



PETITION FOR ZONING HEARING(S)

To be filed with the Department of Permits, Approvals and Inspections

To the Office of Administrative Law of Baltimore County for the property located at:

Address York Road Parkton, MD 21220 which is presently zoned RC4/BLCR
 Deed References: 34421/00157 10 Digit Tax Account # 1900011335
 Property Owner(s) Printed Name(s) Parkton Development Group, LLC

(SELECT THE HEARING(S) BY MARKING ☒ AT THE APPROPRIATE SELECTION AND PRINT OR TYPE THE PETITION REQUEST)

The undersigned legal owner(s) of the property situate in Baltimore County and which is described in the description and plan attached hereto and made a part hereof, hereby petition for:

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

See Attached

2. ☐ a **Special Exception** under the Zoning Regulations of Baltimore County to use the herein described property for

3. ☐ a **Variance** from Section(s)

of the zoning regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons:
 (Indicate below your hardship or practical difficulty or indicate below "TO BE PRESENTED AT HEARING". If you need additional space, you may add an attachment to this petition)

TO BE PRESENTED AT HEARING

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.

Legal Owner(s) Affirmation: I / we do so 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 / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Legal Owners (Petitioners):

Name #1 - Type or Print

Name #2 - Type or Print

Signature #1

Signature #2

Mailing Address

City

State

Zip Code

Telephone #

Email Address

Representative to be contacted:

Name - Type or Print

Signature

Mailing Address

City

State

Zip Code

Telephone #

Email Address

CASE NUMBER 2015-0148-SPH

Filing Date 1, 8, 15

Do Not Schedule Dates:

Reviewer JS com

Attachment 1

CASE NO: 2015- 0148 -SPH

Address: 19300 York Road, Parkton, MD

Legal Owners: Parkton Development Group, LLC

Present Zoning: BL-CR & RC-4

PETITION FOR SPECIAL HEARING

A. Approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this Petition;

B. Approval of a use permit for parking [meeting the requirements of BCZR § 409.8B.2] in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR § 409.6 for the uses proposed in the BL-CR zoned portion of the property; and

C. Such additional relief as the nature of this case may require.

For Additional Information Contact:

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

(410) 321-0600
Fax: (410) 296-2801

halderman@LevinGann.com

Untitled

Zoning Property Description For 19300 York Road Parkton MD
21120

BEGINNING at pint 190' from the northerly corner of the "Sight Flare" formed by the southerly right-of-way line of Maryland Interstate Route 83 and MD Route 45 (York Road) as laid out on the Maryland State Road Commission Right-of-Way, Plat 17756; thence running to a new line of division S $3^{\circ}37'09''$ W, 466.69'; thence running S $89^{\circ}14'30''$ W, 52.80' to the easterly side of a frame dwelling there situated; thence bindong on a part of the east side of said dwelling N $12^{\circ}02'58''$ E, 7.43'; thence binding on the north side of said dwelling N $77^{\circ}57'02''$ W 22.00 feet, thence S $12^{\circ}02'58''$ W; 11.78'; thence S $89^{\circ}14'30''$ W, 1,151.90' to intersect the southeasterly "Right of way line through Highway" for MD Interstate Highway Route I-83 as laid out on the MD State Highway Adminisration plats 17481, 17482, and 17756; thence bindong on the said Right of way line of "Through Highway" the following courses and distances: (1) N $59^{\circ}59'16''$ E, 202.84'; (2) N $80^{\circ}16'13''$ E, 245.20'; (3) N $75^{\circ}37'48''$ E, 155.80'; (4) N $63^{\circ}25'17''$ E, 100.18'; (5) N $46^{\circ}17'46''$ E, 251.01'; (6) by a curve to the easterly 272.87', said curve having a radius of 836.47' and a chord bearing and distance of N $75^{\circ}38'13''$ E, 271.67'; (7) S $88^{\circ}33'51''$ E, 47.49'; (8) N $80^{\circ}13'48''$ E, 97.94'; and S $86^{\circ}22'51''$ E, 10.00' to the end thereof and the point of beginning. This parcel contains 309,336.33 square feet or 7.10 acres, more or less.

MEMORANDUM

TO: Kristen Lewis
Office of Zoning Review

FROM: John E. Beverungen, Administrative Law Judge
Office of Administrative Hearings

DATE: March 10, 2015

SUBJECT: Case No. 2015-0148-SPH

The above zoning hearing was convened today, and Mr. Alderman requested the case be continued. Counsel explained that Baltimore County will require the applicant to pursue normal development approval (i.e., concept plan, community input meeting, hearing officer's hearing...) for the improvements shown on the plan. As such, the continuance request was granted, and Mr. Alderman indicated he would provide notice of any subsequent hearings to the two community members in attendance at today's hearing.

The case file is being returned to you for rescheduling and processing. Thanks.

JEB:sln

c: File



501 N. Calvert St., P.O. Box 1377
Baltimore, Maryland 21278-0001
tel: 410/332-6000
800/829-8000

WE HEREBY CERTIFY, that the annexed advertisement of Order No 3049968

Sold To:

Parkton Development Group LLC - CU00422656
PO Box 235
Lutherville Timonium, MD 21094

Bill To:

Parkton Development Group LLC - CU00422656
PO Box 235
Lutherville Timonium, MD 21094

Was published in "Jeffersonian", "Bi-Weekly", a newspaper printed and published in Baltimore County on the following dates:

Feb 17, 2015

The Baltimore Sun Media Group

By *S. Wilkinson*
Legal Advertising

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: # 2015-0148-SPH
19300 York Road
SW corner of intersection of York Road and Stablers Church Road
7th Election District - 3rd Councilmanic District
Legal Owner(s) Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Monday, March 9, 2015 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

ARNOLD JABLON, DIRECTOR OF PERMITS, APPROVALS AND INSPECTIONS FOR BALTIMORE COUNTY

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Administrative Hearings Office at (410) 887-3868.

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

JT 2/769 February 17 3049968

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS

DATE: 2/17/2015

Case Number: 2015-0148-SPH

Petitioner / Developer: HOWARD ALDERMAN JR. ESQ.~
PARKTON DEVELOPMENT GROUP, LLC

Date of Hearing (Closing): MARCH 9, 2015

This is to certify under the penalties of perjury that the necessary sign(s)
required by law were posted conspicuously on the property located at:
19300 YORK ROAD

The sign(s) were posted on: FEBRUARY 16, 2015



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

Hunt Valley, Maryland 21030
(City, State, Zip of Sign Poster)

410 - 666 - 5366
(Telephone Number of Sign Poster)

The Daily Record

11 East Saratoga Street

Baltimore, MD 21202-2199

(443) 524-8100

<http://www.thedailyrecord.com>

Order #: 10672477

Case #:

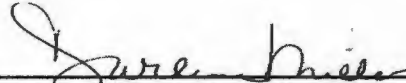
Description:

Case Number: 2015-0148-SPH - Notice of Zoning Hearing

PUBLISHER'S AFFIDAVIT

We hereby certify that the annexed advertisement was published in **The Daily Record**, a daily newspaper published in the State of Maryland 1 times on the following dates:

1/22/2015



Darlene Miller, Public Notice Coordinator
(Representative Signature)

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0148-SPH

18300 York Road

SW corner of Intersection of York Road and Stablers Church Road

7th Election District - 3rd Councilmanic District

Legal Owners: Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Friday, February 13, 2015 at 1:30 p.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

ARNOLD JABLON,
Director of Permits,

Approvals and Inspections for Baltimore County.

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE. FOR SPECIAL ACCOMMODATIONS PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.

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

ja22



KEVIN KAMENETZ
County Executive
January 29, 2015

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

CORRECTED NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0148-SPH

19300 York Road

SW corner of intersection of York Road and Stablers Church Road

7th Election District – 3rd Councilmanic District

Legal Owners: Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Monday, March 9, 2015 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Howard Alderman, Jr., 502 Washington Avenue, Ste. 800, Towson 21204
Parkton Development Group, LLC, P.O. Box 235, Timonium 21094
Clint Huhra, 2344 York Road, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, FEBRUARY 17, 2015.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 17, 2015 Issue - Jeffersonian

Please forward billing to:
Parkton Development Group, LLC
P.O. Box 235
Timonium, MD 21094

410-322-1501

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0148-SPH

19300 York Road

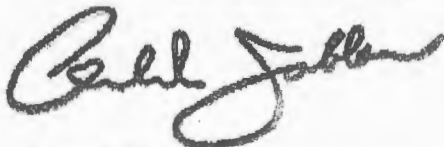
SW corner of intersection of York Road and Stablers Church Road

7th Election District – 3rd Councilmanic District

Legal Owners: Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Monday, March 9, 2015 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



KEVIN KAMENETZ
County Executive
January 16, 2015

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0148-SPH

19300 York Road

SW corner of intersection of York Road and Stablers Church Road

7th Election District – 3rd Councilmanic District

Legal Owners: Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Friday, February 13, 2015 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204

A handwritten signature in black ink, appearing to read "Arnold Jablon".

Arnold Jablon
Director

AJ:kl

C: Howard Alderman, Jr., 502 Washington Avenue, Ste. 800, Towson 21204
Parkton Development Group, LLC, P.O. Box 235, Timonium 21094
Clint Huhra, 2344 York Road, Timonium 21093

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY SATURDAY, JANUARY 24, 2015.**
- (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Thursday, January 22, 2015 Issue - Jeffersonian

Please forward billing to:
Parkton Development Group, LLC
P.O. Box 235
Timonium, MD 21094

410-322-1501

NOTICE OF ZONING HEARING

The Administrative Law Judge 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: 2015-0148-SPH

19300 York Road

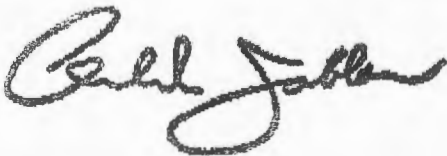
SW corner of intersection of York Road and Stablers Church Road

7th Election District – 3rd Councilmanic District

Legal Owners: Parkton Development Group, LLC

Special Hearing for approval of an underground sewer/septic reserve area in a portion of the RC-4 zoned area of the property as shown on the Plan that accompanies this petition; approval of a use permit for parking (meeting the requirements of BCZR Sec. 409.8B.2) in a portion of the RC-4 zoned area of the property to meet the minimum parking requirements of BCZR Sec. 409.63 for the uses proposed in the BL-CR zoned portion of the property and such additional relief as the nature of this case may require.

Hearing: Friday, February 13, 2015 at 1:30 p.m. in Room 205, Jefferson Building,
105 West Chesapeake Avenue, Towson 21204



Arnold Jablon
Director of Permits, Approvals and Inspections for Baltimore County

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
- (2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE: PETITION FOR SPECIAL HEARING * BEFORE THE OFFICE
19300 York Road; SW corner of York Road *
& Stabler's Church Road * OF ADMINISTRATIVE
7th Election & 3rd Councilmanic Districts *
Legal Owner(s): Parkton Development Group * HEARINGS FOR
Petitioner(s) * BALTIMORE COUNTY
* 2015-148-SPH

* * * * *

ENTRY OF APPEARANCE

Pursuant to Baltimore County Charter § 524.1, please enter the appearance of People's Counsel for Baltimore County as an interested party 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 and all documentation filed in the case.

RECEIVED

JAN 14 2015

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Jefferson Building, Room 204
105 West Chesapeake Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of January, 2015, a copy of the foregoing Entry of Appearance was mailed to Clint Huhra, 2344 York Road, Timonium, Maryland 21093 and Howard Alderman, Esquire, Levin & Gann, P.A., 502 Washington Avenue, Suite 800, Towson, Maryland 21204, Attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning 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: 2015-0148-SPH

Petitioner: PARKTON DEVELOPMENT GROUP, LLC

Address or Location: 19300 YORK RD., 21120

PLEASE FORWARD ADVERTISING BILL TO:

Name: PARKTON DEVELOPMENT GROUP, LLC

Address: P.O. BOX 235

TIMONIUM, MD 21094

Telephone Number: 410-322-1501

3/9/15

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: February 6, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

RECEIVED

SUBJECT: 19300 York Road

FEB 06 2015

INFORMATION:

Item Number: 15-148

OFFICE OF ADMINISTRATIVE HEARINGS

Petitioner: Parkton Development Group, LLC

Zoning: BL-CR, RC 4

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

The Department of Planning has reviewed the petitioner's request and accompanying site plan. The subject request is for approval to place the sewer/septic reserve area and parking to support the proposed commercial development in the portion of the property zoned Watershed Protection (RC 4).

Upon review of the petition, site plan and site visit the following comment and recommendations are offered:

- The submitted site plan proposes 19,800 square feet of retail and 6,600 square feet of office to be placed on the 3.1 acre BL-CR zoned portion of the property instead of the permitted 8,800 square feet. To exceed the 8,800 square feet requires a Special Exception and the submittal of additional materials for review (BCZR 259.3.B.3 and 259.3. E).
- BCZR 259.3.B.3 requires that projects that exceed the 8,800 square feet may be permitted only "when the proposed development is in compliance with site design guidelines....which are part of a duly adopted Master Plan for the District." Master Plans have been adopted for Hereford and Jacksonville which are designated Rural Villages. The Baltimore County Master Plan 2020 states on Page 94, "the two rural commercial centers contain a certain mass of retail and office services that should **not** (emphasis added) be spread or repeated throughout the rural areas."
- The site plan shows septic and parking area that would appear to be sufficient to support a project that falls within the permitted 8,800 square feet (BCZR 259.3.C).

The entire site including the BL-CR and the RC 4 is wooded with areas of steep slopes. The location is on York Road just south of the exit ramp from I-83. It is immediately behind and topographically above a commercial property with a liquor store use. The location typifies a rural area being sparsely developed with residences, a church, farmland and woods. The commercial is limited to a small liquor store and a small post office.

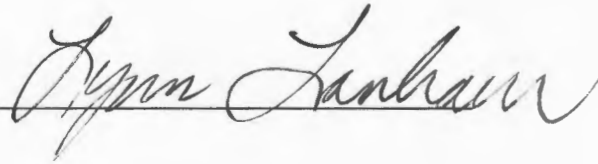
It is the recommendation of this department that the requested relief should not be granted because there appears to be sufficient commercially zoned land to support a commercial building that meets the permitted bulk requirement and the associated septic and parking. Furthermore, the size and scale of the

proposed commercial development necessitating the expansion of the parking and septic into the RC 4 zoned area would be more appropriate in one of the two Master Plan designated Rural Villages.

For these reasons, the request should not be granted. The petitioner should resubmit a plan that meets the bulk requirements of the BCZR and that meets all the other conditions required in the CR District.

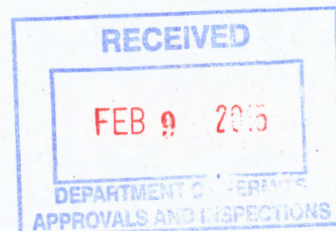
For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/LL

A handwritten signature in cursive script, appearing to read "Lynn Lanham", written over a horizontal line.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE



TO: Arnold Jablon
Deputy Administrative Officer and
Director of Permits, Approvals and Inspections

DATE: February 6, 2015

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: 19300 York Road

INFORMATION:

Item Number: 15-148

Petitioner: Parkton Development Group, LLC

Zoning: BL-CR, RC 4

Requested Action: Special Hearing

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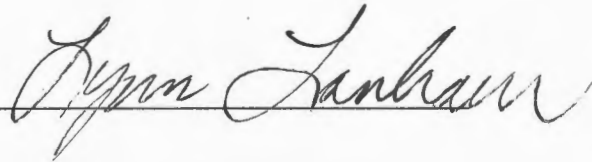
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For further information concerning the matters stated here in, please contact Wallace S. Lippincott, Jr. at 410-887-3480.

Division Chief:
AVA/LL

A handwritten signature in cursive script, appearing to read "Lynn Lanham", is written over a horizontal line.

John E. Beverungen

From: John E. Beverungen
Sent: Monday, March 09, 2015 2:00 PM
To: Deborah Wiley (dwiley@baltimorecountymd.gov); Sherry Nuffer (snuffer@baltimorecountymd.gov); Kristen L Lewis (halderman@levingann.com); Peter Max Zimmerman; 'neddaevans@gmail.com'; 'dryadlol@hotmail.com'
Cc:
Subject: 2015-0148-SPH

The above zoning hearing was convened today, and Mr. Alderman requested the case be continued. Counsel explained that Baltimore County will require the applicant to pursue normal development approval (i.e., concept plan, community input meeting, hearing officer's hearing...) for the improvements shown on the plan. As such, the continuance request was granted, and Mr. Alderman indicated he would provide notice of any subsequent hearings to the two community members in attendance at today's hearing (who are copied on this e-mail).

John Beverungen
ALJ

DATE _____

BER 2015-0148-SPH
March 9, 2015

CITIZEN'S SIGN - IN SHEET

NAME _____

ADDRESS

CITY, STATE, ZIP

E - MAIL

[illegible]

[illegible]

Case No.:

2015-0148-SPH

Exhibit Sheet

Petitioner/Developer

Protestants

No. 1		
No. 2		
No. 3		
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Debra Wiley

From: Kristen L Lewis
Sent: Wednesday, February 04, 2015 1:20 PM
To: Debra Wiley
Subject: RE: John - March - jury duty

LS 3/9
1:30 PM

Feb. 2015

Thank you.

>>> Debra Wiley <dwiley@baltimorecountymd.gov> 2/4/2015 1:18 PM >>>
Hi Kristen,

Larry said he'll handle it. Thanks.

From: Kristen L Lewis
Sent: Wednesday, February 04, 2015 1:16 PM
To: Debra Wiley
Subject: Re: John - March - jury duty

Hi Debbie,

I have rescheduled a case (2015-0148-SPH) for 3/9 at 1:30 p.m., do you think that Larry can hear this case?

>>> Debra Wiley <dwiley@baltimorecountymd.gov> 2/4/2015 11:16 AM >>>
Hi Kristen,

John will not be available on 3/9 due to summons for jury duty.

Thanks.

From: John E. Beverungen
Sent: Wednesday, February 04, 2015 11:16 AM
To: Debra Wiley
Subject: jury duty

Deb,

I received a summons for jury duty March 9, 2015 at 8:30 am.

John.

John E. Beverungen

From: Lynne Jones <dryad101@hotmail.com>
Sent: Sunday, March 08, 2015 8:21 PM
To: John E. Beverungen
Subject: Case 2015-0148-SPH
Attachments: Case2015-0148-SPHParkton.docx

Dear Judge Beverungen,

I've attached a letter I've written to you concerning Case # 2015-0148-SPH, of 19300 York Rd, Parkton, MD. I am opposed to this development as it stands at this time.

The hearing concerning this case is scheduled for Monday, March 9, at 1:30 pm, in Hearing Room 205 and I will be in attendance.

Thank you for your consideration in reading my concerns.

Sincerely,

Lynne Jones
815 Stablers Church Rd
Parkton, MD 21120
410.343.1468

John Beverungen, Administrative Law Judge
105 W. Chesapeake Ave, Rm 103
Towson, MD 21204

March 8, 2015

Dear Judge Beverungen,

I am writing to you concerning Case # 2015-0148-SPH, proposed by the Parkton Development Group, located at 19300 York Road, Parkton, MD, 21120.

I feel that this proposed development is not consistent with other businesses and buildings within this rural area. The 26,400 square feet building proposed is too large and should be subject to either staying within the 8,800 square feet BL-CR restriction, or else go through the Special Exception process.

I also think that a development of this size would have a negative impact on this site, as it is located uphill in relation to a nearby stream, the Little Falls. The amount of impervious surface that this would generate would certainly impact this stream, which eventually flows into the Gunpowder Falls River, which empties into Loch Raven Reservoir. I understand that our reservoir system is already maxed out on nitrogen and phosphorus, mainly due to overdevelopment. It seems obvious to me that allowing a septic system and parking lot onto this property, not only on the BL-CR section, but also on the RC4 land, would add more of these damaging nutrients to public water supplies.

I own property on the East side of York Road, across from this site (with road frontage on York and Stablers Church Roads). My farm has been in our family since the 1740's (I'm the seventh generation living on this 'King's Grant' farmland). Our entire farm of 143 acres, plus several contiguous farms have been placed into agricultural preservation in order to help halt the intrusion of unnecessary development into this historically agricultural community. Because of this, I feel strongly that if a business is to be built in this area, it should be one that enhances the community, not be detrimental to or degrade it.

I hope that you consider denying this development.

Sincerely,

Lynne Jones
815 Stablers Church Rd
Parkton, MD, 21120
410.343.1468

CASE NO. 2015-0148-SPH

CHECKLIST

Support/Oppose/
Conditions/
Comments/
No Comment

Comment
Received

Department

1/14/15

DEVELOPMENT PLANS REVIEW
(if not received, date e-mail sent _____)

C

DEPS
(if not received, date e-mail sent _____)

FIRE DEPARTMENT

2/6/15

PLANNING
(if not received, date e-mail sent _____)

C

1/14/15

STATE HIGHWAY ADMINISTRATION

NO Obj

TRAFFIC ENGINEERING

COMMUNITY ASSOCIATION

ADJACENT PROPERTY OWNERS

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 2/17/15

SIGN POSTING Date: 2/16/15 by O'Heefe

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☒ No ☐

Comments, if any: _____

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
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

January 22, 2015

VIA EMAIL ATTACHMENT & REGULAR MAIL

Kristen Lewis, Docket Clerk
Baltimore County Department of Permits
Approvals and Inspections
111 West Chesapeake Avenue, Suite 109
Towson, Maryland 21204

RE: Unavailability for Hearings
Case No. 2015-142-SPH/3636 Belmont Avenue *set for March*
Case No. 2015-148-SPH/19300 York Road

Dear Ms. Lewis:

Due to upcoming surgical procedures and other commitments/conflicts, I wish to advise you of the dates for which I am unavailable for hearings on the above-referenced cases. Those dates are as follows:

February 4, 2015 through and including March 6, 2015
April 3, 2015 through and including April 14, 2015

I would appreciate it if you did not schedule either of these hearings during any of the periods listed. I am sending this letter in advance to avoid, hopefully, having to send a request for postponement. Should you need any additional information in support of this request, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr. [electronic signature]

Howard L. Alderman, Jr.

HLA/gk

c: Peter Max Zimmerman, People's Counsel (via email only)



KEVIN KAMENETZ
County Executive

ARNOLD JABLON
*Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections*

March 6, 2015

Parkton Development Group LLC
Clint Huhra
P O Box 235
Timonium MD 21094

RE: Case Number: 2015-0148 SPH, Address: 19300 York Road

Dear Mr. Huhra:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on January 8, 2015. This letter is not an approval, but only a **NOTIFICATION**.

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,

A handwritten signature in black ink that reads "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Howard L. Alderman Jr. Esquire, 502 Washington Avenue, Suite 800, Towson MD 21204

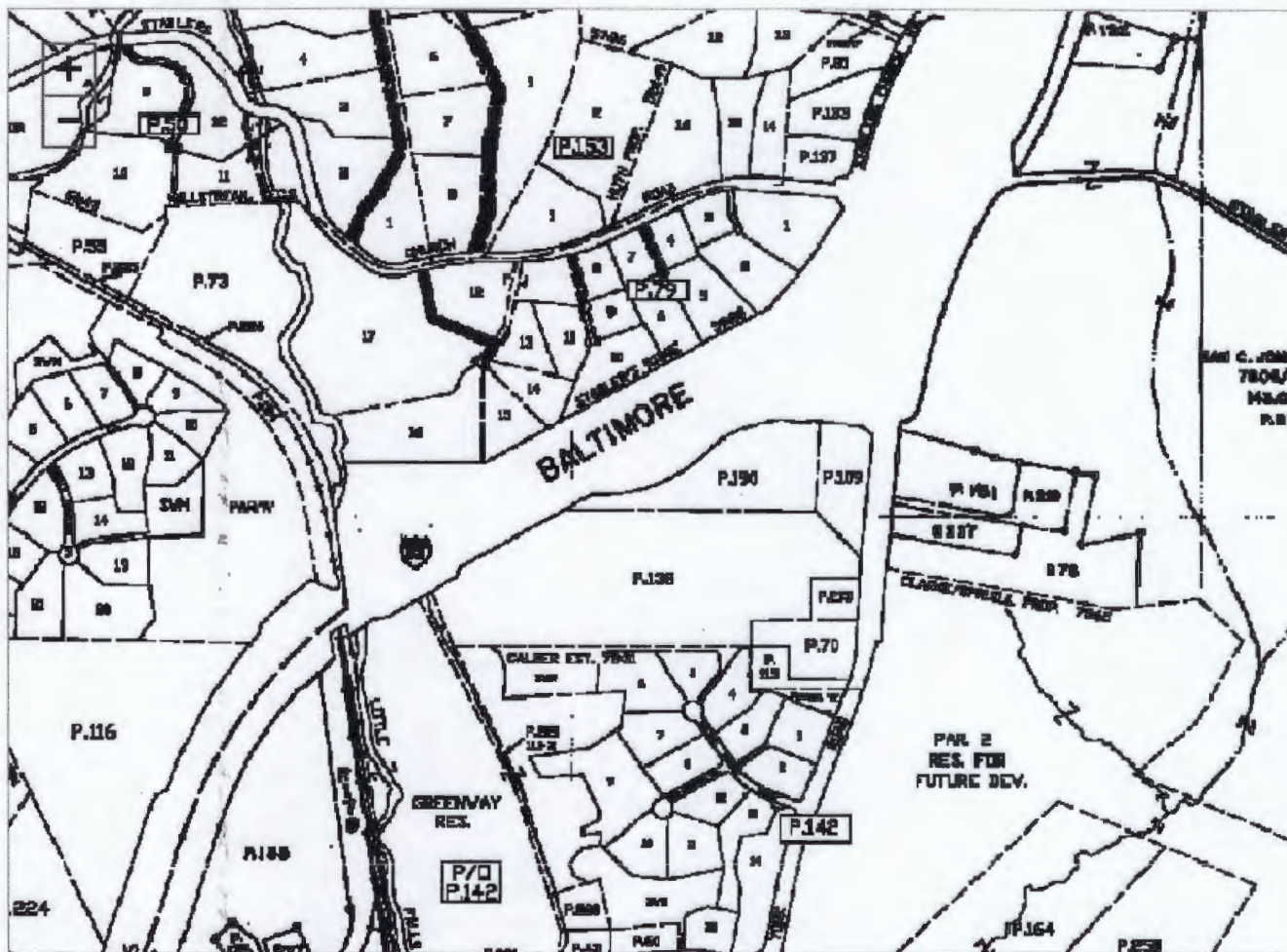
Real Property Data Search (w1)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption				View GroundRent Registration			
Account Identifier:		District - 07 Account Number - 1900011335							
Owner Information									
Owner Name:		PARKTON DEVELOPMENT GROUP LLC				Use:		RESIDENTIAL NO	
Mailing Address:		STE 201 2344 YORK RD TIMONIAN MD 21093-				Principal Residence:		NO	
						Deed Reference:		/34421/ 00157	
Location & Structure Information									
Premises Address:		YORK RD 0-0000				Legal Description:		7.10 AC WSR YORK RD RER 260 FT 390.336SQ FT 1310 S STABLERS CH RD	
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0012	0015	0190		0000				2014	Plat Ref:
Special Tax Areas:					Town:		NONE		
					Ad Valorem:				
					Tax Class:				
Primary Structure Built		Above Grade Enclosed Area			Finished Basement Area		Property Land Area		County Use
							7.1000 AC		04
Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation			
Value Information									
			Base Value		Value		Phase-in Assessments		
					As of 01/01/2014		As of 07/01/2014		As of 07/01/2015
Land:			160,700		142,600				
Improvements			0		0				
Total:			160,700		142,600		142,600		
Preferential Land:			0						0
Transfer Information									
Seller: TMR YORK LLC				Date: 11/12/2013			Price: \$575,000		
Type: ARMS LENGTH IMPROVED				Deed1: /34421/ 00157			Deed2:		
Seller: RAFAILIDES THOMAS S				Date: 06/28/2004			Price: \$0		
Type: NON-ARMS LENGTH OTHER				Deed1: /20321/ 00339			Deed2:		
Seller: EXXON CORPORATION				Date: 09/20/1983			Price: \$32,500		
Type: ARMS LENGTH IMPROVED				Deed1: /06594/ 00454			Deed2:		
Exemption Information									
Partial Exempt Assessments:		Class			07/01/2014		07/01/2015		
County:		000			0.00				
State:		000			0.00				
Municipal:		000			0.00 0.00		0.00 0.00		
Tax Exempt:				Special Tax Recapture:					
Exempt Class:				NONE					
Homestead Application Information									
Homestead Application Status: No Application									

Baltimore County

New Search (<http://sdat.resiusa.org/RealProperty>)District: **07** Account Number: **1900011335**

The information shown on this map has been compiled from deed descriptions and plats and is not a property survey. The map should not be used for legal descriptions. Users noting errors are urged to notify the Maryland Department of Planning Mapping, 301 W. Preston Street, Baltimore MD 21201.

If a plat for a property is needed, contact the local Land Records office where the property is located. Plats are also available online through the Maryland State Archives at www.plats.net (<http://www.plats.net>).

Property maps provided courtesy of the Maryland Department of Planning ©2011.

For more information on electronic mapping applications, visit the Maryland Department of Planning web site at www.mdp.state.md.us/OurProducts/OurProducts.shtml (<http://www.mdp.state.md.us/OurProducts/OurProducts.shtml>).



(<http://imsweb05.mdp.state.md.us/website/mosp/>)

☒ Loading... Please Wait. Loading... Please Wait.

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KEVIN KAMENETZ
County Executive

ARNOLD JABLON
Deputy Administrative Officer
Director, Department of Permits,
Approvals & Inspections

February 5, 2015

Parkton Development Group LLC
Clint Hura
P O Box 235
Timonium MD 21094

RE: Case Number: 2015-0148 SPH, Address: 19300 York Road

To Whom It May Concern:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on January 8, 2015. This letter is not an approval, but only a **NOTIFICATION**.

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,

A handwritten signature in black ink, reading "W. Carl Richards, Jr." with a stylized flourish at the end.

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
Howard L. Alderman, Esquire, 502 Washington Avenue, Suite 800, Towson MD 21204

Martin O'Malley, Governor
Anthony G. Brown, Lt. Governor



James T. Smith, Jr., Secretary
Melinda B. Peters, Administrator

Date: 1/14/15

Ms. Kristen Lewis
Baltimore County Department of
Permits, Approvals & Inspections
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 2015-0148-SPH
Special Hearing
Parkton Development Group
LLC.
19300 York Road
MD 45

Dear Ms. Lewis:

We have reviewed the site plan to accompany petition for variance on the subject of the above captioned, which was received on 1/14/15. A field inspection and internal review reveals that an entrance onto MD45 consistent with current State Highway Administration guidelines is not required. Therefore, SHA has no objection to approval for _____, Case Number 2015-0148-SPH

Should you have any questions regarding this matter feel free to contact Richard Zeller at 410-545-5598 or 1-800-876-4742 extension 5598. Also, you may email him at (rzeller@sha.state.md.us). Thank you for your attention.

Sincerely,

for Steven D. Foster, Chief/
Development Manager

Access Management Division

SDF/raz

My telephone number/toll-free number is _____
Maryland Relay Service for Impaired Hearing or Speech 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone 410.545.0300 • www.roads.maryland.gov

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits, Approvals
And Inspections

FROM: Dennis A. Kennedy, ^{DAK}Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For January 19, 2015
Item No. 2015-0148

DATE: January 14, 2015

The Bureau of Development Plans Review has reviewed the subject zoning item and we have the following comment.

Landscape and Photometric Lighting Plans, cost estimates and security are required. Please state the proposed building use.

* * * * *

DAK:CEN
cc:file

ZAC-ITEM NO 15-0148-01192015.doc



Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL

Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

March 2, 2015

HAND DELIVERED

John Beverungen, Administrative Law Judge
The Jefferson Building
105 W. Chesapeake Avenue, Suite 103
Towson, Maryland 21204

RECEIVED

MAR 02 2015

OFFICE OF ADMINISTRATIVE HEARINGS

Re: Parkton Development Group, LLC
19300 York Road
Case No.: 2015-148-SPH
Hearing: March 9, 2015

Dear Judge Beverungen,

This petition is apparently for a new office building. We say apparently because there is no reference to the use in the petition, but office use is mentioned in the parking note 5 on the site plan.

The York Road location is in the Parkton area of the north county. It is across from the Stablers Church Road T-intersection. It is just south of the I-83 access. It is split-zoned B.L.-C.R. (Business-Local/Commercial-Rural Zone/District), 3.15 acres, and R.C. 4 (Watershed Protection Zone), 3.95 acres.

The site plan describes 19300 York Road as a 7.1 acre property. It is near, but not on, the west side of York Road. That is to say, there is a separate property owned by Subzero, LLC on the York Road frontage, formerly a gas station, now a liquor store. So there is a kind of panhandle access to the subject property. Although the site plan does not say so, the Google map indicates this is a vacant property.

The petition for special hearing asks for an underground sewer/septic reserve area in a portion of the R.C. 4 Zone. The site plan shows it would serve the commercial office use in the B.L./C.R. zone. The petition also ask for a use permit under BCZR Sec. 409.8.B.2 for parking in another portion of the R.C. 4 Zone, to serve the B.L.-C.R. Zone use.

Upon review of the site plan, we find it necessary and appropriate to pay attention to several basic legal issues.

The first has to do with the placement of the septic system in the R.C. 4 Zone to serve a business zone commercial use. The second has to do with the exceedance of C.R. District bulk standards and the required special exception for such exceedance. The third has to do with deviation from other C.R. District use restrictions, including landscaping, parking, and others. The fourth has to do with the overbuilding of the property and the consistency with the intent of the C.R. District.

(1) The septic system. Our office has consistently taken the position that it is impermissible to place a septic system use in a residential zone to serve a business zone commercial use. By residential zone, we include the D.R. and R.C. Zones. BCZR Sec. 101.1 definition.

We prevailed on this point in Petition of Long Green Valley Ass'n, et al. for a Special Hearing, 13523 Long Green Pike, CBA Case No. 93-93-SPH, October 26, 1994; affirmed Circuit Court Case No. 94-CV-10257, March 7, 1996. We enclose these decisions, along with our office's memorandum filed with the CBA, including the unreported opinion of the Court of Special Appeals in G.L.P. Development v. Md. Nat'l Capital Park & Planning Comm'n No. 1755, Sept. Term 1989, decided July 31, 1990. We also enclose the reported opinion of the Supreme Court of Connecticut in Silitschanu v. Groesbeck 543 A.2d 738 (Conn. 1988).

The County Council is presumed to be aware of the Long Green Valley Ass'n decision. In the last 20 years, so far as we can find, there has been no legislative change which affects this analysis and interpretation. So, the present petition does not qualify as a matter of law.

(2) Required Special Exception; Exceedance of Use Restriction for Bulk Standards in the C.R. District: The C.R. District bulk standards limit the use to 6,600 square feet for the ground floor and 8,800 square feet total. BCZR Sec. 259.3.C.1.a. The maximum floor area ratio is 0.20. BCZR Sec. 259.3.C.1.b. The proposed use is listed at 26,400 square feet building area. It looks like this is for a two-story building, based on the dimensions shown on the site plan. However, the site plan does not list the number of floors or the height.

Because of the exceedance of floor area bulk standards, there is a requirement for a special exception. BCZR Sec. 259.3.B.3. To qualify for such approval, the proposal must not only satisfy the BCZR Sec. 502.1 standards relating to adverse impact on the neighborhood, but also comply with site design and performance standards articulated as part of a duly adopted Master Plan for the district. There is no indication of any such relevant Master Plan.

(3) Other C.R. District Use Restrictions. Landscaping. The entire front, side, and rear setbacks must be landscaped; and there must be 7% of the parking lot in pervious area, along with 1 tree per 8 parking spaces. BCZR Sec. 259.3.C.3.a, b. **Parking.** The parking must be located entirely in the C.R. District. This disqualifies the use permit for parking in the R.C. 4 Zone. BCZR Sec. 259.3.C.4. **Environmental Holding Capacity.** There must be proof to the

satisfaction of DEPS that the land can support the proposed development without overburdening the private sewage disposal system and potable water supply and without creating a nuisance. BCZR Sec. 259.3.C.5. **Outside Storage.** Such storage must be shown on the site plan as limited per location, amount, and screening. BCZR Sec. 259.3.C.6. **Compatibility review.** There must be a compatibility review under County Code Sec. 32-4-402. BCZR Sec. 259.3.C.8.

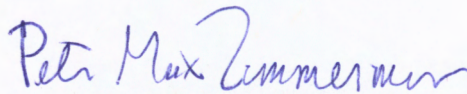
(4) **Legislative intent of C.R. District.** The C.R. District is intended for convenience shopping and personal services for the rural residential and agricultural area population, otherwise unavailable within a reasonable distance. BCZR Sec. 259.2.A.1. There is no showing that this proposal serves these purposes or involves a need for this use. Furthermore, the conflicts with the R.C. 4 Zone and C.R. District use restrictions reflect that the proposal's size and scale are such as to overbuild the C.R. District, and infringe on the R.C. 4 Zone.

We reviewed Bill 103-88, the source of the current C.R. District law and the May 19, 1988 Planning Board Report entitled Rural Business Zones, both enclosed. The Report discusses the C.R. District on pages 2-3. Among other things, it contemplates that the growth should only occur "in a manner appropriate to local scale and tradition and within the context of a duly adopted Master Plan." This reinforces our concerns about the magnitude of this proposal, along with its cross-over into the R.C. 4 Zone.

Conclusion

For all of the above reasons, the petition is disqualified because it conflicts with the R.C. 4 Zone and C.R. District use restrictions and because in conflict with the general intent and purpose of the zone and district.

Sincerely,



Peter Max Zimmerman
People's Counsel for Baltimore County

cc: Howard Alderman, Esquire
Clint Huhra, listed representative
Wallace Lippincott, Department of Planning

Google

To see all the details that are visible on the screen, use the "Print" link next to the map.



IN THE MATTER OF THE * BEFORE THE
 THE APPLICATION OF *
 LONG GREEN VALLEY ASSN., ET AL * COUNTY BOARD OF APPEALS
 FOR A SPECIAL HEARING ON * OF
 PROPERTY LOCATED ON THE *
 SOUTHEAST SIDE LONG GREEN * BALTIMORE COUNTY
 PIKE, 170' SOUTHWEST OF C/L *
 OF FORK ROAD *
 (13523 LONG GREEN PIKE) * CASE NO. 93-93-SPH
 5TH ELECTION DISTRICT
 3RD COUNCILMANIC DISTRICT

O P I N I O N

This matter comes before the Board of Appeals on an appeal of the Zoning Commissioner's decision to deny the Petition for Special Hearing brought by the Long Green Valley Association, et al. The issue before the Zoning Commissioner was to determine whether or not to allow the use of R.C.-2 zoned property for a sewage disposal system of an adjacent commercially zoned property. While the Zoning Commissioner determined the use to be illegal, he denied the special hearing on the basis of the doctrine of equitable estoppel, ruling that the Petitioner and the County were well aware of the property owner's intentions and processes and were therefore precluded from terminating the then already implemented use. Hence, the Petitioner brought the appeal to the Zoning Commissioner's ruling.

This case was heard de novo in an open hearing in two days, in which testimony and evidence were presented. Long Green Valley Association, et al, Petitioners, were represented by J. Carroll Holzer, Esquire; Orville Jones, property owner, was represented by John Gontrum, Esquire; and, People's Counsel for Baltimore County participated in the proceedings. At the conclusion of the hearings, counsel submitted memoranda in support of their positions, in lieu of closing arguments.

Case No. 93-93-SPH, Long Green Valley Assn., Et al /Petitioners 2

Before discussing the facts of this case, the issue of whether the County Board of Appeals has proper authority to hear the case should be addressed. During opening statements and again at the start of presentation of the property owner's case, Mr. Gontrum moved for dismissal on the grounds that the Petitioners have no interest in the property. The motion was denied from the bench, indicating that the Petitioners, while successful in the legal interpretation provided by the Zoning Commissioner, are an aggrieved party by virtue of the denial of the Petition for Special Hearing. Thus, the motion was properly denied and the case was brought.

The facts in this case are relatively simple and, for the most part, not in dispute. Mr. Orville Jones owns the subject property, 13523 Long Green Pike, near Baldwin, Maryland. Mr. Jones, purchasing the property at public auction, has owned the property since April of 1987. The subject property and several adjacent and nearby properties along Long Green Pike and Fork Road are zoned for business/commercial use in a cluster of such properties near the intersection of those roads. The surrounding area is largely agricultural uses in the R.C.-2 zone. The property is 1.056 acres, nearly square-shaped and improved with a building which is occupied by a convenience store, a dentist's office and a laundromat, along with associated parking area.

A building known as the Long Green Hotel existed on the property at the time Mr. Jones acquired it. After acquisition of the property, Mr. Jones decided to raze the existing structure and replace it after first attempting to alter the structure, as shown in evidence of the permits issued beginning in 1989 forward to the

Case No. 93-93-SPH, Long Green Valley Assn., Et al /Petitioners 5
issues to be addressed here.

First, does the Board of Appeals have jurisdiction in this case. As discussed earlier, the Board ruled from the bench that by virtue of the Zoning Commissioner's denial of the Petition for Special Hearing, the Petitioner is an aggrieved party with rights of appeal to this Board pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Second, is the now-installed septic system a "use" of the land? The term "use" is not defined in Section 101 of the B.C.Z.R. As such, we are required by Section 101 of the B.C.Z.R. to accept the definition contained in Webster's Third New-International Dictionary. The definitions include "...the legal enjoyment of property that consists in its employment, occupation, exercise, or practice..." and "the benefit in law of one or more persons, specifically, the benefit of or the profit arising from lands and tenements to which legal title is held by a person, or the act or practice of using something." Expert testimony from Norman Gerber includes his opinion that septic is a land use. Further, planning and zoning expert Paul Solomon, the former Director of Agricultural Preservation Programs for Baltimore County, pointed to COMAR 26.4.03.G in defining septic as having a single user within the property. Mr. Jones argues that the system is entirely underground, thus not having an impact on the possible R.C.-2 uses already enjoyed. As Mr. Gerber opined, this Board finds it unlikely that heavy farm machinery should travel over the septic field. Further, he indicated that the easement obtained by Mr. Jones is a right of use, not tantamount to ownership. Therefore,

Case No. 93-93-SPH, Long Green Valley Assn., Et al /Petitioners 6
clearly the now-installed septic system is a use of the land.

Third, is the septic system use permitted in the R.C.-2 zone? Mr. Jones' position is that the use is permitted either by right, special exception or as an accessory use by right or special exception or as an accessory use by right or special exception. The property owner's opinion is flawed. The B.C.Z.R., Section 1A01.2C, identifies uses permitted in an R.C.-2 zone by special exception. In neither section do the B.C.Z.R. identify private septic systems as a permitted use.

Mr. Jones asserts that if a septic field qualifies as a regulated use, then it is permitted as of right in an R.C.-2 zone, asserting that the septic system falls under the term "underground conduits" found in Section 1A02.2B.5 of the B.C.Z.R. However, as expert witness Paul Solomon pointed-out in testimony, the application of the term "conduits" is to public facilities and that a septic system for an allowed use under R.C.-2 would be allowable, but that a septic system for a commercially zoned site is considered a private "extension" of the commercial site. Expert witness Norman Gerber opined that the septic field in this case is a principal use in the R.C.-2 zone and is therefore not allowed; as a principal use the field is not in the realm of public facilities as he interprets the term "underground conduits" to mean. This Board is persuaded by expert witnesses in this issue.

Mr. Jones also asserts that the septic field is an acceptable accessory use. B.C.Z.R., Section 101, defines "accessory use" as, "A use or structure which: a) is customarily incident, subordinate to and serves a principal use and structure; b) is subordinate in

Case No. 93-93-SPH, Long Green Valley Assn., Et al /Petitioners 7

area, extent or purpose to the principal use or structure; c) is located on the same lot as the principal use or structure served; and d) contributes to the comfort, convenience, and necessity of occupants, business or industry in the principal use or structure served." On the face, the septic field appears to meet subsections (a), (b) and (d) of the definition. However, as indicated by Mr. Gerber, by virtue of its existence in an area granted by easement and that easements are provided as a right of use, this septic field may be considered a principal use, thereby disqualifying the system under subsection (a). Regarding the applicability of subsection (c), clearly the septic system is not within the same lot as the structure it serves. By virtue of the procurement of easements for the purpose of constructing his septic system, Mr. Jones attempts to assert that his rights of ownership of said easement are similar to those he would have if he held the easement area in fee. As a fact, he does not own the area in fee; therefore, he does not have rights of ownership. As expressed by Mr. Gerber, the easement is a granted right of use, not tantamount to ownership and that ownership is required to assert rights under zoning regulations. The cases to which Mr. Jones refers to draw parallels to this issue are cases where a Petitioner owned a commercial property and an adjacent residential tract. By virtue of dissimilar ownership of the site and easement area, Mr. Jones' argument cannot be applied here. In the case in Re: Helix Health System, Case No. 92-186-SPH, where common ownership of non-abutting properties was used as the basis for construction of an incinerator to serve both properties, the lot on which the incinerator rested

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could not be used as an accessory to the principle use on the other property. As such, the same standard applies here regardless of ownership.

Finally, Mr. Jones asserts that the septic field is an uncontrolled excavation in the R.C.-2 zone and is therefore allowable. There is ample, overwhelming evidence and testimony, as well as discussion herein, which persuades this Board to find that the septic system is a structure, which, for the purposes of regulation and construction, is engineered to be anything but uncontrolled excavation and consider his point moot. The septic system in the R.C.-2 zone to support a commercially-zoned property is simply not allowed.

The fourth, and final issue, is the question of estoppel. The evidence presented in this case clearly indicates that Mr. Jones intended to construct his septic system on his property, if that option was feasible. As a result of site difficulties, Mr. Jones sought reasonable alternatives to working on-site. The record is clear: Mr. Jones made certain that appropriate Government authorities were represented in review of possible alternatives, to the best of his knowledge and abilities. As indicated by Robert Powell (DEPRM), the Office Planning and Zoning (OPZ) was contacted and apprised of the planned work; the OPZ response was to rescind the stop-work order then in place. During cross-examination, Mr. Gerber testified that OPZ routinely makes comments on development plans and that, in fact, comments are solicited. When asked by the Board if there exists any requirement for septic approval by OPZ, Mr. Gerber answered no, the septic projects are approved by DEPRM.

Mr. Jones also made certain that the Petitioner's concerns

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were addressed, even going so far as to write to the Long Green Valley Association (LGVA) in response to letters written by LGVA to the County. The record is replete with letters between LGVA and the County, as well as letters between Mr. Jones, LGVA and the County. Clearly, LGVA had ample notice to pursue any concerns it had over a long period; yet LGVA did nothing after receiving a letter dated January 2, 1992 from DEPRM, which outlined the intent of DEPRM to rescind the stop-work order under certain conditions. Not until nine months later did LGVA raise an issue, after Mr. Jones had spent literally hundreds of thousands of dollars to obtain the easement, construct the septic field and finish the building.

The doctrine of equitable estoppel in zoning cases is recognized in Maryland. This case is an issue of timeliness and fundamental fairness. This Board is persuaded by Mr. Jones' argument that the LGVA, led by attorneys Charlotte Pine and Edward Blanton, was well aware of the then-proposed site to be used for the septic system, as well as the conditions necessary for lifting the stop-work order. LGVA did not respond to Mr. Jones' letter of December 17, 1991, nor to the DEPRM letter of January 2, 1992. Over ninety days elapsed between Mr. Jones's resumption of construction and the filing of the Petition for Special Hearing. The LGVA and the County are therefore estopped from pursuing the Petition.

Despite the Board's findings that the implemented use of adjacent R.C.-2 zoned property to support a septic system for commercially-zoned property is illegal, the Board finds that Mr. Jones acted fairly and openly with all concerned parties and that

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the County, through its actions, and the LGVA, through its inaction, are estopped. Therefore this Board shall deny the Petition for Special Hearing.

ORDER

IT IS THEREFORE this 26th day of October, 1994 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing be and is hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

William Clark
C. William Clark

Robert O. Schuetz
Robert O. Schuetz

IN THE MATTER OF
LONG GREEN VALLEY ASSOCIATION
PETITION FOR SPECIAL HEARING
13523 LONG GREEN PIKE

BEFORE THE
COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY
CASE NO. 93-93 SPH

PEOPLE'S COUNSEL'S MEMORANDUM

People's Counsel for Baltimore County submitted a table of legal analysis at the conclusion of the March 31, 1994 hearing, also attached here, and now submits this memorandum:

1. The Baltimore County Zoning Regulations are structured so that in each zoning district, only uses enumerated as permitted by right or by special exception are allowed. BCZR 102.1; Kowalski v. Lamar 25 Md. App. 491 (1975).

2. Commercial uses are not generically allowed in density residential or resource conservation zones. BCZR 1B01, BCZR 1A01-1A04. Food stores, such as the High's store at 13523 Long Green Pike, are specifically not allowed in the RC2 (agricultural) or any of the other density residential or agricultural zones. BCZR 1A01. Correlatively, there is no provision for the allowance of commercially connected individual sewage disposal (septic) systems.

3. The purpose of the agricultural zone, discernible in the clear language, is to foster conditions favorable to agriculture and to prevent urban intrusion and sprawl which corrode insidiously the base of agricultural use. BCZR 1A01.1A.1.c,d; 1A01.1B. The uses allowed by right or by special exception support or fit within the pattern of agricultural land use and industry. BCZR 1A01.2.

4. Paul Solomon, the environmental planner responsible in large part for the legislative development, drafting, and mapping of the RC zones, gave uncontradicted testimony of the

historical and practical contradiction between their purposes and the proposal here for a septic field to support adjoining commercial zone use, in effect expanding into a satellite commercial zone. The presence of the septic system, albeit subterranean, inevitably impairs and frustrates to some extent the designated agricultural use. The character and degree of the impairment will necessarily vary depending on the property and the situation and type of system; but the law treats them all the same. Nor does it matter which section of the system is on the agricultural land. Again, the law is and must be consistent.

5. The Court of Appeals has held that commercial uses, including those which otherwise arguably are accessory, such as road access and private beaches, are not allowed in a residential zone. Leimbach Construction Co. v. City of Baltimore 257 Md. 635 (1970); Delbrook Homes v. Mayers 248 Md. 89 (1967); see Board of County Comm'rs v. Snyder 186 Md. 342 (1946).

6. The Court of Special Appeals has held that a septic field is an impermissible use in a residential-agricultural zone when it services adjacent commercially zoned and used property, even under common ownership.. GLP Dev. Co. v. Md-Nat'l Cap. P & P Comm'n, Court of Special Appeals, Sept. Term, 1989. The main substantive issues in the attached opinion are identical to the present situation. The Connecticut Supreme Court held that a septic system is an impermissible use in a residential zone. Silitschanu v. Groesbeck 543 A.2d 737 (Conn. 1988). There are no known appellate decisions to the contrary.

7. There was introduced in evidence the Maryland Department of Environment regulation defining individual sewage supply system (COMAR 26). This expands on the nature of the system and its use.

8. Baltimore County has provided explicitly a use permit process for business or industrial parking in residential zones. BCZR 409.8B. But there is no allowance for any other commercial use of residential zones in combination with a commercial zone use.

9. A commercial septic system on agriculturally zoned land is not accessory because it is commercial, and unrelated to legitimate agricultural use. Leimbach, Delbrook, Snyder, supra. In this context, Carl Richards, the zoning official who approved the system after a brief unrecorded conversation with his supervisor, conceded that such placement of the system is unusual, and not customary. This further takes it out of the "accessory use" definition. BCZR 101. So does the fact that the system is not on the same lot as the food store. But even if it otherwise seemed to fit the "accessory" concept, it would not qualify simply because an accessory use must relate to a permitted use in the zone in which the purported accessory is found, here agriculture.

10. For all these reasons, as a matter of law, the proposed use here is illegal. To the extent that the Zoning Commissioner also found that the use is illegal, we agree with his opinion.

11. Contrary to the Commissioner's opinion, however, estoppel cannot justify the clearly illegal commercial use of the agricultural zone. The Maryland Court of Appeals has long held that estoppel is no defense to a plain violation of use restrictions, notwithstanding any administrative interpretation and/or permit approval. Lipsitz v. Parr 164 Md. 222 (1933); Board of County Comm'rs v. Snyder 186 Md. 342 (1946); Delbrook Homes v. Mayers 248 Md. 80 (1967); City of Hagerstown v. Long Meadow Shopping Center 264 Md. 481 (1972).

12. Where the violation is fundamental, such as here, estoppel is all the more inapplicable. See Inlet Associates v. Assateague House 313 Md. 413 (1988).

13. Correspondingly, laches is not a defense where the alleged delay involves a matter of months. Lipsitz, Inlet Associates supra.

14. Even were estoppel and/or laches conceptually applicable, the record in the present case does not support their application.

The property owner, Orville Jones, acting as his own general contractor, bulldozed over the original sand mound septic system located properly on the commercially zoned property. Subsequently, he entered into discussions with the Baltimore County Department of Environment (DEPRM). He failed to explore potential alternative systems on site. He failed to explore potential alternatives utilizing adjacent commercially zoned property. In addition, he changed his plans and proposals substantially during the course of the project.

It is important to pause and consider that if the sand mound system had not been destroyed, the present controversy would not exist. Even then, if there had been exploration of alternatives, the record leaves a reasonable inference that other on-site or proximate commercial zone septic systems were feasible. Paul Solomon, upon review of the pertinent DEPRM correspondence, testified that it was silent as to consideration of an on-site system, which Solomon stated should have been considered. Moreover, Robert Powell, of DEPRM, when questioned about a system crossing over to neighboring commercial property, could only say that he thought it undesirable, not impermissible.

Instead, while aware of intense interest and concern expressed by some citizens in the neighborhood, Mr. Jones went ahead without a public hearing to acquire an easement and obtain a permit to place the septic system on agriculturally zoned land. He changed his construction

plans in order to raze the existing building and put up a new one as he saw fit. When asked by panel member William Clark upon what did he rely in moving forward, Mr. Jones candidly and bluntly said that he made a financial decision to go ahead. In other words, his decision was independent of any concern for the legal niceties, the propriety of a public hearing, or the concerns of the neighborhood. To put a long story short, Mr. Jones assumed the risk and/or went ahead regardless.

The permit approval was casual at best. There were some brief telephone calls between DEPRM and the zoning staff, and a brief informal conversation among zoning staff to the effect that it seemed like some situations approved in the past. The zoning office put nothing in writing, not to mention anything passing for a rational application of the law.

Many citizens had no knowledge of the proceedings. Others came reasonably to believe, as a result of correspondence, that they would receive notice of any significant specific proposal and the opportunity to be heard.

There was no notice to People's Counsel, the office charged by the citizens under Sec. 524.1 of the Baltimore County Charter with the responsibility to defend the comprehensive zoning maps and thus the integrity of the agricultural zones. For this reason alone, even if estoppel were available to sustain an illegal commercial use, and even if there were facts sympathetic to Mr. Jones, there could be no estoppel running against the People's Counsel.

Anyway, there are no equities to support Mr. Jones. Rather, the neighboring citizens, some having made reasonable efforts to keep abreast of developments, and others entirely without notice, have been dealt with harshly and indifferently. Their equities, not to mention the public

interest in the enforcement of the law, have been overridden, just like the bulldozed sand mound system at the start.

15. There have been cited a number of zoning commissioner decisions legalizing storm water management systems and the like in residential zones, serving or adjacent to commercially zoned properties. These involved other neighborhoods and parties. Generally, there was no objection and/or no appeal. In any case appealed to the County Board of Appeals, there was a compromise resolution without a hearing on the merits of the commercial use of the residential zone. Moreover, none of these cases involved the commercial use of the agricultural zone.

These zoning commissioner approvals are contrary to law. They do not justify the present illegal use or constitute grounds for estoppel. See Lipsitz, Inlet, supra. Two wrongs do not make a right. Nor do three or four. This is the first time there has been an actual controversy presented to the County Board of Appeals on the issue. Moreover, the implications of commercial use of the agricultural zone are grave for the thousands of acres so zoned in the northern, western, and other sections of the county. Paul Solomon's testimony reveals the magnitude of the problem. The previous zoning commissioner approvals of the commercial use of residential zones were inappropriate, but they were not of the public import of the present transgression. Nor were they carried out with disregard of the public interest in notice and opportunity to be heard.

Conclusion

On this record, the case comes down to clear issues of law. There is nothing fairly debatable. There is no ambiguity or latitude. There is one fundamental conclusion.

The commercial septic system use in the agricultural zone for the High's store at 13523 Long Green Pike is illegal. There is no excuse or justification for it.

At the same time, the stakes of the case should be put in perspective. It is not the existence of the High's store itself in question. It could flourish if connected to a proper commercially zoned system.

Rather, the focus is on the commercial sewage disposal system and its implications for the entire county. Upon this controversy at Long Green Pike rests a major land use consequence for the agricultural, and by implication, the rest of the resource conservation and density residential zones.

Properly understood, this is one of the most important cases to come for decision before the County Board of Appeals in this year, and any year. We hope that the Board will side with the law, as analyzed here, rather than against it.


 Peter Max Zimmerman
 People's Counsel for Baltimore County
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 Towson, Maryland 21204
 887-2188

Certificate of Service

I certify that a copy of this memorandum was mailed to John Gontrum, Esq. and J. Carroll Holzer, Esq, attorneys for other interested parties in this case.


 Peter Max Zimmerman

1994 Long Green Zoning Case Legal Analysis					
Court Decisions					
Case Name	Court	Use	Zoning	Decision	Comments
Leimbach 257Md635	MdCtApp 1970	Commercial Access Road	Residential	Illegal	Business use of land in residential district.
Kowalski 25MdA491	MdCtSpec App 1975	Commercial fishing	Residential	Illegal	BaltCo;BCZR102.1;Not Specifically Allowed.
Silitschanu 543A2d737	ConnSupCt 1988	Septic System	Residential	Illegal	Serves adjacent business use
GLP Dev	MdCtSpec App 1989T	Septic System	Rural Residential	Illegal	Serves adjacent business use; affrms PIBd denial.
Lipsitz164 Md 222	MdCtApp 1933	Ice Factory	Comm'l	Illegal	Estoppel cannot justify use; no laches.
Gontrum 182 Md370	MdCtApp 1943	PubSewerRt/ WayGranted	-----	City:NoDuty toOpenStreet	Estoppel not applicable against City.
Hagerstwn 264 Md481	MdCtApp 1972	Shopping CtrTheater	Commun. ShopCtr	Illegal	No estoppel; City policy contrary to law.
Inlet 313 Md 413	MdCtApp 1988	Right/Way& RiparianRts; Hotel/Marina	-----	Illegal; Lack of Ordinance	No estoppel based on City Resolution; no laches against city and citizens;Developer's plans change during process.
Summary: 1. A use is allowed only when explicitly permitted by the zoning ordinance. 2. The law is settled that it is impermissible to place in residential and agricultural zones roads, septic systems and similar private transportation or utility uses which serve adjacent or nearby commercial land uses (unless explicitly authorized, such as parking under BCZR 409). These are not justified as "accessory uses." 3. Reliance on county "policy" or practice which is contrary to law (and thus a usurpation of legislative authority) cannot form the basis of an "estoppel." 4. Laches does not apply where the relevant time period is measured in months. 5. None of these defenses constitutes justification where the citizens and People's Counsel are excluded from the crucial zoning approval phase, and where the developer's plans change.					
Conclusion			The commercial septic system in the RC2 zone is unlawful. The Zoning Commissioner's decision to allow it in this particular case should be reversed.		
			Respectfully Submitted, People's Counsel for Baltimore County		

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
No. 1755

September Term, 1989

G. L. P. Development

v.

Maryland National Capital Park and
Planning Commission

Garrity,
Bell, Rosalyn B.,
Fischer,

JJ.

Per Curiam

Filed: July 31, 1990

Appellant, G.L.P. Development, appeals from an adverse decision of the Circuit Court for Montgomery County (Sanders, J.) affirming the Montgomery County Planning Board of the Maryland National Park and Planning Commission's denial of appellant's application for approval of a preliminary plan of subdivision.

The following issues are raised by appellant:

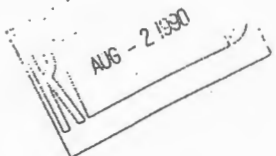
I. Whether the circuit court committed error in refusing to allow the introduction of additional evidence, consisting of public records, to demonstrate the arbitrary, capricious and illegal quality of the Planning Board's decision.

II. Whether the Planning Board's Determination that the appellant's preliminary plan did not conform with the master plan pursuant to Montgomery County Code Section 50-35(1) was arbitrary, capricious, and erroneous, and contrary to the substantial evidence of record.

III. Whether the Planning Board's finding that the proposed septic field violated the zoning ordinance is an unlawful decision, beyond the jurisdiction of the Planning Board in a Chapter 50 Subdivision proceeding; Alternatively, whether the decision was arbitrary, capricious, and an erroneous interpretation of the zoning ordinance.

IV. Whether the Planning Board's finding that the septic field supporting a commercially zoned parcel may not extend into a rural cluster residential zone is arbitrary and capricious in light of other actions by the Planning Board approving similar preliminary plans of subdivision.

V. Whether the Planning Board applied the provisions of Montgomery County Code Sec. 50-35(k) (adequate public facilities) in an erroneous, arbitrary, capricious and unlawful manner, contrary to the substantial evidence of record.



On December 15, 1987, appellant submitted an application to the Montgomery County Planning Board of the Maryland National Capital Park and Planning Commission (Planning Board) for the approval of a preliminary subdivision plan. The application proposes to combine two parcels of land owned by appellant into one parcel containing 4.99 acres. The subject property now consists of a 1.65 acre lot zoned C-1 (commercial) and a 3.34 acre parcel zoned Rural Cluster (residential - agricultural).

Appellant, in its preliminary plan application, proposes to construct a neighborhood commercial center comprised of two buildings containing 11,134 square feet for retail commercial use on each of two floors. The parcel zoned C-1 is to contain the commercial buildings, the septic system tank, parking and driveways. The area zoned Rural Cluster is proposed to contain the underground septic field consisting of filtering pipes for sewage disposal.

After taking testimony, the Planning Board disapproved appellant's preliminary plan concluding:

1. The plan does not comply with the Subdivision Regulations (Chapter 50, Montgomery County Code).
2. The plan does not conform to the Zoning Ordinance (Chapter 52, Montgomery County Code).

Judge Sanders heard appellant's appeal in the circuit court and affirmed the Planning Board.

I. Additional Evidence

The first issue raised by appellant is that the circuit

court erred in refusing to allow the introduction of additional evidence. Subtitle B of the Maryland Rules of Procedure governs appeals from administrative agencies. Rule 810 states, "Additional evidence may be allowed when permitted by law." Appellant sought to introduce evidence of public record wherein the Planning Board had approved facilities located on residential zoned property supporting commercial development. In Aspen Hill Venture v. Montgomery County Council, 265 Md. 303 (1972), the Court of Appeals approved the introduction of additional evidence similar to the evidence sought to be introduced in the case sub judice. Judge Sanders denied appellant's request to introduce additional evidence, and after considering a motion for reconsideration of the issue again denied appellant's request. We find that he erred in doing so, but in the context of this dispute, a reversal is not mandated.

II. Conformance with Master Plan

Appellant avers that its preliminary plan is in substantial conformance with the master plan, and, therefore, the Planning Board's decision, that it did not so conform was arbitrary, capricious and erroneous.

Section 50-35(1) of the Montgomery County Code provides:

In determining the acceptability of the preliminary plan submitted under the provisions of this chapter, the Planning Board must consider the applicable master plan, including maps and text, unless the Planning Board finds that events have occurred to render the relevant master plan recommendation no longer appropriate.

The master plan for the Sandy Spring/Ashton planning area shows commercial development expansion in two Village Center areas which together are considered to be of sufficient size to service the planning area. The master plan indicates C-1 zoning for 1.65 acres of the surveyed site and Rural Cluster for the lot sought to be joined. Appellee argues persuasively that the C-1 zoning in an otherwise rural area is intended by the master plan to contain a degree of commercial development that could be supported on the 1.65 acre by well and septic system located on the 1.65 acre area. If the Planning Board were to approve appellant's request, a degree of commercial development much greater than that obtainable by reliance solely upon the 1.65 acre would result. This attendant increase in the intensity of commercial use on the 1.65 acres is far in excess of that envisioned by the master plan. This, we believe, is the basis for the Planning Board's determination that appellant's preliminary plan fails to conform to the master plan. It appears obvious that the evidence relied upon by the Planning Board in finding that appellant's preliminary plan is not in conformance with the master plan is at least fairly debatable.

To avoid that conclusion, appellant insists that the issue is one of law, and, therefore, the appellate court may substitute its judgment for that of the agency. It seems apparent to us, however, that the issue as to whether

appellant's preliminary plan is in conformance with the master plan is one of fact, not law. As such, the findings of the agency are entitled to a presumption of validity. Nationwide Mutual Ins. Co. v. Ins. Comm'r., 67 Md. App. 727, 737 cert. denied, 307 Md. 433 (1986). In O'Donnell v. Bassler, 289 Md. 501 (1981), the Court of Appeals stated, "It is a fundamental principle of administrative law that a reviewing court should not substitute its judgment for the expertise of the administrative agency from which the appeal is taken." This is true since decisions of administrative agencies are prima facie correct. Bulluck v. Pelham Wood Apts., 283 Md. 505, 513 (1978). The court must, therefore, view the agency's decision in the light most favorable to the agency. Motor Vehicle Admin. v. Lindsay, 309 Md. 557, 563 (1987). Here, the evidence before the Planning Board was sufficient to make the issue of conformance with the master plan fairly debatable. The circuit court, therefore, did not err in affirming the Planning Board.

III. Violation of Zoning Ordinance

Appellant contends the Planning Board unlawfully extended its jurisdiction in a subdivision proceeding by its determination that the placement of underground septic pipes to serve a commercial zone is not a permitted use in a Rural Cluster zone. We do not agree that the Planning Board exceeded its authority. As stated in Anderson, American Law of Zoning 3D:

While the zoning power and authority to review plats are separate, it seems clear

that plats should not be approved which violate existing zoning regulations. There is little to be said for approving a plat, for example, which discloses substandard lots. Such an approval would be a disservice to the developer who would be unable to build on those lots and it would encourage deviations from those portions of the comprehensive plan which are implemented by the zoning regulations in issue.

In Miller v. Forty West Builders, 62 Md. App. 320, 334 (1985), this Court quoted with approval 1 E. Yokley, Zoning Law and Practice §17-10 (1979) as follows:

Enactments in the field of zoning and subdivision control are necessarily related to each other and they should be read and considered together in order to ascertain the full meaning and import of each.

A subdivider, seeking approval of a subdivision plot, must first meet applicable zoning regulations and then must comply with state and county subdivision regulations. Thus, where a preliminary plat indicates on its face that it is violative of zoning ordinances, the denial of approval of the plat will be sustained.

Applying this language to the case sub judice, it seems clear that the Planning Board did not exceed its authority in considering whether the application violated the zoning laws.

In the alternative, appellant avers that the Planning Board erroneously interpreted the zoning ordinance. Appellant insists, with some logic, that since pipelines serving commercial areas are permitted in Rural Cluster zones, a septic pipe should also be permitted. Appellant points to electric power and transmission lines as another example of utilization of residential zoned land to serve a

commercial area. While there are no Maryland cases dealing with precisely the same issue as in the case at bar, the Court of Appeals considered a similar proposal in Leimbach Constr. Co. v. City of Baltimore, 257 Md. 635 (1970). In Leimbach a property owner wished to construct a driveway over residential land owned by him to service commercial land also owned by him. The Court of Appeals affirmed the refusal of the circuit court to permit the proposed use on the basis that it was illegal to use residential zoned land for a business purpose. In Silitschanu v. Groesbeck, 208 Conn. 312, 543 A.2d 737, 739 (1988), the Supreme Court of Connecticut found that a septic system, including the septic tank and the leaching system was a structure and "its use for commercial purposes on residential property is not authorized." There are distinctions between the case at bar and Groesbeck, but we do not believe they are significant. We find that the Planning Board did not err in concluding that residential zoned land could not be used for commercial purposes and that this was sufficient justification for denying the application.

IV. Relationship of Pending Case to Other Actions of Planning Board

Appellant points out that the Planning Board, on other occasions, has approved the very procedure which it has disapproved in this case. Appellant states that at the intersection of Glen Road and Travelah Road in Montgomery County, Maryland there was approved in 1980 in Board of Appeals cases A-671 and A-672 a septic system located on

residential zoned land which services a commercially zoned center. Appellant further avers that it is arbitrary and capricious for the Planning Board to reverse its position with respect to the present case. Appellee counters that the "decision" relied upon by appellant was merely a Planning Board Staff memorandum regarding the issuance of building permits. It did not involve a Planning Board decision and the issue in contention in the instant case i.e., the use of septic system on residential land to service commercial property, was not under consideration in Board of Appeals cases A-671 and A-672. In addition, appellee points out that the Planning Board does not issue building permits, but merely makes recommendations with respect to their issuance. We do not believe that the prior action of the Planning Board, cited by appellant, constitutes "binding administrative precedent."

V. Adequate Public Facilities

The last issue raised by appellant is that the Planning Board misapplied the provisions of Montgomery County Code Sec. 50-35(k) (adequate public facilities). Pursuant to Montgomery County Code Secs. 50-27(a) and (b) and 50-35(k), the Planning Board considers the adequacy of public water and sewer facilities as part of its review of a preliminary plan of subdivision. In this connection, the Planning Board found, "Given the evidence in the record that sewage and well service for the commercial development cannot be achieved within the C-1 zoned portion of the lot, the Board

finds that public facilities will not be adequate." Putting aside that appellant's plan does not envision the use of public facilities but, rather, a private septic system, it is clear that the Planning Board has missed the point. If there was no need to use the Rural Cluster zoned lot for sewage dispersal, there would be no need to file the application which the Planning Board had under its consideration. The task of the Planning Board is to review the application to determine whether applicant's proposal is in compliance. To proceed as the Planning Board did in this case puts the applicant in an impossible position.

In summary, while we conclude that the circuit court erred in its refusal to admit additional evidence and that the Planning Board erred in its application of Section 50-35(k), we find, nonetheless, that the Planning Board had sufficient evidence before it upon which to base its conclusion that appellant's application fails to conform to the Master Plan and is in violation of the zoning ordinance. We, therefore, affirm the judgment of the circuit court.

JUDGMENT AFFIRMED.

COSTS TO BE PAID BY APPELLANT.

3/7/96

PETITION OF SHARON RORBAUGH, * IN THE CIRCUIT COURT
CHARLOTTE PINE, KATHY TYLER * FOR BALTIMORE COUNTY
And LONG GREEN VALLEY ASSOC. *
FOR JUDICIAL REVIEW OF THE
DECISION OF THE BALTIMORE * CASE NO. 94-CV-10257
COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY IN THE CASE *
OF ORVILLE JONES, HIGHS OF
BALTIMORE, INC. PETITION FOR
SPECIAL HEARING

OPINION and ORDER

Hearing was held on appeals from a decision of the Board of Appeals (hereinafter referred to as "Board") dated October 26, 1994 filed by Sharon Rohrbaugh, Charlotte Pine, Kathy Tyler, Appellants (hereinafter sometimes referred to as "Individual Appellants") and by Long Green Valley Association, Appellant (hereinafter sometimes referred to as "Association Appellant") and on behalf of People's Counsel for Baltimore County, Appellant (hereinafter referred to as "People's Counsel") and Answer

thereto filed on behalf of Orville Jones, Appellee (hereinafter referred to as "Appellee") on May 15, 1995. Thereafter, pursuant to Order of this Court, re-hearing and oral argument was held on October 24, 1995. Counsel for Baltimore County appeared at both hearings and adopted and supported Appellee's position in this appeal. The Court reviewed the various Memoranda submitted by counsel for all parties and the transcript of the proceedings before the Board.

The Individual Appellants, Association Appellant and People's Counsel all posit two questions in their appeals, namely:

- 1) Whether a septic system connected to a commercially zoned convenience store is a legal use in the agricultural zones; and
- 2) Whether the estoppel doctrine may excuse or allow the continuation of such an illegal use.

The Individual Appellants and the Association Appellant filed their Petition for Judicial Review on November 9, 1994 pursuant to Rule 7-202 of the Maryland Rules and identified the issues described above in their appeal Memoranda. The Board, in its Opinion affirming the Zoning Commissioner, found that Baltimore County, through its actions, and the Association Appellant, through its inaction, were estopped and denied the Petition for Special Hearing. The Zoning Commissioner likewise had denied Petitioner's (some of the Appellants) request for special hearing, refused to order cessation of what the Zoning Commissioner determined was an illegal use, and, on the contrary, granted approval of Appellee's illegal use of adjoining RC2 property to support a waste disposal system on Appellee's adjacent commercial property known as 13523 Long Green Pike.

On November 17, 1994, People's Counsel, consistent with and pursuant to Rule 7-203(b) filed a Petition for Judicial Review of the Board's decision, which filing was within ten days of the filing of the original Petition for Judicial Review by the Individual and Association Appellants.

Appellee, on the other hand, did not file a Petition for Judicial Review, but, pursuant to Maryland Rule 7-204, filed an answer to the Petitions for Judicial Review filed by Appellants, indicating his intention to continue to participate in the case. On April 6, 1995, Appellee filed a Memorandum raising five issues, namely:

- 1) Was this case to declare the existing septic system serving the Jones' property improperly brought under the Special Hearing Procedure of Sec. 500.7 of the Baltimore County Zoning Regulations (BCZR)?; and
- 2) Did the Zoning Commissioner and the Board properly apply estoppel considerations to the case?; and
- 3) Are septic drainage field uses properly regulated as zoning uses under the Baltimore County Zoning Code?; and
- 4) Are septic draining fields "conduits" or "sewer mains" permitted as of right in the RC2 zones?; and
- 5) Is a septic drainage field an accessory use or can it be considered an accessory use permitted in an RC2 zone even though it serves a commercial building?

Appellee's first issue seems to be a challenge to the standing of Appellants to request a special hearing pursuant to Section 500.7 of the Baltimore County Zoning Regulations. Since Appellee did not file a Petition for Judicial Review, and since this issue was in no way raised by Appellants in their Petition, the issue of Appellants' standing is not before this Court in this appeal. In the exercise of caution, however, it may be that Appellee is contending that this issue presents a question of

jurisdiction. It will be addressed, therefore, but only briefly in this Opinion.

Section 500.7 of the Baltimore County Zoning Regulations provides that:

"the said Zoning Commissioner shall have the power to conduct such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person and any property in Baltimore County insofar as they are affected by these regulations."

Although "interested persons" can request a special hearing, it is not the exclusive method of using Sec. 500.7 of the Baltimore County Zoning Regulations. The Zoning Commissioner has the power in his discretion to conduct special hearings pursuant to the very regulation itself. As stated by the Zoning Commissioner on page 6 of his opinion:

"The Petition brought in the instant case is properly before me pursuant to the language as set forth in Sec. 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Therein, a broad and sweeping statement of authority is provided to the Zoning Commissioner. It is specifically provided that he 'shall have the power to conduct such other hearings and pass such Orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations ...' Further on, the section provides that such authority 'shall include the right of any interested party to petition the Zoning Commissioner for a public hearing... to determine any rights whatsoever of such persons and any property in Baltimore County insofar as they are affected by these regulations.' As it relates to my jurisdiction under this Section, the timing of the Petitioner's request is meaningless.... The authority conferred in Sec. 500.7 of the B.C. Z. R. is broad indeed. The case is properly before me under the proposed Petition for Special Hearing from a pure jurisdictional standpoint."

The Zoning Commissioner has broad discretion to grant a special hearing pursuant to Sec. 500.7 of the BCZR, and the Board, on Appellants' appeal from the Zoning Commissioner's decision, was correct in denying Appellee's Motion to Dismiss that appeal.

Appellee refers the Court to Baltimore County Code Sections 26-121 and following, which sections deal with penalties for zoning violations and injunctive proceedings. There is nothing in the Baltimore County Code, however, which indicates any preemption which would preclude the Zoning Commissioner from conducting a special hearing pursuant to Section 500.7 of the BCZR.

It should be noted that both the Zoning Commissioner and the Board in rendering their decisions, indicated respectively that the "Petition for Special Hearing is hereby DENIED." What the Zoning Commissioner explained, and the Board obviously meant, and counsel for all parties agreed at the rehearing on October 24, 1995, was that the respective decisions denied any zoning order to stop Appellee's illegal land use, not that the request for special hearing was denied.

Both the Zoning Commissioner and the Board conducted the special hearing and, in fact, both decided the substantive issue presented to them as Appellants contend the issue should have been decided. Appellants' complaint is not with the decision of the Zoning Commissioner and the Board that a septic system connected to a commercially zoned use of an adjacent property is not a legal use allowed in an RC2 zone. Appellants' complaint relates to the finding by the Zoning Commissioner, affirmed by the Board, that Appellants are estopped from obtaining the relief through the Baltimore

County's zoning authority of an order directing Appellee to cease and desist his illegal use of the RC2 land.

This brings the Court to the next problem with this appeal, namely, that the first issue raised by Appellants in their Memoranda is not really an issue for Appellants on appeal, as both the Zoning Commissioner and the Board found in favor of Appellants' position, namely, that a septic system in an agricultural zone which is connected to an adjacent commercially zoned convenience store is an illegal land use. Both the Zoning Commissioner and the Board so found. Appellants have nothing about which to complain on appeal as to their first issue and their appeals as to this issue should be dismissed.

Since Appellants raised this issue, however, Appellee, in its answer to Appellants' Petition for Judicial Review, has raised three issues of his own which are related to this issue, namely, Appellee's Issues No. 3, 4 and 5 described above. Because Appellee may have been misled by Appellants' raising of the issue of illegal land use in an RC2 zone and, as a result, Appellee may not have filed his own Petition for Judicial Review and/or because once an issue is raised, even if raised by the party who prevailed below, such issue may be subject to review as to complaints of the other party to the appeal, this Court will address Appellee's third, fourth and fifth issues presented.

As to Appellee's third and fifth issues, it is undisputed that the term "use" is not defined in the Definitions Section 101 of the Baltimore County Zoning Regulations. If not specifically defined, Sec. 101 BCZR provides that the definition set forth in the most recent edition of Webster's Third New

International Dictionary shall be utilized. The "Use" definitions in Webster's include "...the legal enjoyment of property that consists in its employment, occupation, exercise ..." and "the benefit in law of one or more persons, specifically the benefit of or the profit arising from lands and tenements to which legal title is held by a person or the act or practice of using something."

The Board, in affirming the decision of the Zoning Commissioner, followed the requirements of the BCZR and determined that Appellee's installed septic system was a "use" of the RC2 land. This determination was consistent with the definitions in Webster's Third New International Dictionary and was supported in the record by the expert testimony of Norman Gerber and Paul Solomon. As a "use" of property, Appellee's proposed use is subject to the Baltimore County Zoning Regulations, and the BCZR makes no provision for Appellee's proposed use by right or special exception, or as an accessory use by right or special exception.

As held in Kowalski vs. Lamar, 25 Md.App. 493, 498 (1975). "any use other than those permitted and being carried on as of right or by special exception is prohibited." Section 102.1 of the Baltimore County Zoning Regulations provides that "no land shall be used except in conformity with these regulations..." Section 1A01.2B identifies uses permitted as of right in the RC2 Zone. Private septic systems are not so permitted as primary uses.

Accessory use is defined in Section 101 of the BCZR as "a use... which...c) is located on the same lot as the principal use or structure served..." It is undisputed that the septic system in this case was installed on an RC-2 property adjacent to Appellee's commercial site over which Appellee had

acquired an easement for the commercial site's septic drainage field. By definition, Appellee's septic system cannot qualify as an "accessory use."

Appellee also fails with regard to his fourth contention. Septic drainage fields are just not "conduits" or "sewer mains" which are permitted as of right in RC2 zones. Section 1A01.2B5 of the BCZR does provide for the following uses permitted as of right in all RC2 zones, namely: "Telephone, telegraph, electrical power or other lines with cables, provided that any such line or cable is underground; underground gas, water or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines." The Board determined that Appellee's septic system failed to fall within the definitions "underground conduits" or "sewer main". This determination is supported by expert testimony in the record, is not clearly erroneous, and is not erroneous as a matter of law.

The Court will now get to the real issue raised in this appeal, Appellants' Issue No. 2 and Issue No. 2 raised in Appellee's Answer. Appellee's subject property is a 1.056 acre tract improved by a building occupied by a convenience store, dentist office and laundry mat with associated parking. It is located at 13523 Long Green Pike. Prior to the new construction, Appellee razed an existing structure. In light of site constraints and environmental concerns related to a nearby stream, Appellee originally agreed to install a sand mound sewer disposal system on his commercial property. Due to heavy equipment traffic on the construction site, the ground where the sand mound system was to have been installed was severely compacted, leaving the area unusable for such purpose. As a result, Baltimore County issued a Stop Work Order on Appellee's new construction on March

29,1991 until such time as a suitable alternative could be found to replace the planned sand mound sewer disposal system. (Board's Opinion pp. 3-4)

In its Opinion, the Board noted the interest of Individual Appellants and the Association Appellant in the septic system installation related to Appellee's construction on his commercial site. The Board found that Appellants were aware of all matters regarding Appellee's septic system installation as evidenced by a letter dated November 20, 1991 from Rocky Powell, Division Chief of the Environmental Impact Review Division of the Department of Environmental Protection and Resource Management (Property Owner's Exhibit No. 1), a letter dated November 25, 1991 from R. Bayly Buck, Vice-President of the Association Appellant (Property Owner's Exhibit No. 2), and a letter dated January 2, 1992 to R. Bayly Buck, Vice-President of the Association Appellant from Robert J. Aschenbrenner, Director of the Division of Groundwater Management (Property Owner's Exhibit No. 4). This last correspondence advised the Association Appellant that the Stop Work Order issued on March 29, 1991 would be rescinded upon Appellee's compliance with all the requirements set forth in a certain letter dated August 26, 1991 to Appellee from Rocky O. Powell, Chief of the Environmental Impact Review Division (Property Owner's Exhibit No. 10) and recordation of the necessary sewage disposal area easements among the land records of Baltimore County. Mr. Aschenbrenner's letter (Property Owner's Exhibit No. 4) concludes with the statement "when the aforementioned requirements are met, a new sewage disposal system design will be issued by this Division, the Stop Work Order rescinded, and the construction work allowed to proceed as per the approved building permit."

The letter to R. Bayly Buck, Vice-President of the Association Appellant dated January 2, 1992 (Property Owner's Exhibit No. 4) advised in paragraph (3) that "(3) Conversations with representatives of the Office of Planning and Zoning revealed that use of a separate RC2 zoned property for waste disposal property via a deeded easement would be permitted for this site " and in paragraph (5) stated as follows, namely "(5) Your concerns regarding the location of the force main and the absorption field in relationship to the stream and wetlands were addressed in a letter dated November 20,1991 to Ms. Charlotte Pine (attached)."

On page nine of its Opinion, the Board summarized its finding in support of its determination that Appellants are estopped. The Board found that Appellee had made certain that appropriate government authorities were represented in the review of all possible alternatives to construction of a septic system on his property, that Robert Powell of the Department of Environmental Protection and Resource Management and the Office of Planning and Zoning had been contacted and had approved the septic system installation, all of which information had been timely made known to Appellants, that Appellants had been kept apprised of all developments from as early as the fall of 1991, that Appellant Association raised no official complaint until nine months after the letter dated January 2, 1992 (Property Owner's Exhibit No. 4) and not until over ninety days passed from the rescinding of the Stop Work Order and resumption of construction by Appellee, all after Appellee had spent literally hundreds of thousands of dollars to obtain an easement, construct the septic field and finish his building. The Board concluded that Association Appellant had ample notice and opportunity to pursue any concerns it had over an extensive period of time but that Association Appellant did nothing until September of 1992 when it filed its Petition for Special Hearing.

Although sounding in "laches", the Board concluded that the Association Appellant, through its inaction, was "estopped" and, as to all Appellants denied the Petition for Special Hearing, which was actually a denial of any zoning relief to Appellants. Strangely, the Board made no mention of the Individual Appellants in its Opinion, although the Board's Opinion was captioned "In the Matter of the Application of Long Green Valley Association, et al. for a Special Hearing...."

The record before the Zoning Commissioner indicates that the Petition was filed on behalf of the Long Green Valley Association and various individuals incorporated in the attached Petitioner's list, which list included the names of Charlotte Pine and Sharon Rohrbaugh, both of whom, along with Kathy Tyler, appealed to the Board and ultimately to this Court. The Board made no factual findings to support estoppel of the Individual Appellants, and as to Sharon Rohrbaugh, would have been hard pressed to hold her accountable for any inaction during the summer of 1992 when she was at the beach. (Vol. 1, T11)

The Board's finding of estoppel against the Individual Appellants and the Association Appellant is not supported by substantial evidence in the record and is clearly erroneous. Although the Board had the legal authority to consider the issue of equitable estoppel, see Relay vs. Sycamore, 105 Md.App. 701, the Board erred as a matter of law in finding equitable estoppel against the Appellants.

As explained in Fitch vs. Double "U" Sales Corporation, 212 Md. 324, at 338,

Equitable estoppel is the effect of the voluntary conduct of a party whereby he is absolutely precluded, both at law and in equity, from asserting rights which may have otherwise existed, either of property,

of contract or of remedy against another person who has in good faith relied upon such conduct and has been led thereby to change his position for the worse, and who on his part acquired some corresponding right, either of property, of contract or of remedy. Whatever may be the real intention of the parties making the representation, it is absolutely essential that this representation, whether consisting of words, acts or silence, should be believed and relied upon as the inducement or action by the party who claims the benefit of the estoppel and that, so relying upon it and induced by it, he should have taken some action. The cases all agree that there can be no estoppel unless the party who alleges it relied upon the representation and was induced to act by it and thus relying and induced took some action on that representation.... Unless the party against whom the doctrine has been invoked has been guilty of some unconscientious, inequitable or fraudulent act of commission or omission upon which another has relied, and has been misled to his injury, the doctrine will not be applied. "

The Board, in its Opinion, made no findings as to any representations of the Individual Appellants or the Association Appellant, whether words, acts or silence, nor any findings as to Appellee's reliance nor as to any right in Appellee to rely. The Board merely concluded that Appellants had been kept apprised of what was going on with the property and the septic problem, and had delayed taking any action to request a special hearing until approximately ninety days after the lifting of the Stop Work Order and Appellee's resumption of construction. Although sounding more like laches, this inaction is the basis of the Board's determination that Appellants are equitably estopped. This basis is insufficient as a matter of law, especially in light of Appellee's own right to file a Petition for Special Hearing to determine whether he had the legal right to install a septic drainage field on the adjacent RC2 land for his commercial building prior to easement acquisition and the expenditure of his financial resources.

There is nothing in the record that Appellee in any way relied upon or was induced to proceed with construction by any inaction on the part of Appellants. Appellee immediately resumed construction upon the lifting of the Stop Work Order, obviously in response to the lifting of the Order by Baltimore County. The 90 day delay about which the Board speaks, had not yet even occurred. The easement had been acquired even before the lifting of the Stop Work Order and was in part the basis for lifting that Order. The Board made no findings of fact as to any reliance or inducement of Appellee by reason of Appellants' failure to take action until September of 1992, and the record is devoid of any such evidence. Appellants could not be equitably estopped.

As to the estoppel found against Baltimore County, however, the evidence is significantly different. As the Board mentions on page three of its Opinion, Baltimore County was intimately involved in resolving the septic problem related to Appellee's commercial site. The Board references Property Owner's Exhibit No. 3, wherein the Director of the Division of Groundwater Management in effect approves the sewage disposal system about which Appellants complain. Property Owner's Exhibit No. 4 goes on to make clear that, when Appellee complies with all the requirements of a prior letter dated August 26, 1991, and records the necessary sewage disposal easement in the land records of Baltimore County, a new sewage disposal system design will be issued, the Stop Work Order rescinded and construction allowed to proceed as per the approved building permit. The Board further found that Appellee moved forward with the project on the conditions required by Baltimore County, and procured an easement from an adjoining property owner at an expense to Appellee of \$25,000. In addition, Appellee installed the system pursuant to the new sewage disposal system design issued by the Division of Ground Water Management of Baltimore County (Property Owner's

Exhibit No. 4). Having complied with all the County requirements, the Stop Work Order was lifted by Baltimore County, the approved septic system installed, and construction completed on Appellee's commercial building. (Board's Opinion p. 4)

As already mentioned, the Board had the lawful authority to consider the issue of zoning estoppel against Baltimore County. In fact, at oral argument, counsel for Baltimore County joined in Appellee's position on the estoppel issue. In Fitch vs. Double "U" Sales Corporation, supra, 339, the Court of Appeals said "equitable estoppel operates to prevent a party from asserting his rights under a general technical rule of law, when that party has so conducted himself that it would be contrary to equity and good conscience to allow him to do so."

In discussing when equitable estoppel is available against a municipal corporation, the Court of Appeals in Permanent Finance Corporation vs. Montgomery County, 308 Md. 239, quoted from Lipsitz vs. Parr, 164 Md. 222 at 227, "a municipality may be estopped by the act of its officers if done within the scope and in the course of their authority or employment, but estoppel does not arise should the act be in violation of law."

Appellants contend that Baltimore County cannot be estopped because, based on the Board's determination that the septic drainage field is a use not permitted by right or special exception in an RC2 zone, allowing said use would be allowing an act in violation of the law. People's Counsel cites Cromwell vs. Ward, 102 Md.App. 691, in support of its contention that equitable estoppel is not available against the County because of the illegal use which would thereby be allowed to Appellee.

People's Counsel overlooks the factual distinctions between Cromwell and the instant case, which distinctions were obviously important to the Court of Appeals which quoted in the Cromwell opinion from Lipsitz vs. Parr, 164 Md. 222, at p. 724, "so, even where a municipality has the power, but has done nothing, to ratify or sanction the unauthorized act... it is not estopped by the unauthorized or wrongful act of its officer... in issuing a permit that is forbidden by the explicit terms of the ordinance ... (additional citations)". (Emphasis supplied) As already noted, the Board made reference to many actions of Baltimore County which ratified and sanctioned Appellee's acts.

As is clear from the decision in Permanent Finance Corporation vs. Montgomery County, supra, which is cited with approval in Relay vs. Sycamore, supra, whether equitable estoppel is available against the government depends upon the nature of the government's involvement, the nature of the reliance, and the nature of the law being violated.

In Permanent Financial Corporation v. Montgomery County, supra, a developer undertook construction of an office building pursuant to the authority of a building permit issued by Montgomery County. Eight and one-half months and more than \$2,000,000 later, when the building was under roof, the county suspended the building permit and issued a Stop Work Order on the grounds that the building violated statutory height limitations. One of the height limitation issues concerned the interpretation of "habitable space". Although the Court of Appeals affirmed the Board's determination of the definition of "habitable space", which determination resulted in the construction being in violation of the height restrictions, the Court of Appeals reversed the Board and

determined that the County was estopped from contending that the fourth floor of the building violated the height limitations of the Montgomery County Code.

In support of its action, the Court of Appeals observed that the definitional section was not clear and unambiguous within the meaning of the Montgomery County Code and was open to at least two reasonable and debatable interpretations. The Court of Appeals further pointed out at p. 251 of its Opinion, "we further conclude that the County shared the interpretation given this Section by Permanent at the time of the issuance of the building permit, and the County had consistently applied that interpretation for a significant period of time prior thereto." The Court of Appeals pointed out that when Montgomery County issued the Stop Work Order against Permanent, even after being asked for the specifics of the violations alleged by the County, the County never suggested that the building through its fourth floor violated any height restrictions. The Court also observed that, at the initial hearing, the Assistant County Attorney informed the Board that the County's interpretation of "non-inhabitable structures" varied from that of the Planning Commission and interested neighbor.

The appellate court in Permanent Financial Corporation, supra, found that Permanent had clearly relied upon the interpretation that the County had given to the height limitation in its design of the building, that the measurement of the building as shown on the plans submitted with the application was 43 feet to the top of the fourth floor, that Permanent designed and built its building to a height of 43 feet through the 4th floor in reliance upon the long-standing interpretation of the County and that this interpretation, while subsequently found by the Board of Appeals to be incorrect, was nevertheless reasonable and debatable. The Court concluded on pages 252-253 of its Opinion, "this

being the case, and Permanent having expended substantial funds in reliance upon the permit, it would be inequitable to now permit the County to require the removal of the fourth floor."

In Offen vs. County Council, 96 Md. App. 526, the Court of Special Appeals remanded the case for determination whether Prince George's County was estopped from applying the down zoning of a particular property in connection with validly enacted comprehensive rezoning of the County, which rezoning served as the basis for denial of the issuance of a building permit for the subject property. The Court of Special Appeals ignored the circumstance, that, in the event on remand an estoppel of the County was found by reason of egregious actions of public officials in stalling the issuance of permits prior to the comprehensive rezoning, the post comprehensive rezoning issuance of permits for development of the subject property would be in violation of the zoning classification then applicable to the subject property.

Throughout its Opinion, the Board made reference to Exhibits which fully supported Baltimore County's involvement in both the design and approval of the septic drainage field installed by Appellee on the adjacent RC2 property. Baltimore County conditioned the lifting of the Stop Work Order on Appellee's compliance with these requirements, namely, acquisition of the easement and installation of the septic drainage field in accordance with Baltimore County's approved design.

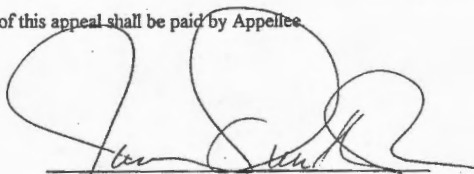
Prior to authorizing Appellee to proceed with the work necessary to acquire the easement and build the functioning septic system, Rocky Powell, Representative of the Department of Environmental Protection and Resource Management consulted with the Office of Planning and Zoning (Vol.

2T,81-82; Property Owner's Exhibit 4 and 23) Carl Richards, Supervisor of Zoning Administration and Development Management, approved the drainage field on the adjacent RC2 property. (Vol. 2T,98-99) Mr. Richards' responsibility included the review of plans and applications for development that are submitted for determination of compliance with zoning regulations. The Board had the testimony of Carl Richards that request for approval of Appellee's septic field was similar to previously approved facilities in other earlier zoning hearings and was not a matter regulated by zoning. (Vol. 2T,100-103)

The observation of the Court of Appeals in Permanent Financial Corporation, supra, at p. 252 is just as applicable to Appellees' permit, where the Court stated "...it is at least clear that ... the decision to issue the permit was not the result of oversight by the County, but rather was consistent with its practice." Carl Richards' testimony supports the Board's determination that Appellee acted fairly and openly with Baltimore County and the County, through its actions, is estopped to take action against him for doing precisely what Baltimore County required him to do.

For the reasons stated herein, the decision of the Board of Appeals is hereby AFFIRMED, excepting as to the issue of estoppel of the Appellants to seek relief independently of Baltimore County's zoning enforcement powers, as to which determination the Board is hereby REVERSED. The right of the Individual Appellants, the Association Appellant and/or People's Counsel for Baltimore County to seek injunctive relief as suggested in Judge Cathell's footnote on page 83 in his dissent in United Parcel vs. People's Counsel, 93 Md. App. 59, is left to another day and another balancing of equities by another court. Baltimore County, however, is estopped to undertake any zoning enforcement

proceedings against Appellee in connection with Appellee's septic drainage field use of his easement
in the RC2 zone. The court costs of this appeal shall be paid by Appellee


JAMES T. SMITH, JR., JUDGE

March 7, 1996
DATE

JTS/ss

Copy: J. Carroll Holzer, Esq.
Nancy West, Esq.
Peter Max Zimmerman, Esq.
John B. Gontrum, Esq.

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Silitschanu v. Groesbeck

Supreme Court of Connecticut. July 19, 1988. 208 Conn. 312. 543 A.2d 737. (Approx. 5 pages)

 Original Image of 543 A.2d 737 (PDF)

208 Conn. 312

Supreme Court of Connecticut.

Boris SILITSCHANU et al.

v.

Frederick GROESBECK, Jr.

No. 13265. Argued April 12, 1988. Decided July 19, 1988.

Owners of property in close proximity to developer's property brought action to enjoin developer from constructing commercial building and septic system for that building on adjoining residential property. Upon recommendation of John Keogh, Jr., state referee, the Superior Court, Judicial District of Stamford-Norwalk, Lewis, J., rendered judgment for developer, and owners appealed. The Appellate Court, 12 Conn.App. 57, 529 A.2d 732, found no error, and appeal was taken. The Supreme Court, Covello, J., held that: (1) septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations, and (2) owners failed to establish type of irreparable injury which would warrant injunction.

Affirmed.

West Headnotes (2)

Change View

- 1 **Zoning and Planning** Other particular terms and uses
Septic system intended for commercial purposes located within confines of residentially zoned lot was use of "structure" contrary to zoning regulations; in order to fulfill its purpose, septic system would have to be attached to building it served, and state public health code defined leaching system, into which liquid contents of septic tank would be discharged, as structure.

Cases that cite this headnote

- 2 **Zoning and Planning** Architectural and structural designs
Owners of property in close proximity to developer's property were not entitled to injunction preventing developer from constructing office building on commercially zoned land even though developer's proposal to place septic system on adjoining residential zoned lot would violate zoning regulations; although building would be substantially smaller if septic system was located on commercially zoned property, most of the owners' complaints related to problems created by even permissible commercial structure, and marginally diminished view of nearby woodlot caused by increased height of commercial building did not rise to level of irreparable injury.

Cases that cite this headnote

Attorneys and Law Firms

**737 *312 John Timbers, Stamford, for appellants (plaintiffs).

James E. O'Donnell, Bridgeport, for appellee (defendant).

Before PETERS, C.J., and ARTHUR H. HEALEY, SHEA, CALLAHAN and COVELLO, JJ.

Opinion

*313 COVELLO, Associate Justice.

The first issue in this appeal is whether a septic system constructed on a residential lot to serve a commercial building situated on an adjacent commercial lot constitutes a violation of the Stamford zoning regulations. If so, the further issue remains as to whether the plaintiff

neighbors are entitled to injunctive relief restraining the construction of the commercial building.

The plaintiffs have appealed from a decision of the Appellate Court concluding that the Stamford zoning regulations do not apply to septic systems. We granted certification, limited to these issues: (1) whether the Appellate Court correctly determined that the Stamford zoning regulations do not forbid a commercial building from locating its septic system on residentially zoned property; and (2) whether the Appellate Court correctly determined that the plaintiffs would not be injured by the defendant's alleged violation of the Stamford zoning regulations.

The plaintiffs, Boris Silitschanu, Fred Mantel, Joanna Page, Newcome Barger **738 and Grace Ramos Maiola,¹ are owners of real property in Stamford that adjoins or is in close proximity to the real property of the defendant, Frederick Groesbeck, Jr. The plaintiffs instituted an action in Superior Court seeking to enjoin the defendant from constructing a three story office building on commercially zoned land with its appurtenant septic system to be located on an adjoining residentially zoned lot. An attorney state trial referee found that the defendant was entitled to proceed with the construction of the proposed building notwithstanding the fact that the septic system serving the building would be installed on residentially zoned land. The trial court accepted the report of the referee and rendered judgment for the defendant.

*314 The Appellate Court affirmed the judgment of the trial court. *Silitschanu v. Groesbeck*, 12 Conn.App. 57, 529 A.2d 732 (1987). In doing so, the Appellate Court first determined that, because a septic system is not a "structure," the Stamford zoning regulations do not apply to its construction. *Id.*, 62-63, 529 A.2d 732. The court then concluded that "even if the Stamford zoning regulations prohibit the placement of the defendant's septic system on his adjoining residential property, the plaintiffs have failed to prove that they are entitled to an injunction." *Id.*, 64, 529 A.2d 732. We disagree that septic systems are not governed by the Stamford zoning regulations. Nonetheless, we affirm the judgment of the Appellate Court because we agree with its conclusion that the trial court did not abuse its discretion in denying the requested injunction.

Article I, § 1, of the Stamford zoning regulations provides that "this Zoning Code ... [may] designate, regulate and restrict the location and use of buildings, structures and land...." (Emphasis added.) Article I, § 2, of the zoning regulations provides that "[n]o building or structure shall be erected ... or maintained ... nor shall any building, structure or land be used or be designed for any use other than is permitted...." (Emphasis added.)

Article III, § 4, of the Stamford zoning regulations divides the territory of the city into districts designated as residential, commercial and industrial. The purpose of these designations is to prohibit the use of property "for any other purpose than the use permitted in the zone in which such property is located." Stamford Zoning Regs., art. III, § 4. The Stamford Land Use Schedule sets forth permitted uses in residential, commercial and industrial zones and authorizes the location of residential structures in residential zones and commercial *315 structures in commercial and industrial zones. Stamford Zoning Regs., Appendix A, pp. 59-63. Pursuant to Article III, § 5, of the Stamford zoning regulations, commercial use of a structure located within a residential lot is not authorized. Thus, the plain language of the zoning regulations clearly demonstrates that any use of a structure inconsistent with the regulations is not authorized.

1 We need to decide whether a septic system intended for commercial purposes located within the confines of a residentially zoned lot is a use of a structure contrary to the Stamford zoning regulations. Article II, § 3(97), of the zoning regulations provides: "[D]efinitions.... Structure: Anything constructed or erected which requires location on the ground or attached to something having a location on the ground." (Emphasis added.) In order to fulfill its purpose, a septic system must be "attached" to the building it serves. "[W]ords employed in zoning ordinances are to be interpreted in accord with their natural and usual meaning." *Schwartz v. Planning & Zoning Commission*, 208 Conn. 146, 153, 208 A.2d 146 (1988); *Lawrence v. Zoning Board of Appeals*, 158 Conn. 509, 511, 264 A.2d 552 (1969). The plain language of the zoning regulation, therefore, compels the inescapable conclusion that a septic system is a "structure" **739 within the meaning of the Stamford zoning regulations. See *Beloff v. Progressive Casualty Ins. Co.*, 203 Conn. 45, 59, 523 A.2d 477 (1987); *Murach v. Planning & Zoning Commission*, 196 Conn. 192, 196, 491 A.2d 1058 (1985).

The public health code of this state lends further support to the proposition that a septic system is a "structure." A septic tank and leaching system, into which the liquid contents of a septic tank are discharged after certain organic processes have occurred, are necessary components of a "septic system." *316 Regs., Conn. State Agencies § 19-13-B103b(c).² The Technical Standards for the Design and Construction of Subsurface Sewage Disposal Systems published by the commissioner of health services define and prescribe requirements for subsurface sewage disposal systems and state that a "[l]eaching system" means a *structure*, excavation or other facility designed to allow settled sewage to percolate into the underlying soil...." (Emphasis added.) Connecticut Public Health Code, Technical Standards for the Design and Construction of Subsurface Sewage Disposal Systems (1982) § 19-13-B103, I(E).

The regulatory scheme articulated by the plain language of the Stamford zoning regulations and the relevant provisions of the public health code lead us to conclude, therefore, that a septic system is a "structure" within the meaning of the Stamford zoning regulations and its use for commercial purposes on residential property is not authorized.

II

The foregoing conclusion must be viewed within the legal context in which it was presented to the court, i.e., an application for an injunction. This was neither an appeal from a decision of a zoning authority nor an action claiming money damages. The Appellate Court agreed with the conclusion of the trial referee that "[s]ince the Plaintiffs have offered no evidence to show that the building's septic system and rear yard will differ in any material way from septic systems and rear yards pertaining to residential structures, they have failed to demonstrate that the residential property in question is being used in a manner inconsistent with its zoning classification." *317 *Silitschanu v. Groesbeck*, supra, 12 Conn.App. at 65, 529 A.2d 732. Accordingly, it concluded that "the trial court did not abuse its discretion in denying the plaintiffs' requested injunction." *Id.*

2 We disagree that this was the sole consideration appropriate to the determination of whether an injunction should issue. The trial referee heard evidence to the effect that had the septic system been located on the commercially zoned property, the resulting building would have been substantially smaller. The plaintiffs offered evidence designed to show that the defendant's building would generate increased traffic, alter the character of the neighborhood and diminish the value of their properties. All of this evidence dealt with the consequences of the construction of a commercial building on the defendant's property. A commercial building of some size on the commercially zoned lot, however, is authorized by the Stamford zoning regulations. If the plaintiffs had established that they would be irreparably harmed because the building was larger than it was legally authorized to be, then they might have established their entitlement to the requested injunction.

The principal evidence offered by the plaintiffs as to the impact of a larger commercial building as distinguished from a smaller commercial building was a set of photographs depicting a marginally diminished view of a nearby woodlot. The photographs were introduced as evidence of the plaintiffs' conjecture as to the impact of the proposed building on the scenic view.³ Such evidence, representing nothing **740 more than the plaintiffs' speculation as to the potential harm posed by the proposed *318 building, does not rise to the level of a demonstration of irreparable injury.

"It is not enough to show that the defendant has violated the zoning regulations. The plaintiff seeking injunctive relief bears the burden of proving facts which will establish irreparable harm as a result of that violation." *Karls v. Alexandra Realty Corporation*, 179 Conn. 390, 401, 426 A.2d 784 (1980). There was no demonstration of irreparable harm flowing from the construction of a commercial building larger than authorized, in contrast to a smaller one. "The issuance of an injunction is the exercise of an extraordinary power which rests within the sound discretion of the court...." *Scoville v. Ronalter*, 162 Conn. 67, 74, 291 A.2d 222 [1971]. *Id.* "In the absence of such a showing [of irreparable injury], an injunction cannot be issued." *Id.*, 179 Conn. at 402, 426 A.2d 784.

The judgment of the Appellate Court is affirmed.

In this opinion the other Justices concurred.

Parallel Citations

543 A.2d 737

Footnotes

- 1 On March 6, 1987, the Appellate Court granted the motions of the plaintiffs Maiola and Mantel to be withdrawn from the appeal.
- 2 Section 19-13-B103b(c) of the Regulations of Connecticut State Agencies provides in relevant part: "Subsurface sewage disposal system' means a system consisting of ... a septic tank followed by a leaching system."
- 3 The plaintiff Fred Mantel had taken the photographs. He testified regarding them:

"A. That's the parcel that I sold to [Groesbeck] in-it is a slope but I *think if* the building is built that high, I *probably* will see part of the windows and-

"Q. The arrow indicates-you put the arrow on the picture and it indicates your view of where the building would be located *if it were constructed*." (Emphasis added.)

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COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 14
BILL NO. 103-88

MR. C.A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 5, 1988

A BILL ENTITLED

AN ACT concerning

Rural Business Zones

FOR the purpose of amending the Baltimore County Zoning Regulations in order to establish a Resource Conservation-Commercial Zone, stating the purpose of the zone and specifying the uses permitted, establishing the Commercial Rural District, providing for the permitted uses therein, and amending the Baltimore County Development Regulations in order to specify the requirements for development of property in an R.C.C. Zone or C.R. District, and generally relating to the establishment of rural business zones in Baltimore County, and providing for the uses permitted therein and the limitations imposed thereon.

BY repealing and re-enacting, with amendments,

Section 100.1.A.2.

Baltimore County Zoning Regulations, as amended

BY adding

Section 1A06

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting, with amendments,

Section 259.2.A.

Baltimore County Zoning Regulations, as amended

BY adding

Section 259.3

Baltimore County Zoning Regulations, as amended

BY adding

Section 22-104(c)

Title 22 - Planning, Zoning and Subdivision Control

Article IV. Development Regulations of Baltimore County

Baltimore County Code, 1978, 1986 Supplement

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

WHEREAS, the Baltimore County Council has received a final report from the Planning Board concerning this subject legislation and has held a public hearing thereon, now, therefore,

1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND,
2. that Section 100.1.A.2 of the Baltimore County Zoning Regulations, as amended, be and
3. it is hereby repealed and re-enacted, with amendments, to read as follows:

4. Article I—General Provisions

5. Section 100—Zones and Districts: Boundaries.

6. 100.1—Baltimore County is hereby divided into zones and districts in
7. accordance with this subsection.

8. A. Zones.

9. 2. Zones are classified as follows:

10. R.C. 2 (Resource Conservation—agriculture)
11. R.C. 3 (Resource Conservation—deferral of planning
12. and development)
13. R.C. 4 (Resource Conservation—watershed protection)
14. R.C. 5 (Resource Conservation—rural-residential)
15. R.C.C. (RESOURCE CONSERVATION—COMMERCIAL)
16. D.R. 1 (Density Residential, 1.0 dwelling unit per acre)
17. D.R. 2 (Density Residential, 2.0 dwelling units per
18. acre)
19. D. R. 3.5 (Density Residential, 3.5 dwelling units per
20. acre)
21. D.R. 5.5 (Density Residential, 5.5 dwelling units per
22. acre)
23. D.R. 10.5 (Density Residential, 10.5 dwelling units per
24. acre)
25. D.R. 16 (Density Residential, 16.0 density units per
26. acre)
27. R.A.E. 1 (Residential, 40.0 density units per acre)
28. R.A.E. 2 (Residential, 80.0 density units per acre)
29. B-O (Residential-Office, 5.5 dwelling units per acre)
30. O-1 (Office Building)
31. O-2 (Office Park)
32. O.T. (Office and Technology)
33. B.L. (Business, Local)
34. B.M. (Business, Major)
35. B.R. (Business, Roadside)
36. M.R. (Manufacturing, Restricted)
37. M.L.B. (Manufacturing, Light, Restricted)
38. M.L. (Manufacturing, Light)
39. M.H. (Manufacturing, Heavy)

1. SECTION 2. And be it further enacted that Section 1A06 be and it is
2. hereby added to the Baltimore County Zoning Regulations, as amended, to read as
3. follows:

4. SECTION 1A06 - R.C.C. -- RESOURCE CONSERVATION --COMMERCIAL

5. 1A06.1--GENERAL PROVISIONS.

6. A. LEGISLATIVE STATEMENT OF FINDINGS.

7. 1. DECLARATION OF FINDINGS. IT IS FOUND THAT:

8. A. THERE IS A DEMAND FOR COMMERCIAL DEVELOPMENT IN THE
9. RURAL AREAS OF BALTIMORE COUNTY TO SERVE THE NEEDS OF RURAL RESIDENTIAL AND
10. AGRICULTURAL COMMUNITIES AS WELL AS TOURISTS; AND

11. B. THE EXISTING BUSINESS ZONING DESIGNATIONS (B.L.,
12. B.M., B.R.) PERMIT USES THAT ARE NOT DESIRABLE IN THE RURAL PARTS OF THE COUNTY
13. AND THE HEIGHT, BULK, FLOOR AREA AND SETBACK REQUIREMENTS OF THESE ZONES PERMIT
14. AN INTENSITY OF DEVELOPMENT THAT IS NOT APPROPRIATE IN SCALE OR APPEARANCE WITH
15. THE CHARACTER OF A RURAL SETTING; AND

16. C. THE RURAL AREAS LACK THE ROAD, WATER AND SEWERAGE
17. CAPACITY TO HANDLE THE INTENSITY OF DEVELOPMENT PERMITTED BY THE EXISTING
18. BUSINESS ZONES.

19. 2. PURPOSES: THE R.C.C. ZONING CLASSIFICATION IS
20. ESTABLISHED PURSUANT TO THE LEGISLATIVE FINDINGS STATED ABOVE TO:

21. A. PROVIDE SMALL AREAS OF COMMERCIAL DEVELOPMENT FOR
22. A LIMITED RANGE OF RURAL, RESIDENTIAL AND TOURIST-RELATED NEEDS; THAT WILL
23. MEET THE SHOPPING AND PERSONAL SERVICE NEEDS OF RURAL RESIDENTS AND TOURISTS;

24. B. PERMIT SUCH FACILITIES, BUT ONLY AT AN INTENSITY AND
25. SCALE APPROPRIATE TO RURAL AREAS.

1. 1A06.2--USE REGULATIONS. THE FOLLOWING USES ARE PERMITTED SUBJECT
2. TO THE LIMITATIONS SET FORTH IN SECTION 1A06.3.

3. A. USES PERMITTED AS OF RIGHT.

4. 1. AGRICULTURALLY RELATED RETAIL, OFFICE AND SERVICES USES:

5. AGRICULTURAL SUPPLY AND FEED STORE;
6. AUCTION BUILDING;
7. FARMERS' CO-OP;
8. FARMERS' MARKET;
9. GARDEN CENTER;
10. VETERINARIAN'S OFFICE;
11. VETERINARIUM.

12. 2. COMMERCIAL AND SERVICE USES:

13. RETAIL ESTABLISHMENTS SELLING SUCH ITEMS AS GIFTS,
14. JEWELRY, HARDWARE, DRUGS, GROCERIES, SPORTING EQUIPMENT (EXCEPT BOATS AND
15. VEHICLES), ANTIQUES;
16. ARTS AND CRAFTS STUDIOS;
17. BARBER SHOPS, BEAUTY SHOPS AND OTHER PERSONAL SERVICE
18. ESTABLISHMENTS;
19. BARS;
20. OFFICES, PROVIDED THAT MEDICAL OFFICES ARE LIMITED TO
21. 25% OF THE TOTAL FLOOR AREA, OFFICES AND MEDICAL OFFICES;
22. RESTAURANTS AND BARS (EXCEPT DRIVE-IN OR DRIVE-THROUGH
23. FACILITIES);
24. SMALL APPLIANCE REPAIR.
25. 3. RESIDENTIAL, LODGING AND INSTITUTION USES:
26. SINGLE-FAMILY DETACHED DWELLINGS;
27. RESIDENCES ABOVE THE FIRST FLOOR OF COMMERCIAL BUILDINGS;
28. BED AND BREAKFASTS, TOURIST HOMES;
29. EDUCATIONAL AND SOCIAL SERVICE FACILITIES;
30. CLASS A AND CLASS B CHILD CARE CENTERS.

31. B. USES PERMITTED BY SPECIAL EXCEPTION:

32. AGRICULTURAL MACHINERY AND EQUIPMENT REPAIR;
33. PUBLIC UTILITIES, PUBLIC UTILITY SERVICE CENTERS;
34. VOLUNTEER FIRE COMPANIES;
35. CONVERSIONS OF EXISTING BUILDINGS WHICH DO NOT CONFORM TO
36. THE DULK REGULATIONS OF 1A06.4.

37. C. ACCESSORY USES OR STRUCTURES. THE FOLLOWING USES, ONLY, ARE
38. PERMITTED AS AN ACCESSORY USE:

39. 1. AGRICULTURAL RELATED USES.
40. FARMERS' ROADSIDE STANDS;
41. INTERMITTENT OUTDOOR SALES;
42. CUT FLOWER OR LIVE PLANTS;
43. FARMERS' CO-OP ROADSIDE STAND;

1. FISH, SHELLFISH AND MEAT;
2. FRUIT AND VEGETABLE.
3. 2. AMUSEMENT DEVICES (SUBJECT TO PROVISIONS OF SECTION 422);
4. PICNIC GROVES;
5. SATELLITE RECEIVING DISH (SUBJECT TO PROVISIONS OF
6. SECTION 429).
7. 3. HOME OCCUPATIONS.
8. 4. PARKING TO BE LOCATED TO THE SIDE AND REAR OF THE
9. BUILDING ONLY, BUT NOT IN THE REQUIRED SETBACK AND MUST BE LOCATED WITHIN THE
10. R.C.C. ZONE.
11. 5. SIGNS.
12. 6. OUTSIDE STORAGE OF MATERIAL OR EQUIPMENT.
13. 1A06.3 -- USE LIMITATIONS. ALL OF THE USES IN SECTION 1A06.2 ARE
14. SUBJECT TO THE FOLLOWING LIMITATIONS:
 15. A. THE APPLICANT SHALL PROVE TO THE SATISFACTION OF THE
 16. DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT
 17. THAT THE LAND CAN SUPPORT THE PROPOSED DEVELOPMENT WITHOUT OVERBURDENING THE
 18. REQUIRED PRIVATE SEWERAGE DISPOSAL SYSTEM, THE POTABLE WATER SUPPLY,
 19. ENDANGERING THE METROPOLITAN DISTRICT RESERVOIRS OR CREATING A
 20. HEALTH OR ENVIRONMENTAL NUISANCE FOR NEIGHBORING PROPERTIES.
 21. B. OUTSIDE STORAGE. OUTSIDE STORAGE OF EQUIPMENT AND MATERIAL
 22. SHALL BE PERMITTED ONLY ON THE LOT SUBJECT TO THE FOLLOWING REQUIREMENTS:
 23. 1. THE STORAGE AREA MUST BE LOCATED TO THE SIDE OR REAR OF
 24. THE BUILDING, OUTSIDE OF THE REQUIRED SETBACKS.
 25. 2. THE STORAGE AREA SHALL NOT COVER MORE THAN 10% OF THE
 26. LOT, EXCEPT AS DETERMINED BY THE ZONING COMMISSIONER IN A SPECIAL EXCEPTION
 27. HEARING.
 28. 3. --ALL OUTSIDE STORAGE OF FUELS, CHEMICALS OR OTHER
 29. POTENTIALLY HARMFUL MATERIALS MUST BE LOCATED ON IMPERVIOUS PAVEMENT AND

1. COMPLETELY ENCLOSED BY AN IMPERVIOUS WALL HIGH ENOUGH TO CONTAIN THE TOTAL
2. VOLUME OF LIQUIDS KEPT IN THE STORAGE AREA, PLUS ACCUMULATED RAINFALL.
3. 4 3. THE STORAGE AREA SHALL BE SCREENED BY A FENCE
4. IN ASSOCIATION WITH PLANTINGS.
5. C. SIGNS AND DISPLAYS. IN ADDITION TO SIGNS PERMITTED UNDER
6. SUBSECTION 413.1, THE FOLLOWING ARE ALSO PERMITTED:
 7. 1. ONE STATIONARY OUTSIDE IDENTIFICATION SIGN WHICH DOES
 8. NOT PROJECT MORE THAN 6 INCHES FROM THE BUILDING AND DOES NOT HAVE A SURFACE
 9. AREA EXCEEDING 8 SQUARE FEET;
 10. 2. ONE FREE-STANDING SIGN WITH A SURFACE AREA OF NO MORE
 11. THAN 45 25 SQUARE FEET PER SIDE; THE SIGN SHALL BE INTEGRATED WITH THE
 12. LANDSCAPING, AND THE LOCATION SHALL BE APPROVED BY THE DIRECTOR OF THE OFFICE
 13. OF PLANNING AND ZONING;
 14. 3. NO SIGN SHALL BE ILLUMINATED, UNLESS APPROVED BY THE
 15. ZONING COMMISSIONER AFTER HEARING.
 16. 4. DISPLAY OF GOODS, VEHICLES AND EQUIPMENT IS PERMITTED
 17. IN THE FRONT YARD, BUT NOT MORE THAN FIVE FEET IN FRONT OF THE REQUIRED FRONT
 18. BUILDING LINE.
 19. D. RELATIONSHIP TO SURROUNDING NEIGHBORHOODS. NEW BUILDINGS OR
 20. ADDITIONS SHALL BE APPROPRIATE PURSUANT TO SECTION 22-104(c) OF THE BALTIMORE
 21. COUNTY CODE, AS AMENDED.
 22. E. PRODUCTION RESTRICTIONS.
 23. 1. NOT MORE THAN 5 PERSONS SHALL BE ENGAGED IN THE REPAIR
 24. OR FABRICATION OF GOODS ON THE PREMISES;
 25. 2. NOT MORE THAN 5 HORSEPOWER SHALL BE EMPLOYED IN THE
 26. OPERATION OF ANY ONE MACHINE USED IN REPAIR OR FABRICATION, AND NOT MORE THAN
 27. 15 HORSEPOWER IN THE OPERATION OF ALL SUCH MACHINES;

1. 1A06.4 -- BULK REGULATIONS OF R.C.C. ZONES.

2. A. USES PERMITTED IN R.C.C. ZONES ARE GOVERNED BY THE FOLLOWING

3. BULK REGULATIONS, EXCEPT THAT THE FOLLOWING SETBACK, HEIGHT AND FLOOR AREA

4. RESTRICTIONS DO NOT APPLY TO EXISTING BUILDINGS:

5. 1. FRONT YARD SETBACK: THE FRONT BUILDING LINE SHALL BE

6. NOT LESS THAN 15 FEET FROM THE RIGHT OF WAY LINE OF THE STREET AND NOT MORE

7. THAN THE AVERAGE SETBACK OF THE ADJACENT LOTS;

8. 2. MINIMUM SIDE AND REAR YARD SETBACK: 15 FEET;

9. 3. MAXIMUM HEIGHT OF NEW BUILDINGS OR ADDITIONS: 30 FEET;

10. 4. FLOOR AREA RESTRICTIONS. THE GROSS FLOOR AREA OF ALL

11. BUILDINGS ON THE LOT SHALL NOT EXCEED 3,000 SQUARE FEET;

12. 5. MAXIMUM LOT SIZE. 2 ACRES;

13. 6. COVERAGE. NO MORE THAN 20 PERCENT OF ANY LOT MAY BE

14. COVERED BY IMPERVIOUS SURFACE, INCLUDING BUILDINGS, PARKING FACILITIES AND

15. STORAGE AREAS.

16. B. LANDSCAPE AREAS. IN KEEPING WITH THE RURAL CHARACTER THE

17. FRONT, SIDE AND REAR YARDS SHALL BE LANDSCAPED TO ADEQUATELY SCREEN THE PARKING

18. AREA FROM THE ROADWAY AND ADJACENT USES, IN ACCORDANCE WITH THE LANDSCAPE

19. MANUAL REQUIREMENTS FOR COMMERCIAL ZONES.

20. SECTION 3. AND BE IT FURTHER ENACTED THAT SECTION 259.2.A. OF THE

21. BALTIMORE COUNTY ZONING REGULATIONS, AS AMENDED, BE AND IT IS HEREBY REPEALED

22. AND RE-ENACTED, WITH AMENDMENTS, TO READ AS FOLLOWS:

23. 259.2 -- Statements of Legislative Intent for Districts.

1. (Compliance with a statement of legislative intent shall not, in

2. itself, be sufficient cause to classify property within the district to which

3. such statement applies.)

4. [A. C.R. District -- Commercial Rural. C.R. Districts may be

5. applied only to certain areas of contiguous commercial development which are on

6. land zoned B.L., B.M., B.R., and/or M.L. at intersections of paved roads each

7. at least 2 miles in length, and which lie beyond the urban-rural demarcation

8. line, or to certain other commercially or industrially zoned areas of

9. substantial, established business activity beyond the urban-rural demarcation

10. line.]

11. A. C.R. DISTRICT - COMMERCIAL RURAL

12. 1. THE C.R. DISTRICT IS ESTABLISHED TO PROVIDE

13. OPPORTUNITIES FOR CONVENIENCE SHOPPING AND PERSONAL SERVICES THAT ARE

14. CUSTOMARILY AND FREQUENTLY NEEDED BY THE RURAL RESIDENTIAL AND AGRICULTURAL

15. POPULATION AND TOURISTS. IT IS INTENDED THAT THE C.R. DISTRICT BE APPLIED ONLY

16. TO AREAS WHERE SUCH FACILITIES ARE NOT AVAILABLE WITHIN A REASONABLE DISTANCE;

17. WHERE SEWERAGE TREATMENT AND A POTABLE WATER SUPPLY CAN BE PROVIDED WITHOUT AN

18. ADVERSE EFFECT ON THE ENVIRONMENT AND NEIGHBORING USES AND WHERE PUBLIC ROADS

19. ARE CAPABLE OF HANDLING THE ANTICIPATED INCREASE IN TRAFFIC WITHOUT ADVERSE

20. IMPACTS ON SURROUNDING AREAS. THE COMMERCIAL CENTERS WITHIN C.R. DISTRICTS ARE

21. NOT INTENDED TO BE REGIONAL FACILITIES PROVIDING SPECIALTY GOODS TO A

22. POPULATION OUTSIDE OF THE RURAL AREA.

23. 2. C.R. DISTRICTS MAY BE ASSIGNED TO AREAS OF COMMERCIAL

24. DEVELOPMENT BEYOND THE URBAN-RURAL DEMARCATION LINE FOR WHICH C.R. DISTRICT

25. DESIGNATION IS RECOMMENDED IN THE MASTER PLAN. THE UNDERLYING ZONE MAY BE

26. SOME B.L., B.M., B.R., OR R.O. THE C.R. DISTRICT MAY ALSO BE APPLIED TO

27. LAND ZONED R.C. 5 WHICH IS ADJACENT TO A C.R. DISTRICT PROVIDED THAT THE

28. LOCATION, CONFIGURATION AND PHYSICAL CHARACTERISTICS OF THE SITE AND THE

29. POTENTIAL FOR ACCESS TO AN ADEQUATE PUBLIC ROAD MAKE THE LAND SUITABLE FOR

30. COMMERCIAL DEVELOPMENT.

1. SECTION 4. And be it further enacted that Section 259.3 be and it is
2. hereby added to the Baltimore County Zoning Regulations, as amended, to read as
3. follows:

4. 259.3 -- SPECIAL REGULATIONS FOR C.R. DISTRICTS

5. A. USES PERMITTED BY RIGHT. ANY USE PERMITTED BY RIGHT IN THE
6. UNDERLYING ZONE ON WHICH THE C.R. DISTRICT IS APPLIED AND WHICH MEETS THE BULK
7. REGULATIONS OF PARAGRAPH 1 OF 259.3.C. IS PERMITTED BY RIGHT.

8. B. USES PERMITTED BY SPECIAL EXCEPTION.

9. 1. ANY USE PERMITTED BY SPECIAL EXCEPTION IN THE UNDERLYING
10. ZONE ON WHICH THE C.R. DISTRICT DESIGNATION IS APPLIED AND WHICH MEETS THE BULK
11. REGULATIONS OF PARAGRAPH 1 OF 259.3.C. IS PERMITTED BY SPECIAL EXCEPTION.

12. 2. ANY USE PERMITTED (BY RIGHT OR BY SPECIAL EXCEPTION)
13. WITHIN THE C.R. DISTRICT BUT WHICH IS NOT PERMITTED IN THE UNDERLYING ZONE AND
14. WHICH MEETS THE BULK REGULATIONS OF PARAGRAPH 1 OF 259.3.C. IS PERMITTED BY
15. SPECIAL EXCEPTION.

16. 3. BUILDINGS WHICH EXCEED THE REQUIREMENTS OF PARAGRAPH 1
17. OF 259.3.C MAY BE PERMITTED BY SPECIAL EXCEPTION ONLY WHEN THE PROPOSED
18. DEVELOPMENT IS IN COMPLIANCE WITH SITE DESIGN GUIDELINES AND PERFORMANCE
19. STANDARDS WHICH ARE PART OF A DULY ADOPTED MASTER PLAN FOR THE DISTRICT.

20. 4. IN ADDITION TO THE REQUIREMENTS GENERALLY IMPOSED BY
21. 502.1, ANY USE PERMITTED BY SPECIAL EXCEPTION IN C.R. DISTRICTS SHALL MEET THE
22. REQUIREMENTS OF PARAGRAPH E BELOW.

23. C. USE RESTRICTIONS

24. 1. BULK REGULATIONS.

1. A. THE GROSS FLOOR AREA FOR ALL BUILDINGS ON A LOT
2. SHALL NOT EXCEED 8,800 SQUARE FEET OF WHICH NO MORE THAN 4,400 6,600
3. SQUARE FEET SHALL BE ON THE GROUND FLOOR.

4. B. THE FLOOR AREA RATIO SHALL NOT EXCEED 0.20.

5. C. BUILDING HEIGHT SHALL NOT EXCEED 30 FEET.

6. 2. SETBACKS

7. A. THE FRONT YARD SETBACK SHALL BE NOT LESS THAN 15
8. FEET FROM THE STREET RIGHT-OF-WAY LINE, AND NOT MORE THAN THE AVERAGE OF THE
9. SETBACKS OF ADJACENT BUILDINGS.

10. B. THE REAR AND SIDE YARD SETBACKS SHALL BE NO
11. NOT LESS THAN 15 FEET.

12. 3. LANDSCAPING. IN ADDITION TO THE REQUIREMENTS OF THE
13. LANDSCAPE MANUAL FOR COMMERCIAL ZONES, THE FOLLOWING LANDSCAPE STANDARDS SHALL
14. APPLY TO USES IN C.R. DISTRICTS:

15. A. THE ENTIRE REQUIRED FRONT, SIDE AND REAR SETBACKS
16. SHALL BE LANDSCAPED.

17. B. A MINIMUM OF 7% OF THE PARKING LOT SHALL BE PERVIOUS
18. SURFACE WITH A MINIMUM OF ONE TREE PER EIGHT PARKING SPACES PROVIDED.

19. 4. PARKING. PARKING SHALL BE LOCATED IN A MANNER
20. APPROPRIATE AND CONSISTENT WITH ADJOINING DEVELOPMENT AND MUST BE LOCATED
21. WITHIN THE C.R. DISTRICT. ACCESS ONTO ROADWAYS SHALL BE LIMITED TO NO MORE
22. THAN TWO LOCATIONS. EXCEPT WHERE PHYSICAL CONSTRAINTS, SITE CONFIGURATION OR
23. SAFETY PRECLUDE COMPLIANCE, PARKING MUST BE ACCESSIBLE TO THE PARKING LOTS OF
24. ADJACENT NON-RESIDENTIAL USES AND ZONES.

25. 5. ENVIRONMENTAL HOLDING CAPACITY. THE APPLICANT SHALL
26. PROVE TO THE SATISFACTION OF THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL

1. PROTECTION AND RESOURCE MANAGEMENT THAT THE LAND CAN SUPPORT THE PROPOSED
2. DEVELOPMENT WITHOUT OVERBURDENING THE REQUIRED PRIVATE SEWERAGE DISPOSAL
3. SYSTEM, THE POTABLE WATER SUPPLY, ENDANGERING THE METROPOLITAN DISTRICT
4. RESERVOIRS OR CREATES CREATING A HEALTH OR ENVIRONMENTAL NUISANCE FOR
5. NEIGHBORING PROPERTIES.
6. 6. OUTSIDE STORAGE. OUTSIDE STORAGE OF EQUIPMENT AND
7. MATERIAL SHALL BE PERMITTED ONLY ON THE LOT SUBJECT TO THE FOLLOWING
8. REQUIREMENTS:
9. A. THE STORAGE AREA MUST BE LOCATED TO THE SIDE OR REAR
10. OF THE BUILDING, OUTSIDE OF THE REQUIRED SETBACKS;
11. B. THE STORAGE AREA SHALL NOT COVER MORE THAN 15% OF
12. THE LOT, EXCEPT AS DETERMINED BY THE ZONING COMMISSIONER IN A SPECIAL EXCEPTION
13. HEARING;
14. C. THE STORAGE AREA SHALL BE SCREENED BY A FENCE IN
15. ASSOCIATION WITH PLANTINGS;
16. ~~D. ALL OUTSIDE STORAGE OF FUELS, CHEMICALS OR OTHER~~
17. ~~POTENTIALLY HARMFUL MATERIALS MUST BE LOCATED ON IMPERVIOUS PAVEMENT AND~~
18. ~~COMPLETELY ENCLOSED BY AN IMPERVIOUS WALL HIGH ENOUGH TO CONTAIN THE TOTAL~~
19. ~~VOLUME OF LIQUIDS LEFT IN THE STORAGE AREA, PLUS ACCUMULATED RAINFALL.~~
20. 7. SIGNS AND DISPLAYS. IN ADDITION TO SIGNS PERMITTED
21. UNDER SUBSECTION 413.1, THE FOLLOWING ARE ALSO PERMITTED:
22. A. ONE STATIONARY OUTSIDE IDENTIFICATION SIGN WHICH
23. DOES NOT PROJECT MORE THAN 6 INCHES FROM THE BUILDING AND DOES NOT HAVE A
24. SURFACE AREA EXCEEDING 8 SQUARE FEET;
25. B. ONE FREE-STANDING SIGN WITH A SURFACE AREA OF NO
26. MORE THAN 25 SQUARE FEET PER SIDE; THE SIGN SHALL BE INTEGRATED WITH THE
27. LANDSCAPING AND THE LOCATION SHALL BE APPROVED BY THE DIRECTOR OF THE OFFICE OF
28. PLANNING AND ZONING;

1. C. NO SIGN SHALL BE ILLUMINATED, UNLESS APPROVED BY
2. THE ZONING COMMISSIONER AFTER HEARING.
3. D. DISPLAY OF GOODS, VEHICLES AND EQUIPMENT IS
4. PERMITTED IN THE FRONT YARD, BUT NOT MORE THAN FIVE FEET IN FRONT OF THE
5. REQUIRED FRONT BUILDING LINE.
6. 8. RELATIONSHIP TO SURROUNDING NEIGHBORHOODS. NEW
7. BUILDINGS OR ADDITIONS SHALL BE APPROPRIATE PURSUANT TO SECTION 22-104(c) OF
8. THE BALTIMORE COUNTY CODE, AS AMENDED.
9. 9. AUTO SERVICE STATIONS ARE SUBJECT TO THE PROVISIONS OF
10. SECTION 405.
11. D. PROCEDURE FOR OBTAINING PLAN APPROVAL IN A C.R. DISTRICT.
12. 1. A-CRG IF A CRG PLAN IS REQUIRED, THE PLAN SHALL
13. BE APPROVED PRIOR TO THE GRANTING OF A SPECIAL EXCEPTION IN A C.R. DISTRICT.
14. 2. WHEN A SPECIAL EXCEPTION IS REQUIRED, THE CRG SHALL ALSO
15. FIND THAT THE PROPOSED DEVELOPMENT SATISFIES THE REQUIREMENTS OF PARAGRAPH E
16. BELOW.
17. E. ADDITIONAL REQUIREMENTS FOR THE GRANTING OF A SPECIAL
18. EXCEPTION IN A C.R. DISTRICT. IN ADDITION TO THE REQUIREMENTS GENERALLY
19. IMPOSED IN THE ISSUANCE OF SPECIAL EXCEPTIONS BY 502.1, THE FOLLOWING
20. REQUIREMENTS SHALL APPLY TO THE GRANTING OF SPECIAL EXCEPTIONS IN C.R.
21. DISTRICTS.
22. 1. THE PETITIONER SHALL DOCUMENT THE NEED FOR THE
23. DEVELOPMENT AT THE PROPOSED LOCATION, ~~THAT THE COMMERCIAL SERVICES~~
24. ~~PROPOSED ARE NOT DUPLICATED ELSEWHERE AND THAT THERE IS A POPULATION WITHIN THE~~
25. ~~TRADE AREA WITH ASSUMED BUYING POWER TO SUPPORT THE PROPOSED FACILITY.~~
26. 2. THE PROPOSED DEVELOPMENT SHALL TAKE INTO ACCOUNT
27. EXISTING AND PROPOSED ROADS, TOPOGRAPHY, EXISTING VEGETATION, SOIL TYPES AND

1. THE CONFIGURATION OF THE SITE. THE PROPOSED DEVELOPMENT WILL NOT DISTURB
2. SLOPES WITH GRADES EXCEEDING 25%; WILL MINIMIZE DISTURBANCE TO VEGETATED AREAS,
3. WETLANDS AND STREAMS AND WILL NOT RESULT IN UNDUE SITE DISTURBANCE OR EXCESSIVE
4. EROSION AND SEDIMENT LOSS. INFILTRATION WILL BE MAXIMIZED AND STORMWATER
5. MANAGEMENT DISCHARGE WILL BE DECENTRALIZED.

6. 3. ARCHITECTURALLY OR HISTORICALLY SIGNIFICANT BUILDINGS
7. AND THEIR SETTINGS SHALL BE PRESERVED AND INTEGRATED INTO THE SITE PLAN.

8. ~~4. THE EXISTING ROADS SHALL ACCOMMODATE THE ANTICIPATED~~
9. ~~TRAFFIC WITHOUT THE ADDITION OF NEW TRAFFIC LANES, EXCEPT AS NEEDED FOR SAFE~~
10. ~~INGRESS AND EGRESS.~~

11. 5 4. THE BUILDINGS SHALL BE SITED TO PROTECT SCENIC
12. VIEWS FROM PUBLIC ROADS AND SO THAT THE NATURAL RURAL FEATURES, INCLUDING BUT
13. NOT LIMITED TO PASTURES, CROPLANDS, MEADOWS AND TREES ARE PRESERVED TO THE
14. EXTENT POSSIBLE. ADDITIONAL OPEN SPACE MAY BE REQUIRED TO PRESERVE AND ENHANCE
15. THE ENJOYMENT OF THE NATURAL AMENITIES AND VISUAL QUALITY OF THE SITE.

16. 6 5. THE PROPOSED DEVELOPMENT WILL NOT BE
17. DETRIMENTAL TO NEIGHBORING USES AND THE TRANQUILITY OF THE RURAL AREA THROUGH
18. EXCESSIVE NOISE, ~~OR FILL~~ AND WILL NOT RESULT IN A NUISANCE OR AIR
19. POLLUTION FROM DUST, FUMES, VAPORS, GASES AND ODOORS.

20. F. ANY CONTRARY PROVISION OF THESE REGULATIONS NOTWITHSTANDING,
21. THE PROVISIONS OF SUBSECTION 259.2.A AND 259.3 SHALL NOT APPLY TO ANY BUILDING,
22. USE OR STRUCTURE IN EXISTENCE OR FOR WHICH A CRG PLAN HAS BEEN APPROVED AS OF
23. THE DATE OF THE ENACTMENT OF BILL NO. 103-88 OR TO ANY M.L. ZONE WITH C.R.
24. DISTRICT DESIGNATION.

25. Section 5. And be it further enacted, that Section 22-104(c) be and it
26. is hereby added to Title 22 - Planning, Zoning and Subdivision Control, Article
27. IV. Development Regulations of Baltimore County, Baltimore County Code, 1978,
28. 1986 Supplement, to read as follows:

1. Sec. 22-104. Development in R.C.C., R-O, O-1, O-2, or O-T Zone and C.R.
2. DISTRICTS.

3. (C) DEVELOPMENT OF PROPERTY IN AN R.C.C. ZONE AND C.R. DISTRICT:

4. (1) DEVELOPMENT SHALL BE APPROPRIATE TO THE SPECIFIC
5. CIRCUMSTANCES OF THE SITE TAKING INTO ACCOUNT SURROUNDING USES; TREE
6. PRESERVATION; PROTECTION OF WATERCOURSES AND BODIES OF WATER FROM EROSION AND
7. SILTATION; PROTECTION OF GROUNDWATER RESOURCES; SAFETY, CONVENIENCE, AND
8. AMENITY FOR THE SURROUNDING NEIGHBORHOOD.

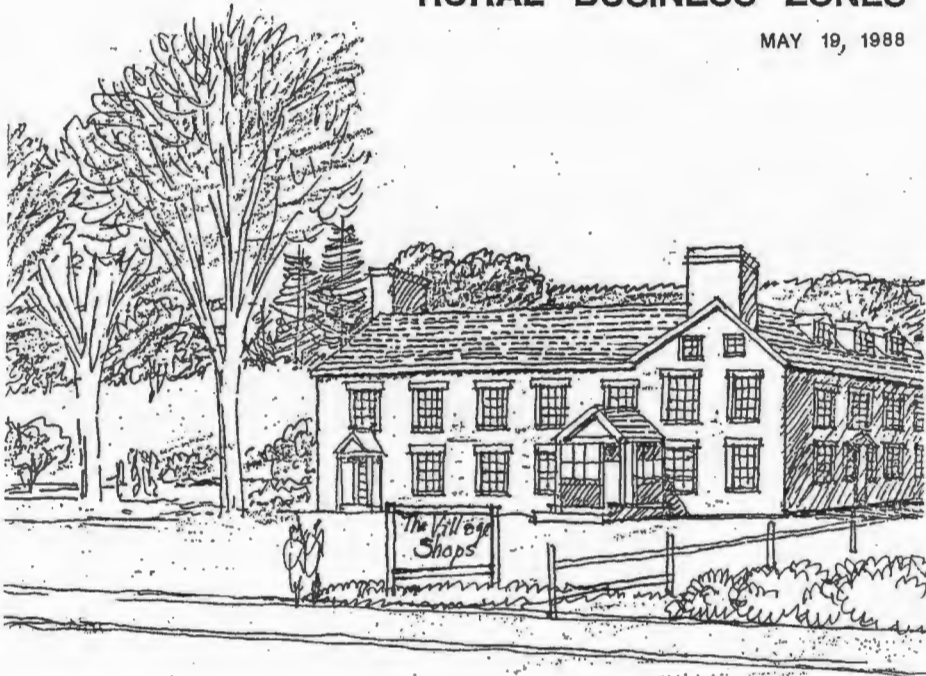
9. (2) IN DETERMINING THE APPROPRIATENESS OF BUILDINGS, DESIGN
10. ELEMENTS OF PROPOSED BUILDINGS AND SIGNS SHALL BE EVALUATED IN RELATION TO
11. EXISTING ADJACENT OR SURROUNDING BUILDINGS. NEW BUILDINGS SHALL BE RURAL IN
12. CHARACTER. UNLESS DETERMINED OTHERWISE BY THE DIRECTOR OF THE OFFICE OF
13. PLANNING AND ZONING, NEW BUILDINGS SHALL BE SIMILAR TO EXISTING BUILDINGS IN
14. THE FOLLOWING RESPECTS:

15. (i) HEIGHT;
16. (ii) BULK AND GENERAL MASSING;
17. (iii) MAJOR DIVISIONS OR RHYTHMS OF THE FACADE;
18. (iv) PROPORTION OF OPENINGS, I.E. WINDOW TO WALL
19. RELATIONSHIPS;
20. (v) ROOF TREATMENT;
21. (vi) MATERIALS, COLORS, AND TEXTURES OF BUILDINGS AND
22. SIGNAGE; IN GENERAL, NATURAL MATERIALS SUCH AS STONE, BRICK, WOODSIDING,
23. SHINGLES, SLATE, ETC. ARE PREFERRED TO INDUSTRIAL OR ARTIFICIAL MATERIALS
24. SUCH AS RAW OR EXPOSED AGGREGATE CONCRETE, ANODIZED OR GALVANIZED METAL,
25. TINTED GLASS, PLASTIC, VINYL, ETC.
26. (vii) GENERAL ARCHITECTURAL CHARACTER:
27. a) HORIZONTAL OR VERTICAL EMPHASIS;
28. b) SCALE;
29. c) ORNAMENTIC FEATURES AND FINES I.E.
30. PORCHES, COLONNADES, PEDIMENTS, CUPOLAS, CORNICES, GABLES, DETAIL AND
31. ORNAMENT;
32. (viii) RELATION TO STREET.
33. (ix) ~~INSERT WHERE PHYSICAL CONSTRAINTS, SITE~~
34. ~~CONFIGURATION OR SAFETY CONSIDERATIONS PRECLUDE STRICT COMPLIANCE, ALL PARKING~~
35. ~~MUST BE ACCESSIBLE BY DRIVEWAY TO THE PARKING LOTS TO ADJACENT NON-RESIDENTIAL~~
36. ~~USES AND LAND ZONED FOR NON-RESIDENTIAL USES.~~

37. SECTION 6. And be it further enacted, that this Act shall take effect
38. forty-five days after its enactment.

RURAL BUSINESS ZONES

MAY 19, 1988



Dennis F. Rasmussen
County Executive

A FINAL REPORT OF THE BALTIMORE COUNTY PLANNING BOARD
REGARDING THE C.R. DISTRICT AND A NEW RESOURCE
CONSERVATION--COMMERCIAL--ZONE

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

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PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY ZONING REGULATIONS
AND THE DEVELOPMENT REGULATIONS CONCERNING
THE C.R. DISTRICT AND NEW RESOURCE CONSERVATION COMMERCIAL ZONE

A Final Report of the Baltimore County Planning Board
(Adopted May 19, 1988)

Project Description

Subject: Resolution No. 17-88, requests the Baltimore County Planning Board to consider amendments to the Baltimore County Zoning Regulations in order to create a rural commercial zone.

Attachments: Attachment A - Proposed Rural Conservation Commercial Zone and Commercial Rural District
Attachment B - Resolution No. 17-88
Attachment C - Illustrations

Introduction

In 1979 the urban/rural demarcation line was created to address special land-use needs in the rural area. Resource conservation zones were developed to protect agricultural land and watershed areas, to reserve areas for future use, and to allow for limited rural residential development.

It was also recognized that there was need for commercial zoning in rural areas to meet the needs of residents and tourists. In the absence of a rural commercial zoning category, Business Local (B.L.), Business Major (B.M.) and Business Roadside (B.R.) were applied to rural areas. These zones, provided in larger centers such as Hereford and Jacksonville, at smaller crossroads or strip centers and on "spot" locations scattered throughout the rural areas are the same zones that are applied to urban areas of the County.

The range of permitted uses in these zones and the floor area ratios allowed (B.L. 3.0, B.M. 4.0, and B.R. 2.0) are inappropriate for rural areas.* Full utilization of the zone has been physically impossible to achieve, however, due to physical constraints such as streams and soil types, the requirement that water and sewerage systems be required on-site and inadequate road capacity. The lack of effective market demand due to the low density of the rural population also reduces the size of developments.

As long as development is limited to sites of one acre or less, the environmental constraints, development regulations and market factors result in a scale generally in keeping with surrounding development (see site plan for Four Corners Craftsman Village). However, once larger lots are developed and parking for commercial uses are permitted in adjacent R.C. zones (see site plan for Monkton Center) the pattern of building begins to disappear and any local sense of identity is lost.

In order to permit development for commercial use at an appropriate intensity and scale in rural areas, the proposed R.C.C. zone and the revised C.R. District both propose strict limitations on lot size and building area compared to the existing Business zones. Parking for commercial uses would not be permitted in adjacent R.C. zones. In the C.R. District buildings which exceed the proposed limits could only be built by special exception and only if in accord with site specific guidelines or standards which are part of an approved Master Plan for the area.

*Permitted Development on One Acre of Land
B.R. 87,120 square feet
B.L. 130,680 square feet
B.M. 174,240 square feet

The R.C.C. zoning classification could be placed on any land included in the 1988 Log of Issues if the County Council enacts the proposed R.C.C. zone in time for the 1988 Comprehensive Rezoning. The proposed amendments to the C.R. District would apply to all existing C.R. Districts. The designation could also be applied to any land in the 1988 Log of Issues if the Council enacts the legislation before the maps are adopted.

R.C.C. - Resource Conservation-Commercial Zone.

In response to the need for small commercial developments in the rural areas, staff is proposing the creation of the R.C.C. zone in which development and uses would be strictly limited. The proposed zone includes a range of retail and personal service uses designed to serve agricultural needs, residential communities and tourists. The size and scale of the development allowed would also determine, to a certain extent, the types of uses that would locate in the zone.

The total building area permitted on a lot is to be limited to 3,000 square feet, which provides sufficient area for the type of uses proposed, while ensuring a degree of compatibility with existing buildings in rural areas. Compatibility will be achieved by the provision of setbacks and landscaped buffers; the location of parking to the rear and side of buildings; control over the design and materials of buildings and signs; and limits on the area of outside storage (10% of total lot area) and on impervious surface (20% of total lot area). In addition, maximum lot size will be restricted to two acres to ensure that adequate provision is made for on-site water supply and sewage disposal, while limiting the extent of outside storage and impervious surfaces to appropriate proportions of the site. Although lot size requirements for adequate environmental controls vary with soils, slopes, streams, vegetation and other physical characteristics of the site, the two acre limit will provide efficient use of land both for commercial development and for effective environmental protection.

In summary, the R.C.C. zone proposes to:

- (1) limit development to 3,000 square feet of building and 10% of lot area for outside storage;
- (2) limit impervious surface to 20% of lot area;
- (3) provide an acceptable range of uses for agricultural, rural residential and tourists needs;
- (4) ensure that sites, buildings and signs are designed in a manner consistent with rural character;
- (5) provide for effective environmental protection for the site and adjacent properties.

C.R. Districts

While the proposed R.C.C. zone is aimed primarily at addressing the needs of small scale, scattered commercial enterprises in a variety of locations throughout the rural area of the County, the C.R. District is intended for use in those rural locations, usually villages or small towns which already

function as commercial service centers. These areas which provide a wider range of commercial services than the R.C.C. zone, are now in danger of losing their local identities due to rapid development, permitted by existing zoning patterns.

It is essential that if growth is to occur it should only do so in a manner appropriate to local scale and tradition and within the context of a duly adopted Master Plan.

The C.R. District may be applied to land zoned B.L., B.M., B.R., R.O. and to adjacent land zoned R.C. 5. Application of the District designation will not change the base zoning. However, all uses permitted in any zone in the district may be allowed in a base zone subject to the following conditions:

1. Uses permitted as of right in the base zone will be limited by the bulk regulations and site design controls set out in this legislation.
2. Uses permitted in the District, but not in the base zone may only be permitted by Special Exception as limited by the bulk regulations and site design controls.
3. Development larger than that allowed by the bulk and site design regulations may only be permitted by special exception and only in accordance with site specific design guidelines and performance standards which are included in an adopted Master Plan for the District.
4. The criteria for granting special exceptions will be strengthened to include firmer environmental and design standards and "proof of need" for the uses proposed.

Recommendations

The Baltimore County Planning Board recommends that the Baltimore County Zoning Regulations, 1955, as amended, and the Baltimore County Code, 1978, as amended, be further amended as set forth below.

1. In Section 1A00, Resource Conservation Zones, add a new Subsection 1A06, Resource Conservation, Commercial:

Section 1A06 - R.C.C. -- Resource Conservation, Commercial

1A06.1 -- General Provisions

A. Legislative Statement of Findings,

1. Declaration of Findings. It is found that:

- a. there is a demand for commercial development in the rural areas of Baltimore County to serve the needs of rural residential and agricultural communities as well as tourists; and
 - b. the existing Business zoning designations (B.L., B.M., B.R.) permit uses at a scale that are not desirable in the rural parts of the County and the height, bulk, floor area and setback requirements of these zones permit an intensity of development that is not appropriate in scale or appearance with the character of a rural setting; and
 - c. the rural areas lack the road, water and sewerage capacity to handle the intensity of development permitted by the existing Business zones.
2. Purposes: The R.C.C. zoning classification is established pursuant to the legislative findings stated above to:
 - a. provide small areas of commercial development that will meet the shopping and personal service needs of rural residents and tourists;
 - b. permit such facilities, but only at an intensity and scale appropriate to rural areas.

1A06.2 -- Use Regulations. The following uses are permitted subject to the limitations set forth in Section 1A06.3.

A. Uses permitted as of right.

1. Agriculturally related retail, office and services uses:

Agricultural supply and feed store;
Auction building;
Farmers' co-op;
Farmers' market;
Garden Center;
Veterinary Services;

2. Commercial and Service Uses:

Retail establishments selling such items as gifts, jewelry, hardware, drugs, groceries, sporting equipment (except boats and vehicles), antiques;
Arts and crafts studios;
Barber shops, beauty shops and other personal service establishments;
Banks;
Offices, provided that medical offices are limited to 25% of the total floor area;
Restaurants and bars (except drive-in or drive-through facilities);
Small appliance repair.

3. Residential, Lodging and Institutional Uses:

Single-family detached dwellings;
Residences above the first floor of commercial buildings;
Bed and breakfasts, tourists homes;
Educational and social service facilities;
Class A and Class B child care centers.

B. Uses permitted by special exception:

Agricultural machinery and equipment repair;
Public utilities, public utility service centers;
Volunteer fire companies;
Conversions of existing buildings which do not conform to the use limitations of 1A06.3.

C. Accessory Uses or Structures. The following uses, only, are permitted as an accessory use:

1. Agricultural related uses.
Farmers roadside stands;
Intermittent outdoor sales;
Cut flower or live plants;
Farmer's Co-op roadside stand;
Fish, shellfish and meat;
Fruit and vegetable.
2. Amusement devices (subject to provisions of Section 422);
Picnic groves;
Satellite receiving dish (subject to provisions of Section 429).
3. Home occupations.
4. Parking to be located to the side and rear of the building only, but not in the required setback and must be located within the R.C.C. Zone.
5. Signs.
6. Outside storage of material or equipment.

1A06.3 -- Use Limitations. All of the uses in Section 1A06.2 are subject to the following limitations.

A. The applicant shall prove to the satisfaction of the Director of the Department of Environmental Protection and Resource Management that the land can support the proposed development without overburdening the required private sewerage disposal system, the potable water supply, endangering the Metropolitan District reservoirs or adversely affecting neighboring properties.

B. Outside Storage. Outside storage of equipment and material shall be permitted only on the lot subject to the following requirements:

1. The storage area must be located to the side or rear of the building, outside of the required setbacks.
2. The storage area shall not cover more than 10% of the lot, except as determined by the Zoning Commissioner in a special exception hearing.
3. All outside storage of fuels, chemicals or other potentially harmful materials must be located on impervious pavement and completely enclosed by an impervious wall high enough to contain the total volume of liquids kept in the storage area, plus accumulated rainfall.
4. The storage area shall be screened by a fence in association with plantings.

C. Signs and Displays. In addition to signs permitted under subsection 413.1, the following are also permitted:

1. one stationary outside identification sign which does not project more than 6 inches from the building and does not have a surface area exceeding 8 square feet;
2. one free-standing sign with a surface area of no more than 15 square feet per side; the sign shall be integrated with the landscaping, and the location shall be approved by the Director of the Office of Planning and Zoning;
3. no sign shall be illuminated.

D. Relationship to Surrounding Neighborhoods. New buildings or additions shall be appropriate pursuant to Section 22-104(c) of the Baltimore County Code, as amended.

E. Production Restrictions.

1. Not more than 5 persons shall be engaged in the repair or fabrication of goods on the premises;
2. Not more than 5 horsepower shall be employed in the operation of any one machine used in repair or fabrication, and not more than 15 horsepower in the operation of all such machines;

1A06.4 -- Bulk Regulations of R.C.C. Zones.

A. Uses permitted in R.C.C. zones are governed by the following bulk regulations:

1. Front yard setback: the front building line shall be not less than 15 feet from the right of way line of the street and not more than the average setback of the adjacent lots;
 2. Minimum side and rear yard setback: 15 feet;
 3. Maximum height of new buildings or additions: 25 feet;
 4. Floor Area Restrictions. The gross floor area of all buildings on the lot shall not exceed 3,000 square feet;
 5. Maximum lot size: 2 acres;
 6. Coverage. No more than 20 per cent of any lot may be covered by impervious surface, including buildings, parking facilities and storage areas.
- B. Landscape Areas. In keeping with the rural character the front, side and rear yards shall be landscaped to adequately screen the parking area from the roadway and adjacent uses, in accordance with the Landscape Manual requirements for commercial zones.

2. Delete Paragraph A in Subsection 259.2; "C.R. Districts".

- A. C.R. District--Commercial, Rural. C.R. Districts may be applied only to certain areas of contiguous commercial development which are on land zoned B.L., B.M., B.R., and/or M.L. at intersections of paved roads each at least 2 miles in length, and which lie beyond the urban-rural demarcation line, or to certain other commercially or industrially zoned areas of substantial, established business activity beyond the urban-rural demarcation line.

3. Add a new paragraph A to Subsection 259.2 and a new Subsection 259.3 "Special Regulations for C.R. Districts".

259.2 Statement of Legislative Intent for Districts

A. C.R. District - Commercial Rural

The C.R. District is established to provide opportunities for convenience shopping and personal services that are customarily and frequently needed by the rural residential and agricultural population and tourists. It is intended that the C.R. District be applied only to areas where such facilities are not available within a reasonable distance; where sewerage treatment and a potable water supply can be provided without an adverse affect on the environment and neighboring uses and where public roads are capable of handling the anticipated increase in traffic without adverse impacts on surrounding areas. The commercial centers within C.R. Districts are not intended to be regional facilities providing specialty goods to a population outside of the rural area.

C.R. Districts may be assigned to areas of commercial development beyond the urban-rural demarcation line zoned as of the date of this legislation as B.L., B.M., B.R., or R.O. Effective with this legislation, the uses permitted in an M.L. zone will no longer be permitted in a C.R. District except if the underlying zone is M.L. The C.R. District may also be applied to land zoned R.C. 5 which is adjacent to a C.R. District provided that the location, configuration and physical characteristics of the site and the potential for access to an adequate public road make the land suitable for commercial development.

259.3 -- Special Regulations for C.R. Districts

- A. Uses Permitted by Right. Any use permitted by right in the underlying zone on which the C.R. District is applied and which meets the bulk regulations of Paragraph 1 of 259.3.C. is permitted by right.
- B. Uses Permitted By Special Exception.
 1. Any use permitted by special exception in the underlying zone on which the C.R. district designation is applied and which meets the bulk regulations of Paragraph 1 of 259.3.C. is permitted by special exception.
 2. Any use permitted (by right or by special exception) within the C.R. district but which is not permitted in the underlying zone and which meets the bulk regulations of Paragraph 1 of 259.3.C. is permitted by special exception.

3. Buildings which exceed the requirements of Paragraph 1 of 259.3.C may be permitted by special exception only when the proposed development is in compliance with site design guidelines and performance standards which are part of a duly adopted Master Plan for the District.
4. In addition to the requirements generally imposed by 502.1, any use permitted by special exception in C.R. Districts shall meet the requirements of Paragraph E below.

C. Use Restrictions

1. Bulk Regulations.

- a. The gross floor area for all buildings on a lot shall not exceed 8,800 square feet of which no more than 4,400 square feet shall be on the ground floor.
- b. The floor area ratio shall not exceed 0.20.
- c. Building height shall not exceed 25 feet.

2. Setbacks

- a. The front yard setback shall be not less than 15 feet from the street right-of-way line, or greater than the average of the setbacks of adjacent buildings.
- b. The rear and side yard setbacks shall be not less than 15 feet.

3. Landscaping. In addition to the requirements of the Landscape Manual for commercial zones, the following landscape standards shall apply to uses in C.R. Districts:

- a. The entire required front, side and rear setbacks shall be landscaped.
- b. A minimum of 7% of the parking lot shall be pervious surface with a minimum of one tree per eight parking spaces provided.

4. Parking. Parking shall be located in a manner appropriate and consistent with adjoining development and must be located within the C.R. district. Access onto roadways shall be limited to no more than two locations. Except where physical constraints, site configuration or safety preclude compliance, parking must be accessible to the parking lots of adjacent non-residential uses and zones.

5. Environmental Holding Capacity

The applicant shall prove to the satisfaction of the Director of the Department of Environmental Protection and Resource Management that the land can support the proposed development without overburdening the required private sewerage disposal system, the potable water supply, endangering the Metropolitan District reservoirs or adversely affecting neighboring properties.

6. Outside Storage. Outside storage of equipment and material shall be permitted only on the lot subject to the following requirements:

- a. the storage area must be located to the side or rear of the building, outside of the required setbacks;
- b. the storage area shall not cover more than 15% of the lot, except as determined by the Zoning Commissioner in a special exception hearing;
- c. the storage area shall be screened by a fence in association with plantings;
- d. all outside storage of fuels, chemicals or other potentially harmful materials must be located on impervious pavement and completely enclosed by an impervious wall high enough to contain the total volume of liquids kept in the storage area, plus accumulated rainfall.

7. Signs and Displays. In addition to signs permitted under subsection 413.1, the following are also permitted:

- a. one stationary outside identification sign which does not project more than 6 inches from the building and does not have a surface area exceeding 8 square feet;
- b. one free-standing sign with a surface area of no more than 25 square feet per side; the sign shall be integrated with the landscaping and the location shall be approved by the Director of the Office of Planning and Zoning;
- c. no sign shall be illuminated.

8. Relationship to Surrounding Neighborhoods. New buildings or additions shall be appropriate pursuant to Section 22-104(c) of the Baltimore County Code, as amended.

D. Procedure for Obtaining Plan Approval in a C.R. District.

1. A CRG plan shall be approved prior to the granting of a special exception in a C.R. district.
2. When a special exception is required, the CRG shall also find that the proposed development satisfies the requirements of Paragraph E below.

E. Additional requirements for the granting of a special exception in a C.R. district. In addition to the requirements generally imposed on the issuance of special exceptions by 502.1, the following requirements shall apply to the granting of special exceptions in C.R. Districts.

1. The petitioner shall document the need for the development at the proposed location; that the commercial services proposed are not duplicated elsewhere and that there is a population

within the grade area with adequate buying power to support the proposed facility.

2. The proposed development shall take into account topography, existing vegetation, soil types and the configuration of the site. The proposed development will not disturb slopes with grades exceeding .25%; will minimize disturbance to vegetated areas, wetlands and streams and will not result in undue site disturbance or excessive erosion and sediment loss. Infiltration will be maximized and stormwater management discharge will be decentralized.
3. Architecturally or historically significant buildings and their settings shall be preserved and integrated into the site plan.
4. The existing roads shall accommodate the anticipated traffic without the addition of new traffic lanes.
5. The buildings shall be sited to protect scenic views from public roads and so that the natural rural features, including but not limited to pastures, croplands, meadows and trees are preserved to the extent possible. Additional open space may be required to preserve and enhance the enjoyment of the natural amenities and visual quality of the site.
6. The proposed development will not be detrimental to neighboring uses and the tranquility of the rural area through excessive noise, or the emission of dust, fumes, vapors, gases and odors.

4. Amend Section 22-104 of the Baltimore County Code 1978 as amended, as follows: (underlining shows text to be added)

Section 22-104. Development in R.C.C., R-0, O-1, O-2, or OT zone and C.R. districts.

Add a new Subparagraph (c) as follows:

(c) Development of property in an R.C.-C. zone:

- (1) Development shall be appropriate to the specific circumstances of the site taking into account surrounding uses; tree preservation; protection of watercourses and bodies of water from erosion and siltation; protection of groundwater resources; safety, convenience, and amenity for the surrounding neighborhood.
- (2) In determining the appropriateness of buildings, design elements of proposed buildings shall be evaluated in relation to existing adjacent or surrounding buildings. In most cases, to be considered appropriate, new buildings shall be rural in character and similar to existing buildings in the following respects:

- (i) Height;
- (ii) Bulk and general massing;

- (iii) Major divisions or rhythms of the facade;
- (iv) Proportion of openings, i.e. window to wall relationships;
- (v) Roof treatment;
- (vi) Materials, colors, and textures of buildings and signage: In general, natural materials such as stone, brick, wood-siding, shingles, slate, etc. are preferred to industrial or artificial materials such as raw or exposed aggregate concrete, anodized or galvanized metal, tinted glass, plastics, vinyls, etc.
- (vii) General architectural character:
 - a) Horizontal or vertical emphasis;
 - b) Scale;
 - c) Stylistic features and themes i.e. porches, colonades, pediments, cupolas, cornices, coins, detail and ornament;
- (viii) Relation to street.
- (ix) Except where physical constraints, site configuration or safety considerations preclude strict compliance, all parking must be accessible by driveway to the parking lots to adjacent non-residential uses and land zoned for non-residential uses.

5. In Paragraph 100.1.A. (Zones) revise subparagraph 2 by adding a new zone as follows:

R.C.C. (Resource Conservation, Commercial)

ATTACHMENT B

ATTACHMENT C

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
LEGISLATIVE SESSION 1988, LEGISLATIVE DAY NO. 7
RESOLUTION NO. 17-88

MR. C. A. DUTCH RUPPERSBERGER, XII, COUNCILMAN

BY THE COUNTY COUNCIL, APRIL 4, 1988

A RESOLUTION to request the Planning Board to consider proposing amendments to the Baltimore County Zoning Regulations in order to create a rural business zone.

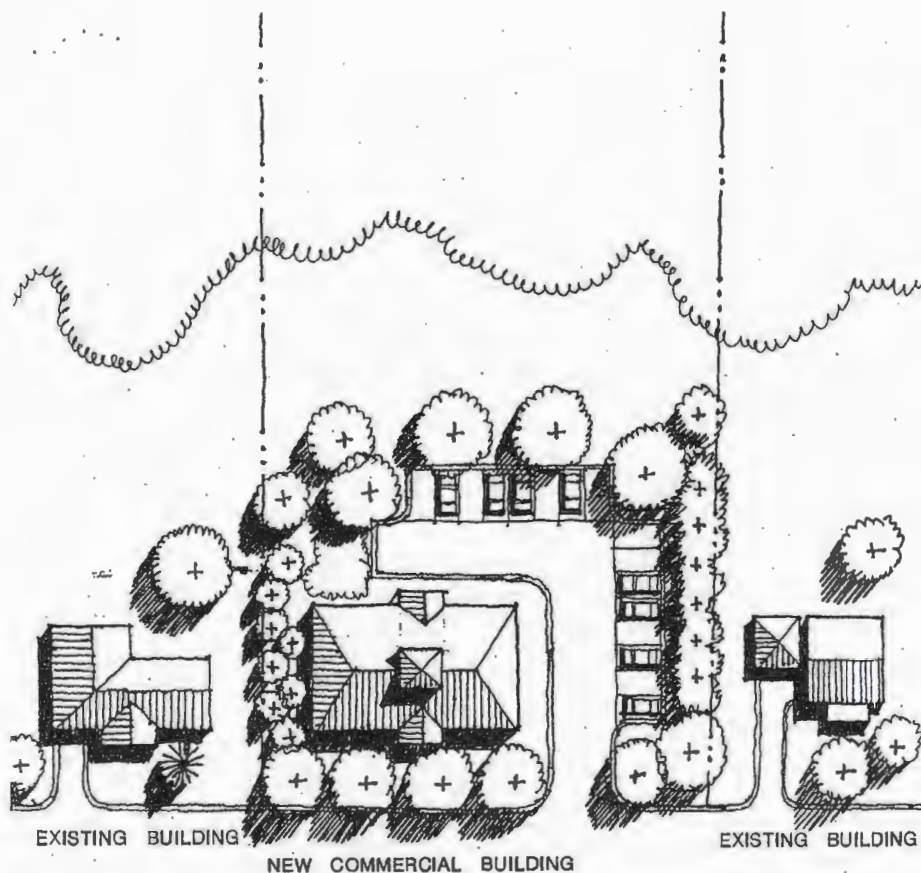
WHEREAS, the Baltimore County Planning Board from time to time considers certain revisions to the Baltimore County Zoning Regulations; and

WHEREAS, a recurring problem which Baltimore County faces is that the Baltimore County Zoning Regulations do not provide for a business zone which permits only those uses and buildings which are compatible with the agricultural uses, and scenic beauty of the surrounding area; and

WHEREAS, the present practice of designating Business-Local zones beyond the urban rural demarcation line to provide land to meet the retail and service needs of the rural population permits uses and buildings which are incompatible with the surrounding area; and

WHEREAS, the rural areas require specific types of retail and service uses to meet their needs and these uses could be permitted in such a way as to promote and protect the surrounding rural area.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that the Baltimore County Planning Board be and it is hereby requested to consider proposing amendments to the Baltimore County Zoning Regulations in order to create a rural business zone which will provide for the retail, business and service needs of these areas while protecting and promoting agricultural uses and their scenic beauty, and create a village atmosphere reminiscent of New England.



TYPICAL SITE PLAN RURAL COMMERCIAL ZONE

MAXIMUM FLOOR AREA 3000 SQ FT

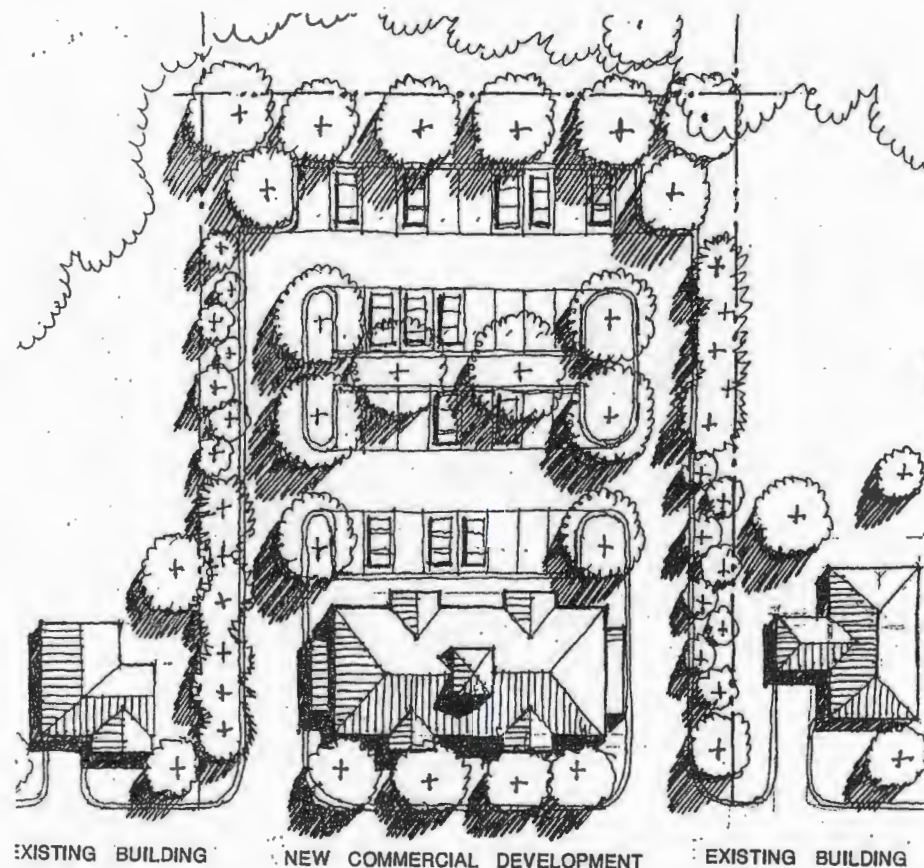
1 INCH = 40 FEET

FRONT SET BACK; 15 FT FROM R.O.W. OR

AVERAGE OF ADJACENT SET BACKS

SIDE AND REAR SET BACKS 15 FT

PARKING AT SIDE AND REAR OF BUILDING



TYPICAL SITE PLAN

RURAL COMMERCIAL DISTRICT

MAXIMUM FLOOR AREA 8800 SQ FT

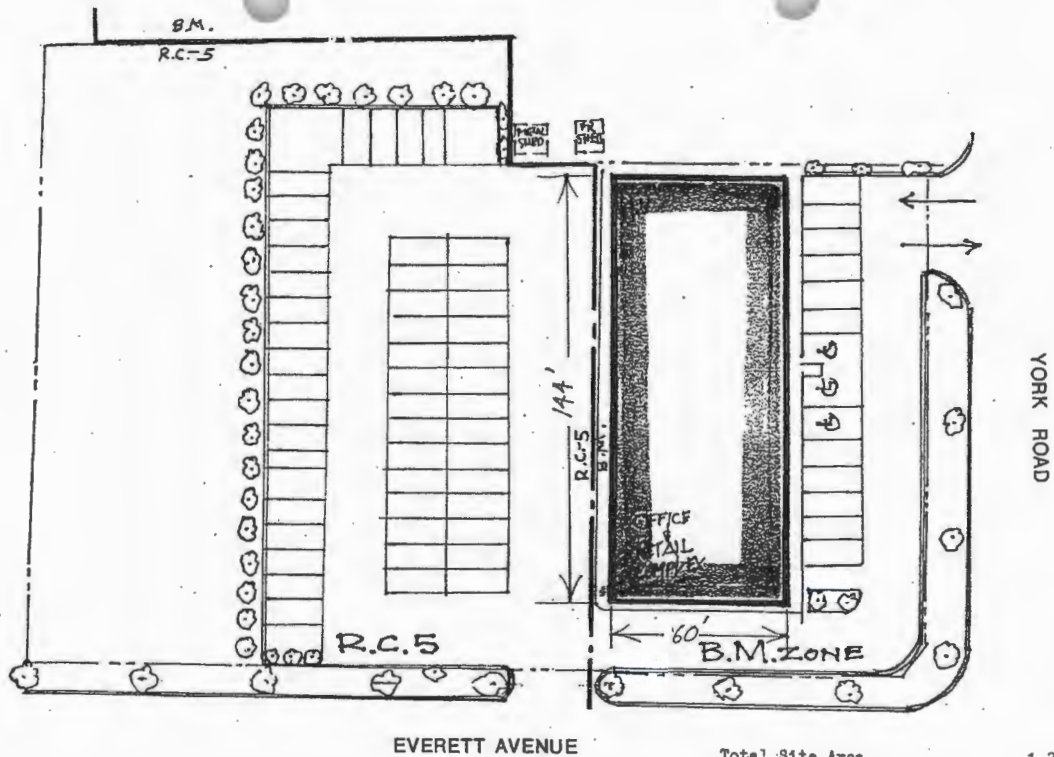
1 INCH = 40 FEET

FRONT SET BACK; 15 FT FROM R.O.W. OR

AVERAGE OF ADJACENT SET BACKS

SIDE AND REAR SET BACKS 15 FT

PARKING AT SIDE AND REAR OF BUILDING



EVERETT AVENUE

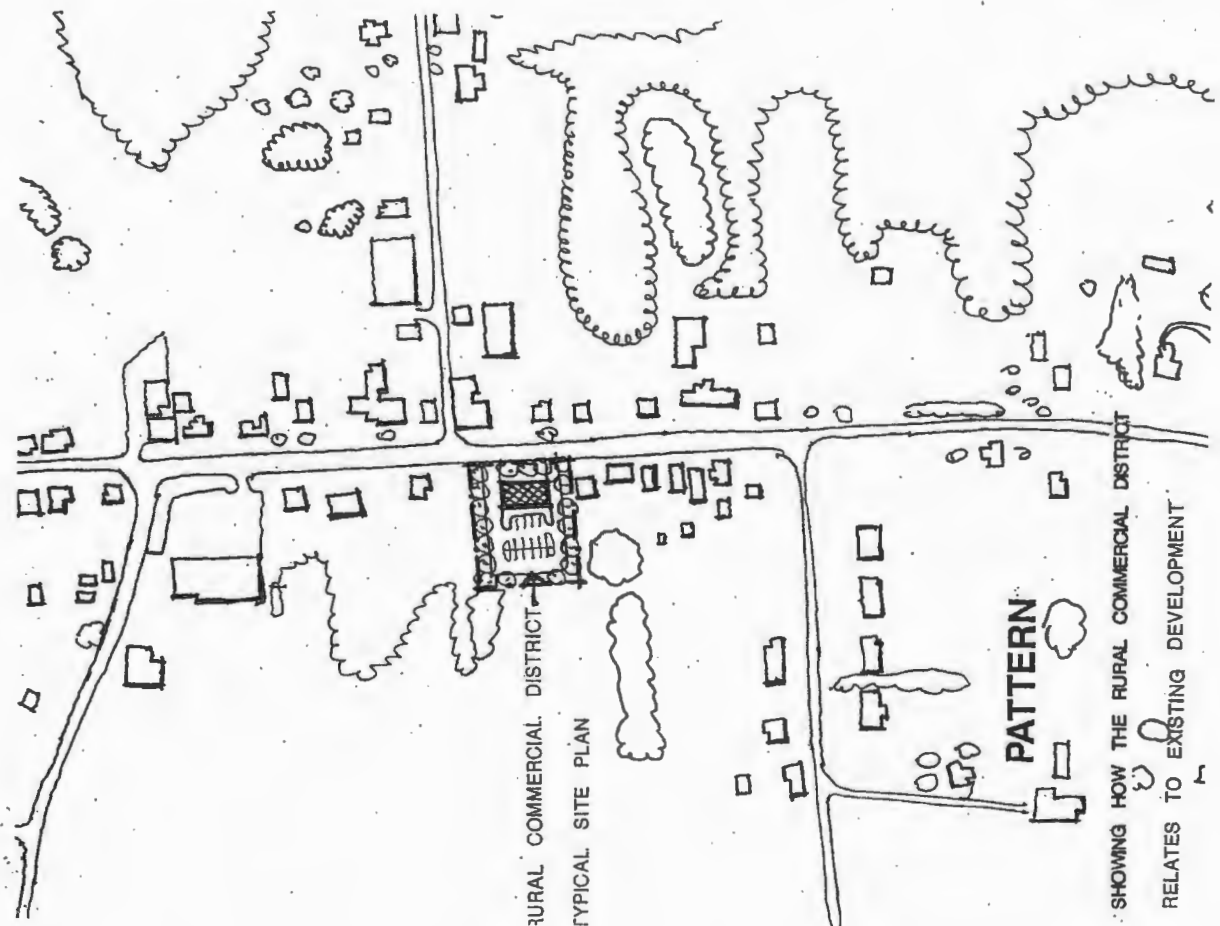
Total Site Area	1.38 ac.
B.M.	0.48 ac.
R.C.5	0.90 ac.

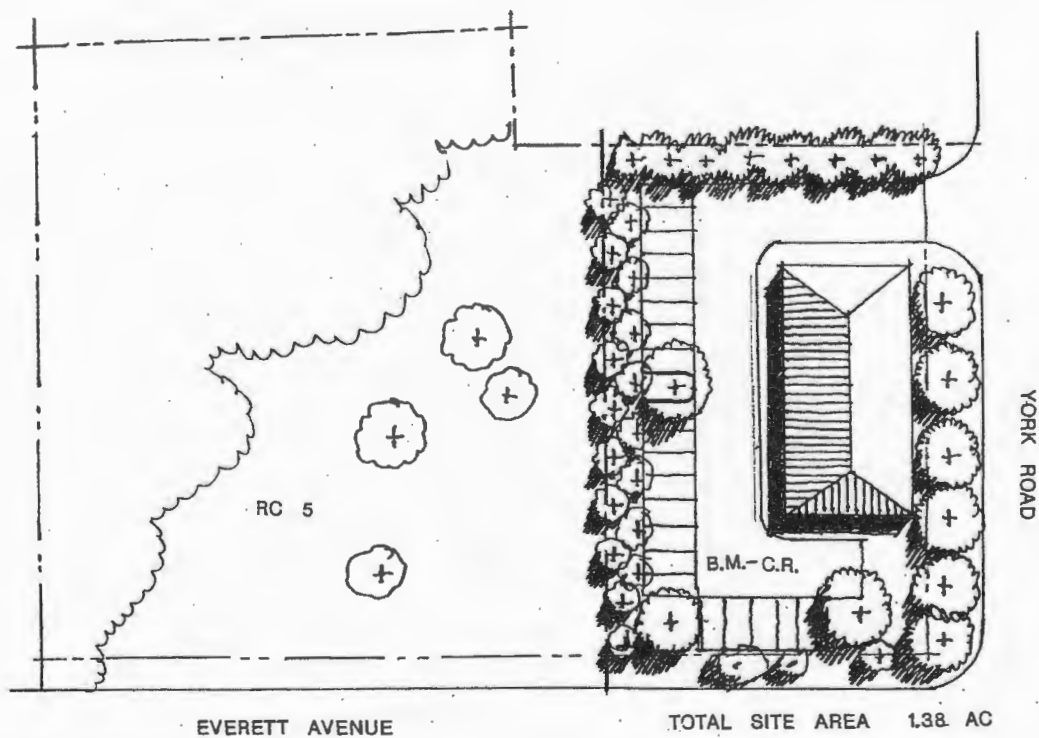
PROPOSED C.R.G. PLAN

Proposed Building	17,280 sq. ft.
Proposed Parking	67 spaces
Proposed Parking in R.C.5	52 spaces

MONKTON CENTER : HEREFORD

NO SCALE





PROPOSED CRG PLAN C.R. DISTRICT-CRITERIA

MONKTON CENTER HERFORD

TOTAL SITE AREA 1.38 AC

B.M.-C.R. 0.48 AC

RC 5. 0.90 AC

PROPOSED BLDG 4179 SQ FT

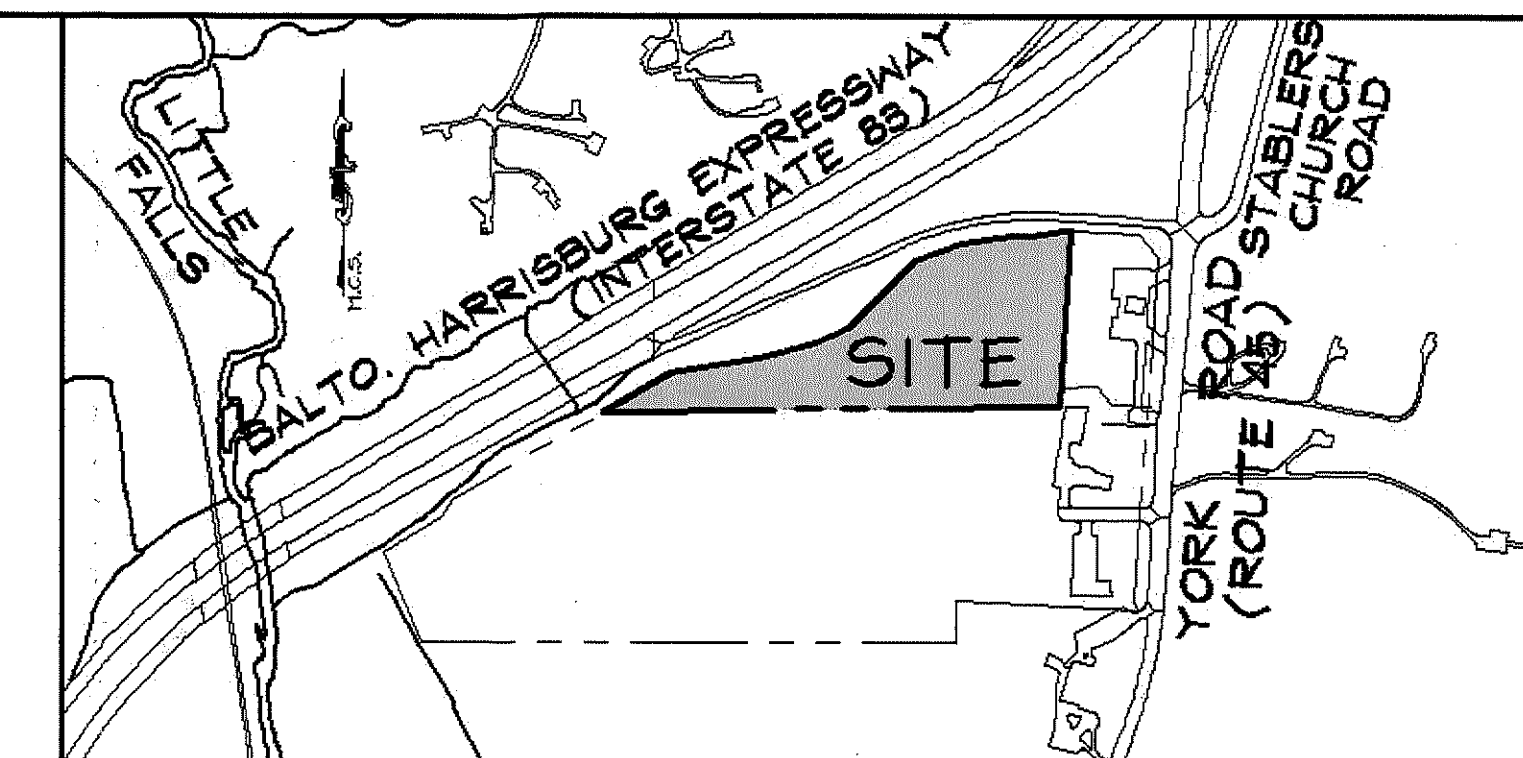
PROPOSED PARKING 20 CARS

SITE DATA
1. SITE AREA: 7.10 AC.±
2. EXISTING ZONING: BL-CR ± 137,200 S.F. OR 3.15 AC.±
3. PROPOSED SQUARE FOOTAGE: 26,400 S.F.±
4. OWNER/DEVELOPER: PARKTON DEVELOPMENT GROUP, LLC
2344 YORK ROAD
TIMONIUM, MARYLAND 21093
5. DEED REFERENCE: 34421 / 00157
6. TAX ACCOUNT NUMBERS: 1900011335
7. ELECTION DISTRICT: 7TH DISTRICT
COUNCILMANIC DISTRICT: 3RD
CENSUS TRACT: 407000
REGIONAL PLANNING DISTRICT: 301A
WATERSHED: LOCH RAVEN RESERVOIR
SUBWATERSHED: N/A
8. PARKING REQUIRED: OFFICE - 6,600 S.F. / 3.3 PER 1000 S.F. = 22 SPACES
19,800 S.F. / 5 PER 1000 S.F. = 99 SPACES
TOTAL = 121 SPACES
PARKING PROVIDED: 123 SPACES
119 STANDARD
4 HC
9. AVERAGE DAILY TRIPS:
10. THE ILLUMINATION FOR OFFSTREET PARKING WILL BE ARRANGED SO AS TO NOT
REFLECT INTO ADJACENT RESIDENTIAL PROPERTIES OR PUBLIC RIGHT OF WAYS.
11. FLOOR AREA RATIO -
12. THE SITE IS NOT WITHIN A 100 YEAR FLOODPLAIN.
13. THIS SITE WILL BE IN COMPLIANCE WITH ALL HANDICAPPED PARKING REGULATIONS.
14. PARKING LOT SURFACE IS BITUMINOUS CONCRETE.
15. THIS DEVELOPMENT WILL COMPLY WITH THE ENVIRONMENTAL HOLDING CAPACITY
PER B.C.Z.R. SECTION 259.3.2.5
16. ALL SIGNAGE WILL COMPLY WITH B.C.Z.R. 259.3.3.7 AND SECTION 450.
17. INDIVIDUAL WELL WATER SUPPLY WILL BE IN COMPLIANCE WITH ARTICLE II OF
TITLE 25 OF THE B.C.C.
18. A COMPATIBILITY REPORT AND ARCHITECTURAL ELEVATIONS WILL BE SUBMITTED AND
REVIEWED BY THE PLANNING OFFICE.
19. NO SIGNS ARE PROPOSED AT THIS TIME. ANY FUTURE SIGNAGE WILL COMPLY
WITH SECTION 259.3.2.7 AND SECTION 450, B.C.Z.R.
20. ANY LOADING AREA WILL NOT BLOCK PARKING SPACES OR IMPEDE TRAFFIC
CIRCULATION.
21. THE FRONT BUILDING SETBACK IS IN COMPLIANCE WITH SECTION 259.3.2.2.A, B.C.Z.R.
22. ALL KNOWN EXISTING WELLS, SEPTIC SYSTEMS OR UNDERGROUND STORAGE TANKS
ON THIS SITE HAVE BEEN SHOWN.
23. TOTAL SEWERAGE FLOW CALCULATIONS:
REFILL USE 19,800 S.F. / 0.10 GPD = 1,980 GPD
OFFICE USE 6,600 S.F. / 0.15 GPD = 1,155 GPD
TOTAL = 3,135 GPD

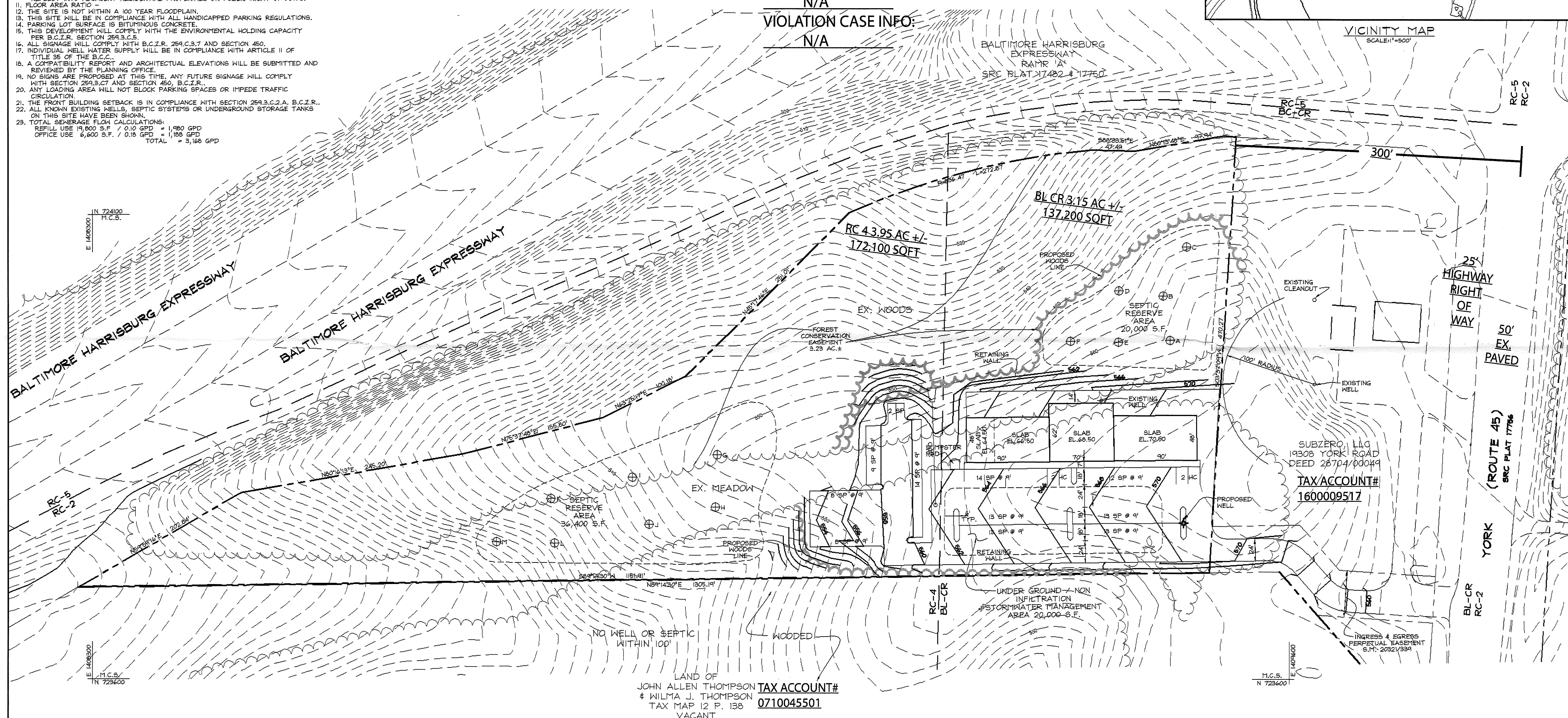
ZONING MAP# 0012
SITE ZONED RC 4 / BL CR
ELECTION DISTRICT 7
COUNCIL DISTRICT 3
LOT AREA ACREAGE 7.10
OR SQUARE FEET 309,300
HISTORIC? N/A
IN CBCA? N/A

IN FLOOD PLAIN? N/A
UTILITIES? MARK WITH X
WATER IS:
PUBLIC PRIVATE X
SEWER IS:
PUBLIC PRIVATE X
PRIOR HEARING? N/A
IF SO GIVE CASE NUMBER AND ORDER RESULT BELOW:

N/A
VIOLATION CASE INFO:
N/A



VICINITY MAP
SCALE: 1"=500'

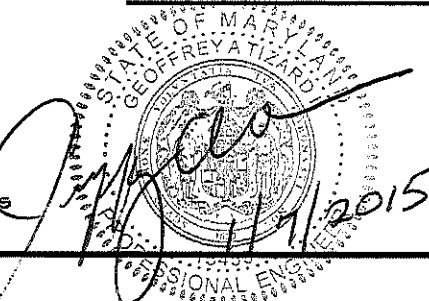


ZONING HEARING PLAN FOR VARIANCE FOR SPECIAL HEARING X (MARKTYPE REQUESTED WITH X)
ADDRESS 19300 YORK ROAD, PARKTON, MD 21120 OWNER(S) NAME(S) PARKTON DEVELOPMENT GROUP, LLC
SUBDIVISION NAME N/A LOT # BLOCK# SECTION#
PLAT BOOK# FOLIO# 10 DIGIT TAX# 1900011335 DEED REF# 34421/00157

MERRITT DEVELOPMENT
CONSULTANTS, INC.

9831 MAGLEDT ROAD
BALTIMORE, MARYLAND 21234
PHONE: 410-925-4061 FAX: 410-661-1297

"Professional Certification. I hereby certify that these documents were prepared or
approved by me, and that I am a duly licensed professional engineer under the laws
of the state of Maryland, License No. 15458, Expiration Date: July 2, 2015."



LAND OF
JOHN ALLEN THOMPSON
WILMA J. THOMPSON
TAX MAP 12 P. 138
VACANT
TAX ACCOUNT#
0710045501

OWNER/DEVELOPER
PARKTON DEVELOPMENT GROUP, LLC
2344 YORK ROAD
BALTIMORE, MARYLAND 21093
TAX ACCT. NO.: 1900011335
MAP: 12 PARCEL: 190
DEED REF: 34421/00157

PLAN DRAWN BY MERRITT DEVELOPMENT CONSULTANTS
DATE MAY 9, 2014
SCALE: 1 INCH = 50 FEET

ZONING HISTORY

1. CONCEPT AND DEVELOPMENT PLAN PROPOSAL FOR FAST FOOD
PDI FILE NO. VII-304. (ABANDONED)
2. LIMITED EXEMPTION REQUEST FOR THIS DEVELOPMENT PROPOSAL
PRESENTED TO D.R.C. BASED ON SECTION 24-171(a)(2), (a)(7) AND/
OR (b)(9) OF THE BALTIMORE COUNTY DEVELOPMENT REGULATIONS.
(REQUEST DENIED)

CONCEPT PLAN
PARKTON

TAX MAP 12 PARCEL 190

DISTRICT 7C3 BALTIMORE COUNTY, MD
SCALE: 1"=50' MAY 9, 2014