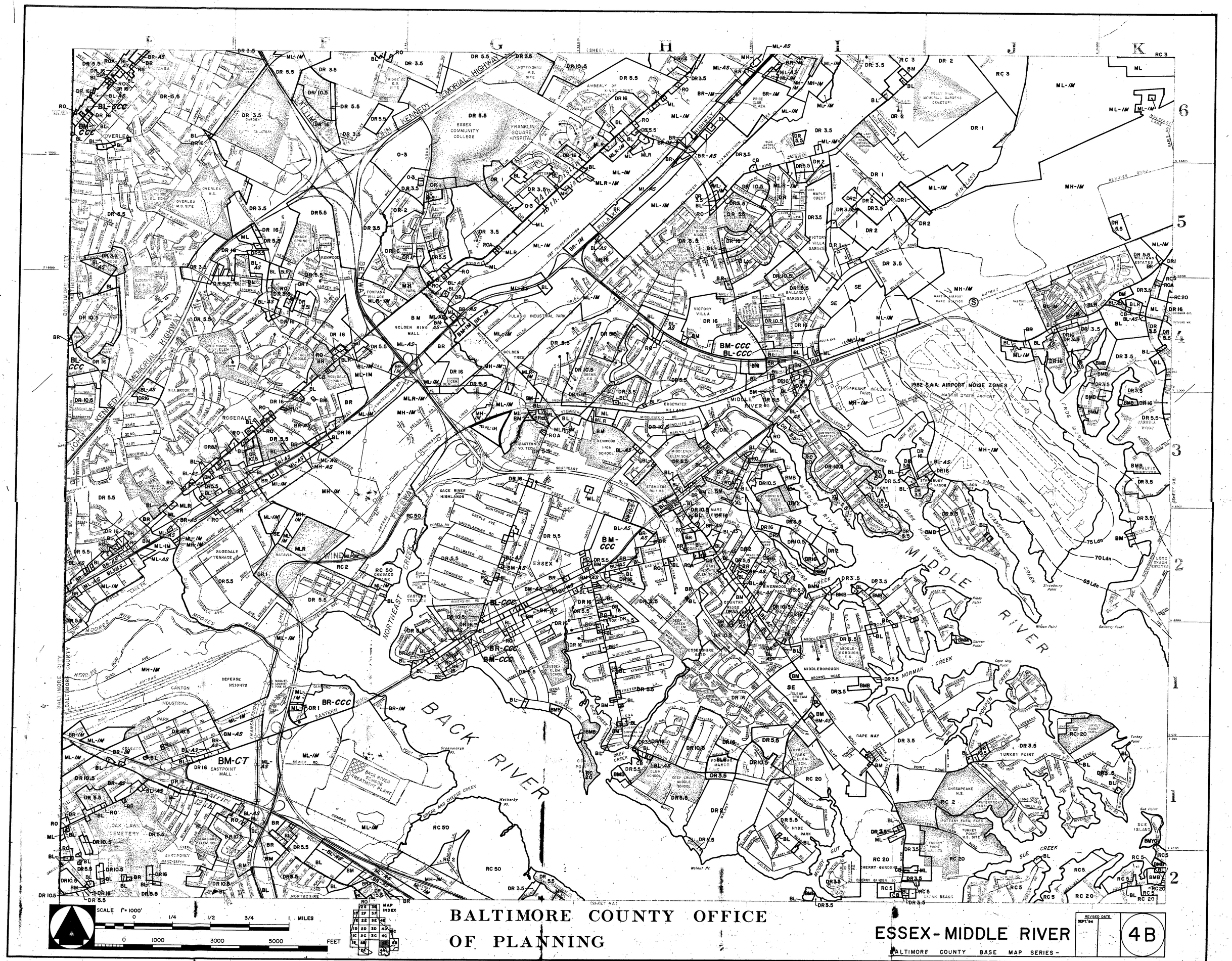
REVISIONS		
	BY	DATE

Topography Compiled By Photogrammetric Methods
ABRAMS AERIAL SURVEY CORP LANSING MICH

SCALE	LOCATION	SHEET
1" = 200'	STEMMERS RUN	N.E. 3-G
DATE OF PHOTOGRAPHY DEC 1954		

PETITIONER'S EXHIBIT

1971



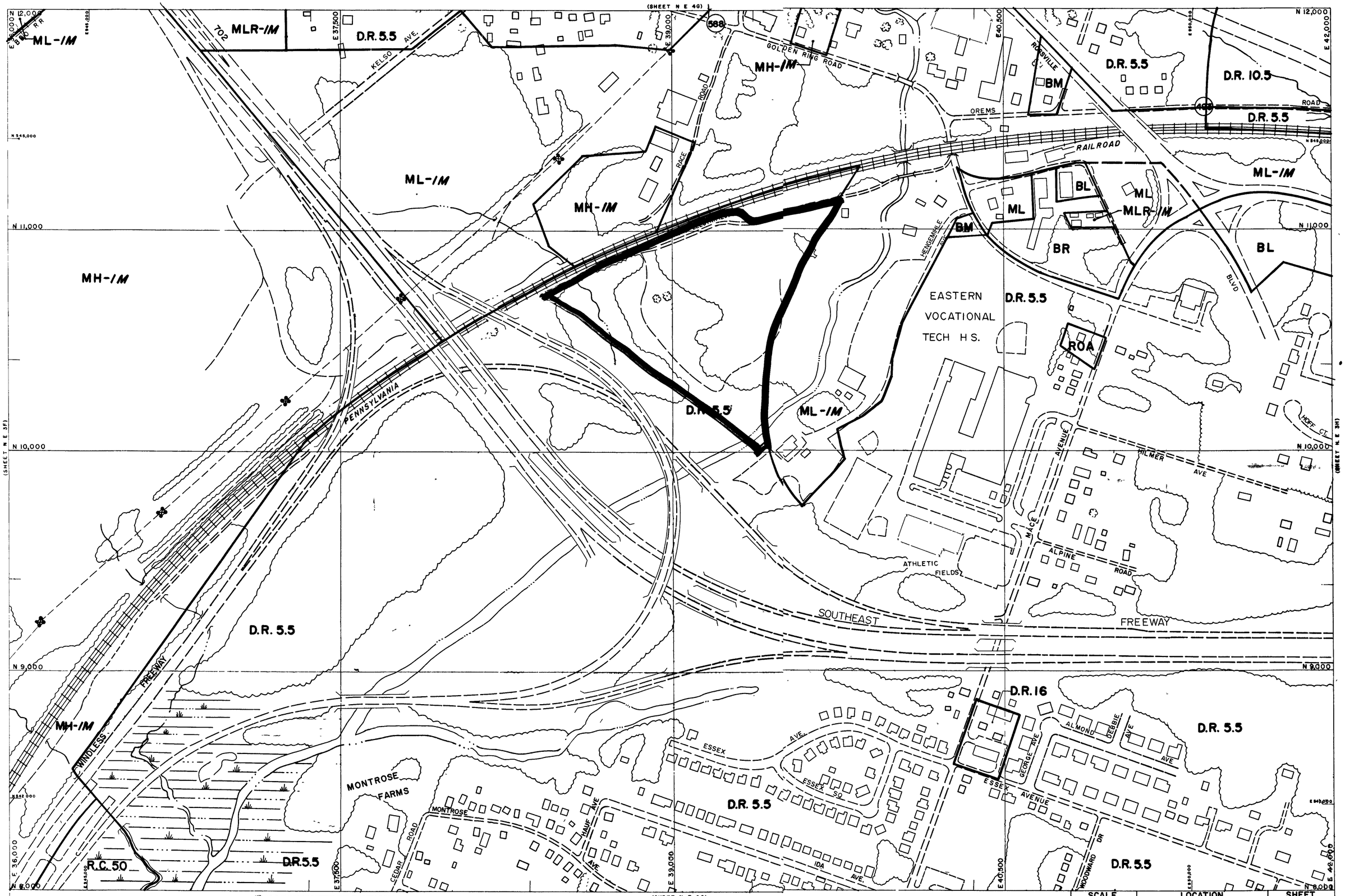
BALTIMORE COUNTY OFFICE OF PLANNING

ESSEX - MIDDLE RIVER

BALTIMORE COUNTY BASE MAP SERIES

REVISED DATE		4B
SEPT '86		

PETITIONER'S EXHIBIT 3



I - SW

I - NW

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

[redacted]000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00.

Joseph Bartenfelder
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

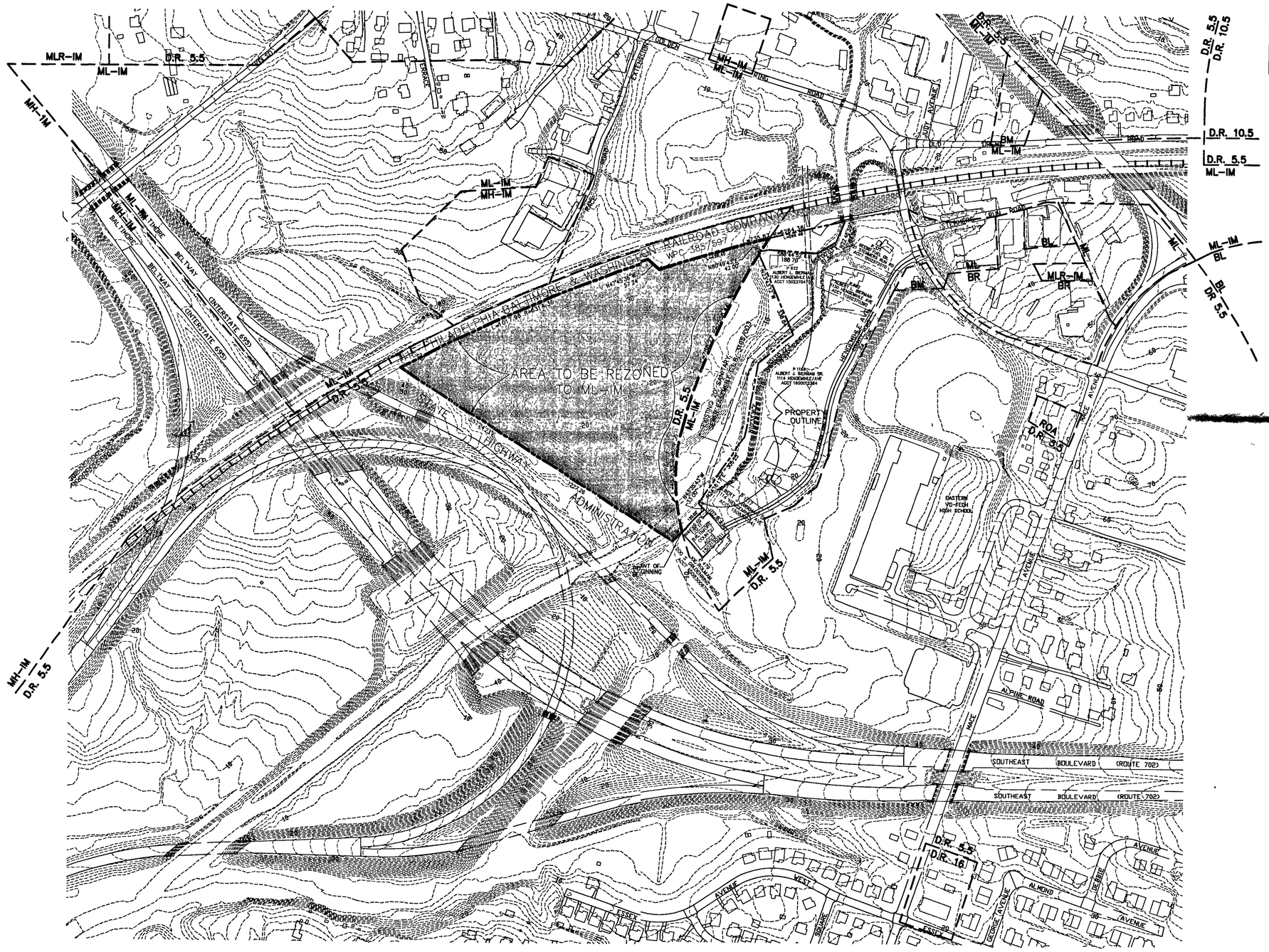
SCALE	LOCATION	SHEET
1" = 200'±	STEMMERS RUN	N.E. 3-G
DATE OF PHOTOGRAPHY JANUARY 1986		

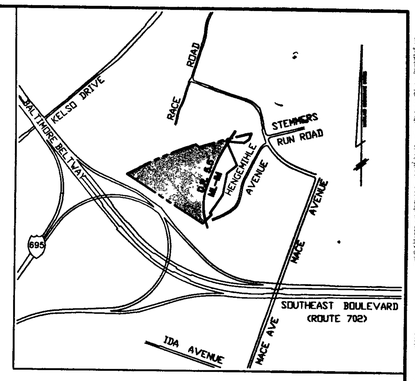
PETITIONER'S EXHIBIT 2

ALL STATE LEGALS

NE 3 G

2000





VICINITY MAP
SCALE : 1" = 1000'

GENERAL NOTES

1. SITE AREA TO BE RECLASSIFIED=15 970 AC.±
   AREA IN D R 5 5 ZONE=15 970 AC.±
2. OWNER
   ALBERT J BIERMAN SR
   1112 HENGEMIHLE AVE
   BALTIMORE MD 21221
   TAX ACCT 1519848715
3. PROPERTY IS NOT IN THE CHESAPEAKE BAY CRITICAL AREA.
4. A PORTION OF THE PROPERTY IS IN THE 100 YEAR FLOOD PLAIN.
5. THE SITE IS NOT IN A MORATORIUM AREA.
6. THE SITE IS NOT IN A BASIC SERVICES FAILURE AREA.

STATE OF MARYLAND
LITTLE
No. 16019
REGISTERED
PROFESSIONAL ENGINEER

LITTLE & ASSOCIATES, INC.
ENGINEERS~~~LAND PLANNERS
1045 TAYLOR AVENUE
SUITE 111
TOWSON, MARYLAND 21286
PHONE (410)296-1636
FAX. (410)296-1639

PETITIONER'S EXHIBIT
ALL STATE LEGAL
1

UNDOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

BIERMAN PROPERTY

DISTRICT 15C7 BALTIMORE COUNTY, MARYLAND

SCALE . 1" = 200' FEBRUARY 20, 2002