IN RE: PETITION FOR VARIANCE E/S North Point Boulevard, 640' S centerline of Wise Avenue 15th Election District 7th Councilmanic District (4432 North Point Boulevard)

> Rebecca L. & Michael H. Spivey **Petitioners**

BEFORE THE

DEPUTY ZONING COMMISSIONER

OF BALTIMORE COUNTY

CASE NO. 03-224-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, Rebecca L. and Michael H. Spivey. The Petitioners are requesting variance relief for property they own at 4432 North Point Boulevard located in the Dundalk area of Baltimore County. The variance request is to permit a side yard setback of 2 ft. and 4 ft. in lieu of the required 30 ft. and to waive the required 6-ft. parking set backs against adjacent commercial properties.

Appearing at the hearing on behalf of the variance request were Michael Spivey, owner of the property and Paul Gietka. There were no protestants or others in attendance.

Testimony and evidence indicated that the property, which is the subject of this variance request, consists of 0.68 acres, more or less, zoned BR-AS. The property is improved at this time with two single-family residential dwellings. Mr. Spivey has owned the property for the past five years and currently rents those single-family homes out to tenants. He is interested in tearing down the two old residences and constructing a new commercial building in their place. Mr. Spivey intends to operate his commercial business from the subject site. He is in the business of repairing engines and boat motors and their out-drives and intends to relocate his business to this site. In order to proceed with the construction of this new commercial building, the variance relief as previously specified is necessary.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to Petitioners and their property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioners must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. Of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the property which is the subject of this request and that the requirements from which the Petitioners seek relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not cause any injury to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted.

THEREFORE, IT IS ORDERED, this 7th day of January, 2003, by this Deputy Zoning Commissioner, that the Petitioners' request for variance from Section 238.2 of the Baltimore County Zoning Regulations, to permit a side yard setback of 2 ft. and 4 ft. in lieu of the required

30 ft. and to waive the required 6-ft. parking set backs against adjacent commercial properties, be and is hereby GRANTED.

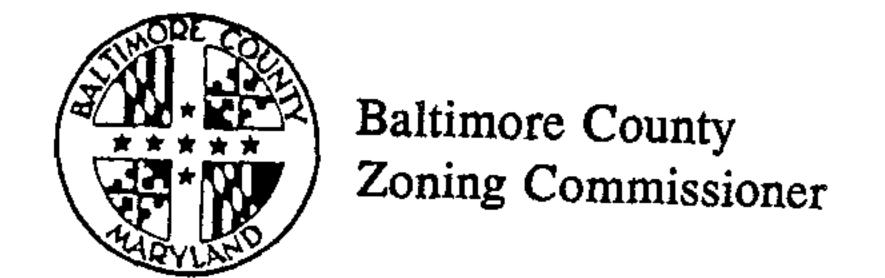
IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

IMOTHY M. KOTROCC

DEPUTY ZONING COMMISSIONER

FOR BALTIMORE COUNTY

TMK:raj



Suite 405, County Courts Bldg. 401 Bosley Avenue Towson, Maryland 21204 410-887-4386

Fax: 410-887-3468

January 7, 2003

Mr. & Mrs. Michael H. Spivey 7206 Waldman Avenue Baltimore, Maryland 21222

> Re: Petition for Variance Case No. 03-224-A

> > Property: 4432 North Point Boulevard

Dear Mr. & Mrs. Spivey:

Enclosed please find the decision rendered in the above-captioned case. The Petition for Variance has been granted in accordance with the enclosed Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

Cluthy lottoco
Timothy M. Kotroco

Deputy Zoning Commissioner

TMK:raj Enclosure



Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at <u>4437 NORTH BOXIT BLVD</u> which is presently zoned <u>BR-AS</u>

I/We do solemnly declare and affirm, under the penalties of

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 for a Variance from Section(s) 238.2 to permit side yard set back of
2 and 4 feet in lieu of the required 30 feet and Condition B, Standard 1B of the Landscape Manual - to waive the required 6 foot parking setbacks against adjacent commercial
property

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

To be discussed at hearing

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Variance, 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.

perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee: Legal Owner(s): MICHAEL Name - Type or Print Name - Type of Print Signature Signature Address Telephone No. Name - Type or Print City State Zip Code WALDMAN AVE 7206 Attorney For Petitioner: 410-287-6339 Address Telephone No. DALTIMORE 21219 Name - Type or Print State Zip Code Representative to be Contacted: Signature ICHARL H. SPIVEY Company Name AVE 410-202-6339 Address Telephone No. Address Telephone No. 2/222 Zip Code BALTIMOIZE City City State Zip Code State OFFICE USE ONLY ESTIMATED LENGTH OF HEARING ____ Case No. 03 - 224 - A UNAVAILABLE FOR HEARING Reviewed By Date

ZONING DESCRIPTION FOR 4432 NORTH POINT BOULEVARD

Beginning at a point on the East side of North Point Boulevard, which is 120 feet wide at the distance of 640 feet South of the centerline of Wise Avenue which is 30 feet wide.

Being Lot Number 2, in the subdivision of the McAllister-Ratliff Property as recorded in Baltimore County Plat Book 49 Folio 47, containing 27,007 square feet. Also known as 4432 North Point Boulevard and located in the 15th Election District, 7th Councilmanic District.



Item #224

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in <u>Towson, Maryland</u> on the property identified herein as follows:

Case: #03-224-A

4432 North Point Blvd.

E/side North Point Blvd. 640 feet south of centerline

Wise Avenue

15th Election District

7th Councilmanic District

Legal Owner(s). Michael and Rebecca Spivey

Variance: to permit side yard setback of 2 and 4 feet in lieu of the required 30 feet and condition B, standard IB of the landscape manual to waive the required 6 feet parking setbacks against adjacent commercial property.

Hearing: Monday, January 6, 2003 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT

Zoning Commissioner for Baltimore County
NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

C579475 12/186 Dec.19

CERTIFICATE OF PUBLICATION

12/19,2002
THIS IS TO CERTIFY, that the annexed advertisement was published
in the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
on 12 19 ,2002.
The Jeffersonian Arbutus Times Catonsville Times Towson Times Owings Mills Times NE Booster/Reporter North County News
5/1/04.

J. MULLING LEGAL ADVERTISING

OFFICE OF BUDGET & FINANCE MISCELLANEOUS RECEIPT	No.165/0
DATE 6 2 ACC	OUNT 001 006 615 0
AMO	\$ 250 -
RECEIVED FROM:	
FOR: ZOMING GORANO	- core #03-224-A
DISTRIBUTION	

YELLOW - CUSTOMER

BALTIMORE COUNTY, MARYLAND

PINK - AGENCY

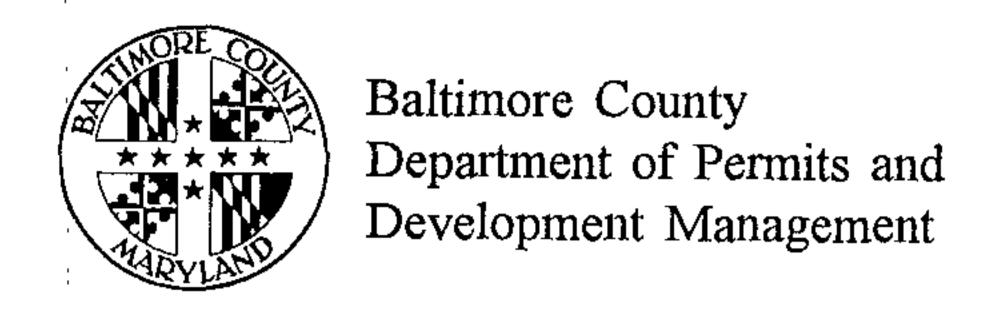
WHITE - CASHIER

Paltimore County, Maryland

CASHIER'S VALIDATION

CERTIFICATEDE POSTING

	RE: Case No.: 03-224-A
	Petitioner/Developer: MICHAEL +
	REBECCA SPIVEY
	Date of Hearing/Closing: 1/6/03
Baltimore County Department of Permits and Development Management County Office Building, Room 111 111 West Chesapeake Avenue Towson, MD 21204	
Attention: Ms. Gwendolyn Stephens	
Ladies and Gentlemen:	
end to the state of the state o	
•	rjury that the necessary sign(s) required by law
were posted conspicuously on the property loc	ated at 4432 NORTH POINT BUVD
The sign(s) were posted on	12/20/02
	12/20/02 (Month, Day, Year)
	Sincerely.
	12/20/07
	(Signature of Sign Poster and Date)
一、 · · · · · · · · · · · · · · · · · · ·	SSG ROBERT BLACK
	(Printed Name)
	1508 Leslie Rd
	(Address)
	Dundalk, Maryland 21222
	(City, State, Zip Code)
	(410) 282-7940
	(Telephone Number)



Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353

Fax: 410-887-5708

December 10, 2002

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 03-224-A

4432 North Point Blvd.

E/side North Point Blvd. 640 feet south of centerline Wise Avenue

15th Election District – 7th Councilmanic District

Legal Owner: Michael and Rebecca Spivey

<u>Variance</u> to permit side yard setback of 2 and 4 feet in lieu of the required 30 feet and condition B, standard IB of the landscape manual to waive the required 6 feet parking setbacks against adjacent commercial property.

Hearings:

Monday, January 6, 2003 at 2:00 p.m. in Room 407, County Courts Building, 401 Bosley Avenue

Arnold Jablon Director

AJ:rlh

C: Mr. and Mrs. Michael Spivey, 7206 Waldman Avenue, Baltimore 21219

NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY FRIDAY, DECEMBER 20, 2002.

(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY

Thursday, December 19, 2002 Issue - Jeffersonian

Please forward billing to:

George D. McClelland 25 Waterview Road Baltimore, MD 21227

410-477-9136

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 03-224-A

4432 North Point Blvd.

E/side North Point Blvd. 640 feet south of centerline Wise Avenue

15th Election District – 7th Councilmanic District

Legal Owner: Michael and Rebecca Spivey

<u>Variance</u> to permit side yard setback of 2 and 4 feet in lieu of the required 30 feet and condition B, standard IB of the landscape manual to waive the required 6 feet parking setbacks against adjacent commercial property.

Hearings:

Monday, January 6, 2003 at 2:00 p.m. in Room 407, County Courts

Building, 401 Bosley Avenue

Lawrence B. Schmidt

LAWRENCE E. SCHMIDT

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

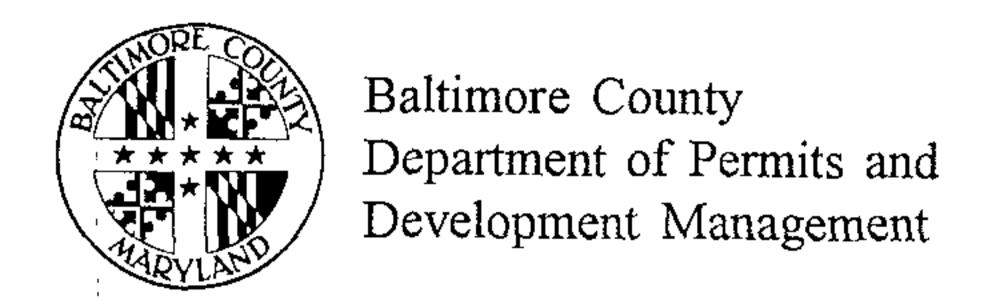
The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

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

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

For Newspaper Advertising:
Item Number or Case Number: 03-224-A
A
Petitioner: <u>Goorge D. McClolland</u> Address or Location: <u>75 Water viow Rd Baltimore MD2</u> 1222
PLEASE FORWARD ADVERTISING BILL TO:
Name: Gaorga D. McClalland
Address: 25 Wafervious Roll
Daltimora, MD 21227
Telephone Number: 410-477-9136

Revised 2/20/98 - SCJ



Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

January 3, 2003

Mr. and Mrs. Michael H. Spivey 7206 Waldman Avenue Baltimore, MD 21222

Dear Mr. and Mrs. Spivey:

RE: Case Number: 03-224-A, 4437 North Point Blvd.

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on November 6, 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

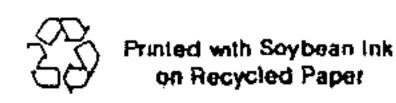
u. Callibal)

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR:rlh

Enclosures

c: People's Counsel



BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO:

Arnold Jablon

FROM:

R. Bruce Seeley Rest 161

DATE:

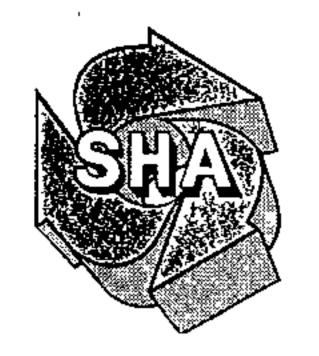
January 14, 2003

Zoning Petitions

Zoning Advisory Committee Meeting of December 9, 2002

SUBJECT: NO COMMENTS FOR THE FOLLOWING ZONING ITEMS:

(224) 225, 229, 233, 234, 237,239,240



Maryland Department of Transportation State Highway Administration

Parris N. Glendening Governor

John D. Porcari Secretary

Parker F. Williams
Administrator

Date: /2.6.07

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County

Item No. 224

RDD

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 151. are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

In

Kenneth A. McDonald Jr., Chief Engineering Access Permits Division



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

December 11, 2002

ATTENTION: George Zahner

Property Owner:

Location:

Item No.: Distribution Meeting of 12/9/02

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.

7. The Fire Marshal's Office has no comments at this time, in reference to the following items: 224)240

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

cc: File



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

November 20, 2002

ATTENTION: George Zahner

Property Owner:

Location:

Item No.: ZAC Dist. Meeting of 11/18/2002

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.

7. The Fire Marshal's Office has no comments at this time, in reference to the following items:

203-209, 211-227

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office

PHONE 887-4881, MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

DATE: January 17, 2003

TO:

Arnold Jablon, Director

Department of Permits & Development Management

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

SUBJECT:

Zoning Advisory Committee Meeting

For December 16, 2002 Item Nos 224, 225, 228, 229, 230, 231, 232, 233, 234, 235, 236, 238, 239, and

240

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File

RE: PETITION FOR VARIANCE

4432 North Point Boulevard

E/side North Point Blvd, 640 ft S of Ctrline *

Wise Avenue

15th Election District

7th Councilmanic District

Legal Owner: Michael & Rebecca Spivey

Petitioner(s)

* BEFORE

ZONING COMMISSIONER

FOR

BALTIMORE COUNTY

* 03-224-A

* * * * * * * *

ENTRY OF APPEARANCE

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

People's Counsel for Baltimore County

Caroll S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204

(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this _____ day of December, 2002, a copy of the foregoing Entry of Appearance was mailed to, Michael and Rebecca Spivey, 7206 Waldman Avenue, Baltimore, MD 21222, Petitioners.

DECELVE DA

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County



Parris N. Glendening Governor Kathleen Kennedy Townsend Lt. Governor

Roy W. Kienitz Secretary Mary Abrams Deputy Secretary

December 11, 2002

Mr. George Zahner Baltimore County Department of Permits and Development Management Count Office Building 111 West Chesapeake Avenue, Room 111 Mail Stop # 1105 Towson MD 21204

Zoning Advisory Committee Agenda, 12/16/02 re: case numbers (03-224-A, 03-225-SPH, 03-226-SPH, 03-228-A, 03-229-A, 03-230-A, 03-231-SPH, 03-232-SPH, 03-233-SPHA, 03-234-A, 03-235-SPHA, 03-236-A, 03-237-A, 03-238-A, 03-239-A, 03-240-A

Dear Mr. Zahner:

The Maryland Department of Planning has received the above-referenced information on 12/11/02. The information has been submitted to Mr. Mike Nortrup.

Thank you for your cooperation in this review process. Please contact me at 410.767.4550 or the above noted reviewer if you have any questions.

Sincerely,

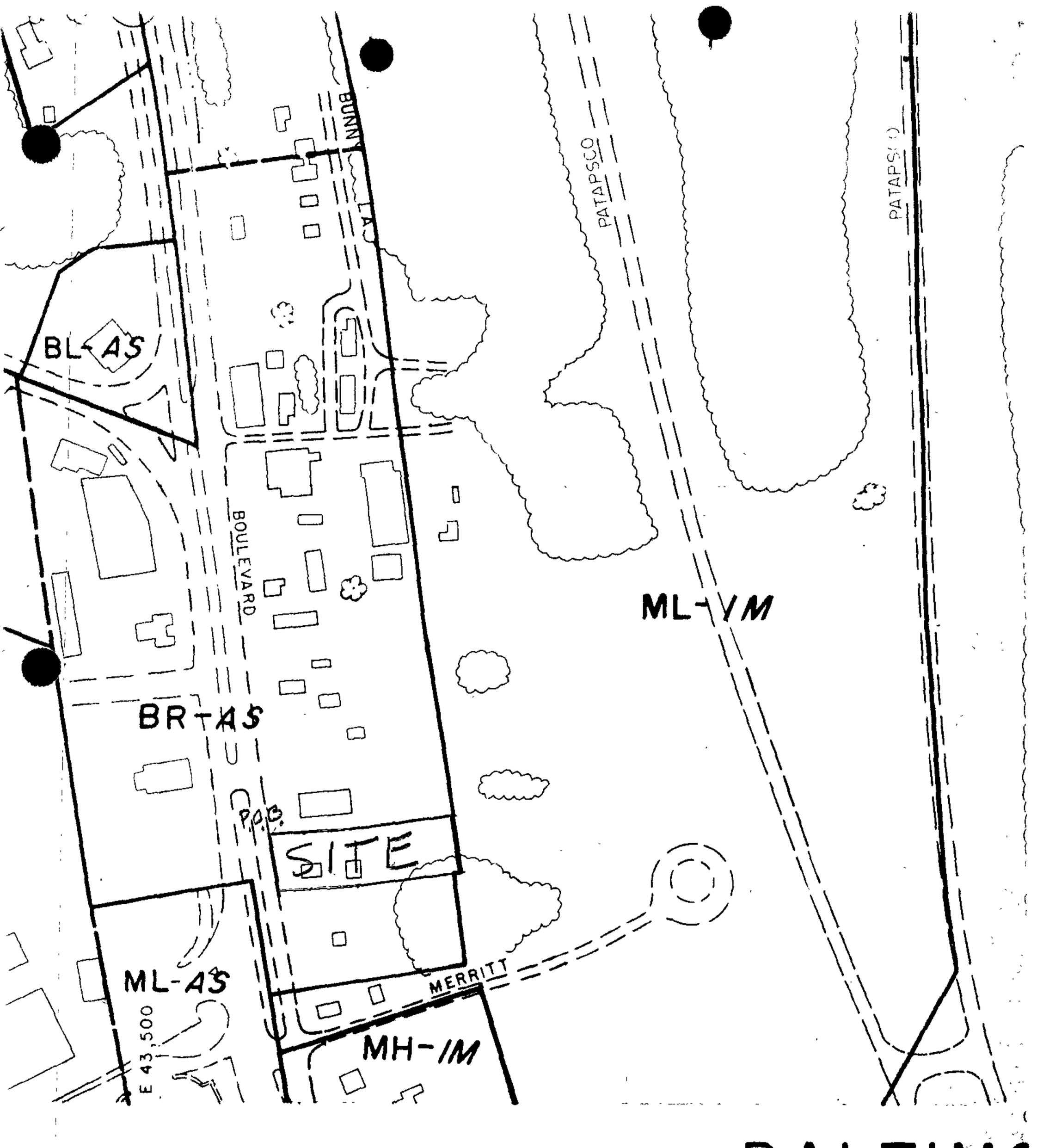
Ma James Sato James R. Gatto

Manager

Metropolitan Planning

Local Planning Assistance Unit

Mike Nortrup cc:



5 E 4-14 Item #224 BALTIMO OFFICE OF PLOOFFICIAT

