

FAST TRACK

November 18, 2015 @ 10am ✓

Opinion & Order
Issued 12/4/15

MC-16-01

TIMEFRAME/COUNTY BOARD OF APPEALS – PETITION FOR MAP CORRECTION

Case #: MC-16-01 Name: Baltimore County, MD – Petitioner
127 Main Street, LLC – Petitioner/Legal Owner

Timeframe for CBA Hearing*: November 16, 2015

CBA Hearing Date: 11/18/15

Continued Date**: n/a

Deadline for Order: 11/30/15

Order Issued by CBA: 12/4/15

Statistical Only: _____

Date Petition Rec'd
by CBA: October 16, 2015

§ 32-3-235 Baltimore County Code

* Within 30 days from date of filing of Petition for Map Correction; or first available date immediately thereafter.

** If there is opposition, may continue hearing to allow for further presentation of issues

*** ORDER OF THE BOARD SHALL BE ISSUED WITHIN 10 DAYS FOLLOWING CONCLUSION OF THE HEARING

**ZONING MAP CORRECTION FOR THE
0.59± ACRE PARCEL OF LAND LOCATED ADJACENT TO AND
ON THE EAST SIDE OF MAIN STREET, JUST NORTH OF
BUSINESS CENTER DRIVE IN THE REISTERSTOWN AREA
(127 MAIN STREET)
BALTIMORE COUNTY, MARYLAND
AND 127 MAIN STREET, LLC – PETITIONERS**

10/16/15 Petition for Zoning Map Correction filed by Nancy C. West, Assistant County Attorney on behalf of Baltimore County, and 127 Main Street, LLC, Petitioners.

To correct technical error – To reclassify the entire 0.59± acre parcel of land located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136 that is owned by 127 Main Street, LLC to the B.L. (Business, Local) zone in accordance with the 1988 CZMP, and County Council Bill No. 146-88.



Christopher D. Mudd, Esquire
Venable, LLP
210 W. Pennsylvania Ave.,
Towson, Maryland 21204

RE

Dear Counsel:

Enclosed for
Appeals of Baltimore

Any petition
201 through Rule
OFFICE CONCERNING
Petitions for Judicial
action number. 1
subject file will be

Address List

Petitioner:

Michael Field, County Attorney and
Nancy C. West, Assistant County Attorney
On behalf of Baltimore County, Maryland

Petitioner/Legal Owner:

127 Main Street, LLC
2560 Lord Baltimore Drive
Baltimore, MD 21244

Christopher D. Mudd, Esquire
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, MD 21204

Interoffice:

The Honorable Vicki Almond
2nd District, Baltimore County Council
Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrative Officer and Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Office of People's Counsel

KLC/
Enclosure
Multiple Original

c: 127 Main Street,
The Honorable
Fred Homan,
Arnold Jablon,
Andrea Van

Board of Appeals

Case No: _____

Case Name: MC-16-01

Exhibit List

127 Main St. LLC.

Party: County

Date: 11/18/15

Exhibit No:	Description:
✓ CO 1	Mayhew's resume
✓ CO 2	Letter fr. Mudd to V. Arsdale 8/18/2014
✓ CO 3	Req. for Change - 1988 CZMP
✓ CO 4	Bul to. CZMP Final log
✓ CO 5	Prop. map w/ zoning overlay ^{Tax map (1" = 600 ft)} Reisterstown area.
✓ CO 6	200 scale zoning map 1988 issue file ^(1" = 200 ft.)
✓ CO 7	V. Arsdale Letter ^{DOP} 7/9/2015 + Mr. Mudd.
✓ CO 8	Bill no. 146-88 ^{1988 adopt. of 3rd distr. zoning.}
✓ CO 9	Letter from DOP V. Arsdale 7/9/2015 to Council Almond
✓ CO 10	BCC 32-3-231 Map Correction
✓ CO 11	Current Zoning Map - prop e issue is yellow.
✓ CO 12	Zoning map w/ adjusted line + desired ^{correction.}
✓ CO 13	Photos of notice of hearing
CO 14	
VERIFIED BY <u>KC</u> DATE: <u>11/19/15</u>	

Michael Jeffrey Mayhew, AICP

1613 Dogwood Hill Road
Baltimore, Maryland 21286
410 321-5642 (H) 443 608-3998 (C)
jeffm1776@outlook.com

Experience

Baltimore County Department of Planning, Deputy Director, June 2011 – Present

Under direction of the Director, administers the activities and programs of the Department of Planning by working closely with elected officials, citizens, boards and commissions, and other government agencies to successfully and efficiently implement the agency's goals and objectives. Oversee and manage the functions of the Department, including the preparation of all reports and studies, training, personnel, budget and media relations. Represent the Department at meetings of the Planning Board, Landmarks Preservation Commission, Design Review Panel, County Council and various citizen and governmental meetings.

Baltimore County Department of Planning, Acting Director, December 2010 – May 2011

Directed and administered the activities and programs of the Department by working closely with elected officials, citizens, boards and commissions, and other government agencies to successfully and efficiently implement the agency's goals and objectives. Managed the functions of the Department, including the preparation of all reports and studies, training, personnel, budget and media relations. Represented the Department at meetings of the Planning Board, Landmarks Preservation Commission, Design Review Panel, County Council and various citizen and governmental meetings.

Baltimore County Department of Planning, Chief of Community Planning, July 2004 – November 2010

Planned and directed the development and adoption of community plans and growth management policies to align with the Master Plan. Managed the quadrennial Comprehensive Zoning Map Process and cycle zoning processes. Directed and managed the work program for Community Planners and the Community Design Team. Coordinated division activities with other county and state agencies and community and business organizations. Presented material to the Planning Board. Planned and directed the update of demographic projections for Baltimore County. Coordinated office participation in the 10-Year Water and Sewer Plan. From November 2009, I performed the duties of the vacant Deputy Director position. Prepared and monitored the operating budget. Managed administrative and personnel matters. Performed the delegated duties in the absence of the Director.

Baltimore County Department of Planning, Capital Improvement Planner, August 1996 – June 2004

Supervised and managed the review of the capital budget by the Planning Board. Planned and directed the update of demographic projections for Baltimore County. Tracked development by type and location. Planned and directed the GIS unit. Developed and implemented adequate public facilities regulations for schools. Prepared transportation elements of local community plans. Reviewed legislation to ensure compliance with the Master Plan. Review development proposals for Master Plan transportation objectives. Updated the 10-Year Water and Sewer Plan. Developed the infrastructure and transportation components of the 2010 Master Plan.

Michael Jeffrey Mayhew, AICP

Baltimore County Department of Planning, Community Planner, January 1995 - August 1996
Represented the 7th Council district as a Community Planner during the quadrennial 1996 Comprehensive Zoning Map Process. Recommended zoning changes to the Director of Planning, Planning Board, and County Council for the requested zoning changes. Designed and implemented a computer-tracking program for all requested zoning changes. Reviewed development plans occurring within the seventh council district.

Baltimore County Department of Planning, Transportation Planner, February 1990 - January 1995
Formulated capital budget recommendations for transportation projects and programs for the Planning Board. Prepared Baltimore County's portion of the Transportation Improvement Program. Prepared employment forecasts for Baltimore County for use in the regional transportation planning process. Directed transportation planning studies relating to land use, growth management, and zoning. Drafted transportation components of community plans. Prepared Baltimore County's portion of the Federal Functional Classification Map and the National Highway System Map. Represented the Department on the Transportation Committee of the Baltimore County Commission on Disabilities.

Maryland Department of Transportation, State Railroad Administration
Administrative Officer, June 1988 - February 1990 Managed state-owned railroad rights-of-way. Processed requests for new right-of-way occupations. Established a billing program for the lease agreements. Coordinated the acquisition and disposal of real property. Monitored right-of-way encroachments. Promoted freight traffic along state-owned railroad rights-of-way.

Maryland Department of Transportation, Office of Transportation Planning
Planner, June 1987 - June 1988 Prepared and recommended revenue allocation levels for capital projects to be included in the Department's 6-year capital program. Analyzed and evaluated modal administrations' capital projects. Prepared modal text, graph, charts, and tables to communicate the Department's programs, priorities, concerns, and plans in the MTP. Drafted responses to inquiries from other agencies, public officials and citizens regarding capital projects.

Maryland Department of Transportation, Office of Financial Planning & Budget
Research Statistician, September- 1984 - May 1987 Monitored changes in the first two years of the Department's 6-year capital program. Calculated the true interest cost on the department's bonds. Prepared cost benefit analysis on department's capital projects. Assisted in running the department's 6-year financial forecast model. Prepared reports to explain the department's financial position for presentations to bond rating agencies.

Education

University of Baltimore, Baltimore, Maryland
Masters of Public Administration with a concentration in Analysis and Evaluation

University of Delaware, Newark, Delaware
Bachelor of Science in Economics, with a Public Administration Minor

Michael Jeffrey Mayhew, AICP

Highlights

American Institute of Certified Planners

The Professional Institute of the American Planning Association, July 2005

National Smart Growth Leadership Program

University of Maryland, School of Public Affairs, Office of Executive Programs, March 2001

Baltimore County Supervisory Development Certificate

Baltimore County Office of Human Resources, November 2000

Land Use Consultant, St. Petersburg, Russia

Rule of Law Project, United States Agency for International Development, May 2000

“Using GIS to Analyze Residential Development Impacts on Public Schools”

Presentation at the Towson University Geographic Information Sciences Conference, May 2000

Adequate Public Facilities Ordinance Study

Maryland Economic Growth, Resource Protection, & Planning Commission, December 1999

“Friend of Accessible Transportation” Advocate Award

Baltimore County Commission on Disabilities, October 1993

Baltimore County Employees Federal Credit Union, Board of Directors

Towson, Maryland 21204

RECEIVED

AUG 18 2014

August 18, 2014

DEPT. OF PLANNING

Christopher D. Mudd
Counsel
T 410.494.6365
F 410.821.0147
cdmudd@venable.comAndrea Van Arsdale, Director
Baltimore County Department of Planning
Jefferson Building, Suite 101
105 W. Chesapeake Avenue
Towson, MD 21204Re: Request for Zoning Map Correction
127 Main Street
4th Election District, 3rd Councilmanic District
1988 CZMP Issue No. 3-049

Dear Ms. Van Arsdale:

This firm represents 127 Main Street, LLC with regard to the property located at 127 Main Street in Reisterstown, Maryland (the "Property"), which was the subject of Issue No. 3-049 in the 1988 Comprehensive Zoning Map Process (CZMP). Our client recently purchased the Property and during its due diligence, became aware of appears to be a technical drafting error with regard to the zoning of the Property. For the reasons described in detail below, our client believes that the zoning does not reflect the Baltimore County Council's intent with regard to the zoning of the property. Therefore, I am writing to request that you assist us by correcting the zoning map for the Property.

By way of brief background, from 1971 up to the 1988 CZMP, the Property was split-zoned R-O (Residential - Office) and DR 3.5 (Density Residential). During the 1988 CZMP, the owners of the Property at the time, James and Patricia Long, submitted an application to the Office of Planning and Zoning to request that the entire 0.59± acre Property be rezoned to BL (Business, Local). The Planning Board recommended that the entire property be rezoned to BL, as requested, and the County Council subsequently voted to adopt the Planning Board's recommendation. However, on the official 1988 CZMP map produced following the County Council vote, only a portion of the Property (approximately 0.36 acres) was rezoned to BL, while the remainder was reflected on the map as being zoned DR 3.5. Therefore, the zoning map does not accurately reflect the intention of the Council to rezone the entire 0.59± acre Property to BL.

Sections 32-3-231, *et seq.*, of the Baltimore County Code outline the zoning map correction process. As was discussed in meetings with Jeff Mayhew and other members of your staff, we believe that the circumstances described above constitute a "technical drafting error made by the Department of Planning in transferring the County Council's enacted zoning classification" under Section 32-3-231(b)(1). Accordingly, we hereby request that the Department of Planning

Andrea Van Arsdale, Director

August 18, 2014

Page 2

undertake the necessary steps to correct the zoning maps to reflect the proper zoning on the entire Property.

Thank you for your assistance with this matter. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "CD Mudd", is written over the typed name.

Christopher D. Mudd

CDM/jaw

cc: Jessie Bialek
Tom Pilon

Note: If this request is granted, it does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

1988(**COMPREHENSIVE ZONING MAP**
Request For Change

Office of Planning and Zoning
Baltimore County, Maryland

(Office Use Only)	
COUNCIL DISTRICT	3rd
ISSUE NO.	3-097
AREA	8/18
PLANNER	1/18
RECEIPT DATE	12/13/87

- 1 APPLICANT'S NAME JAMES O. + PATRICIA M. LONG
- 2 ADDRESS 127 MAIN Street
- 3 CITY REISTERSTOWN 4 STATE MD. 5 ZIP 21136 6 PHONE 833-3245
- 7 ORGANIZATION (if any) NONE 8 COMMUNITY ORGANIZATION INVOLVED: _____
- 9 APPLICANT STATUS: (Please Circle one)
Property Owner Contract Purchaser; Legal Rep.
- 10 PROPERTY LOCATION E/S Reist Pl 450' S of Chatsworth Ave.
- 11 ACREAGE OR LOT SIZE 0.598 A⁺
- 12 EXISTING ZONING BY ACRES RO (0.598 A⁺)
- 13 REQUESTED ZONING BY ACRES BL (0.598 A⁺)
- 14 EXISTING USE RESIDENCE
- 15 PROPOSED USE (if known) Not known
- 16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Process: 18 Issue No. _____ 19 Year _____
(if applicable) 20(b) Cycle Zoning: 21 Case No. _____
- 22 WATER SERVICE ZONE Reisterstown 5th
- 23 SUBSEWERSED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) *67
- 24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
	04	12	059350
Deed	Liber	Folio	
	5328	915	

Map	Block	Parcel
48.	11	917
Rec. Plat	Liber	Folio
	Block	Lot

25 APPLICANT ACKNOWLEDGEMENT:

I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.

I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.

NAME JAMES O. LONG (Type or Print)

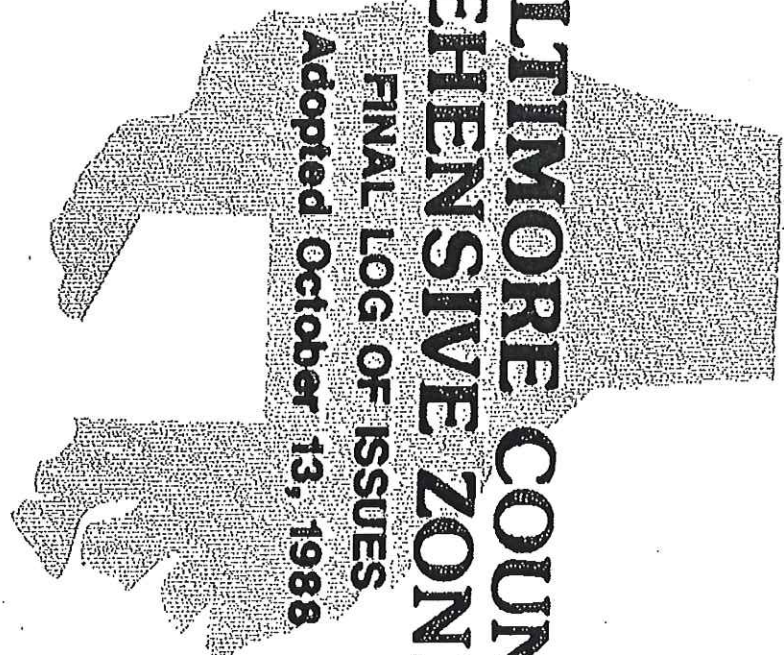
(Landowner) Contract Purchaser and/or Legal Representative

SIGNATURE James O Long

Application Must be Presented in Person

CO-14
Four

BALTIMORE COUNTY COMPREHENSIVE ZONING MAP



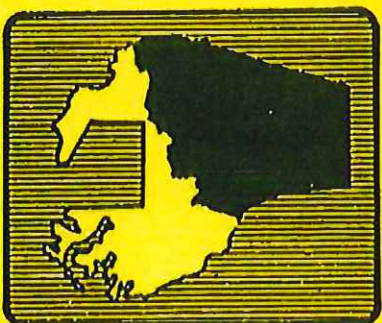
FINAL LOG OF ISSUES

Adopted October 13, 1988

1988 REZONING



COUNCIL OFFICE 887-3387

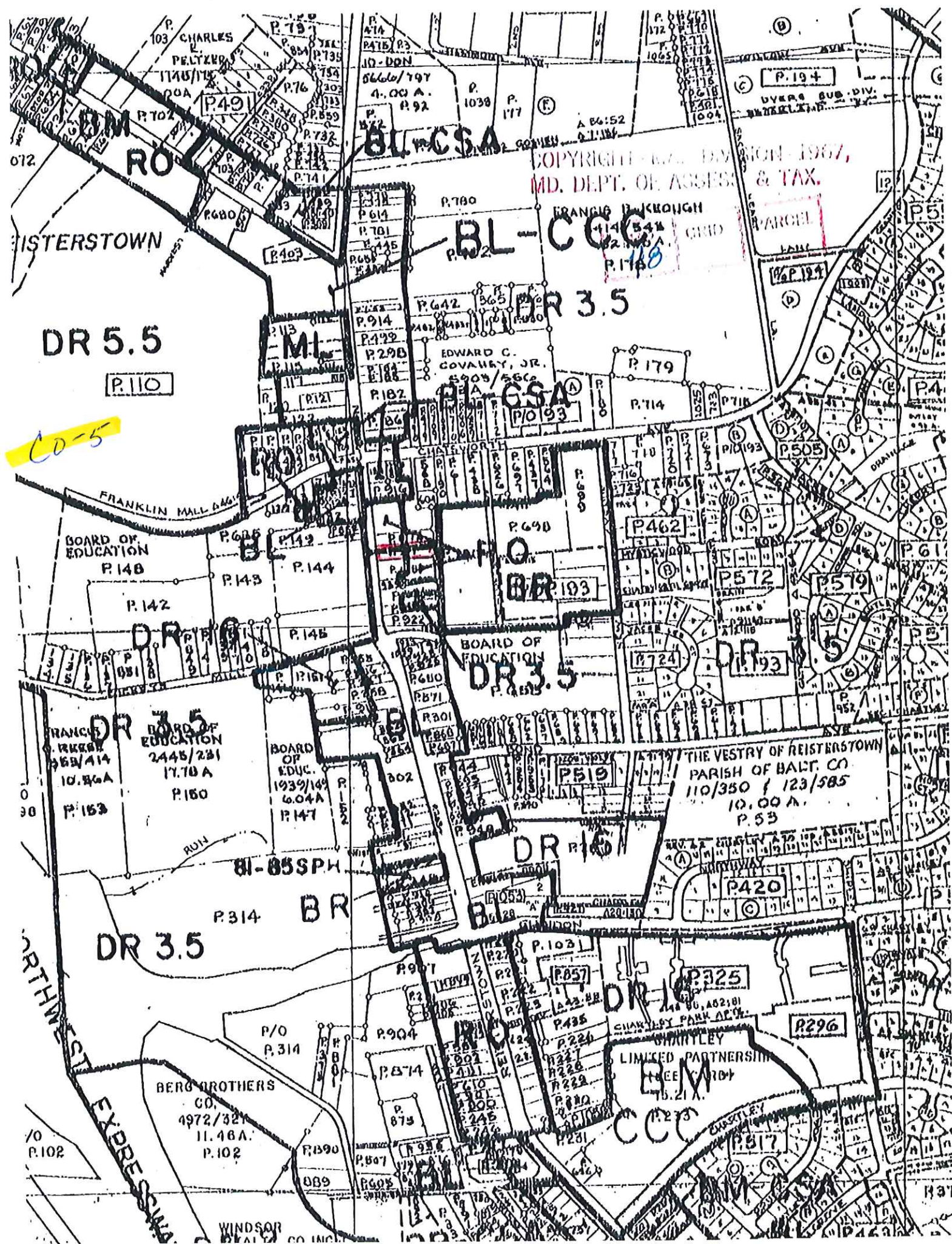


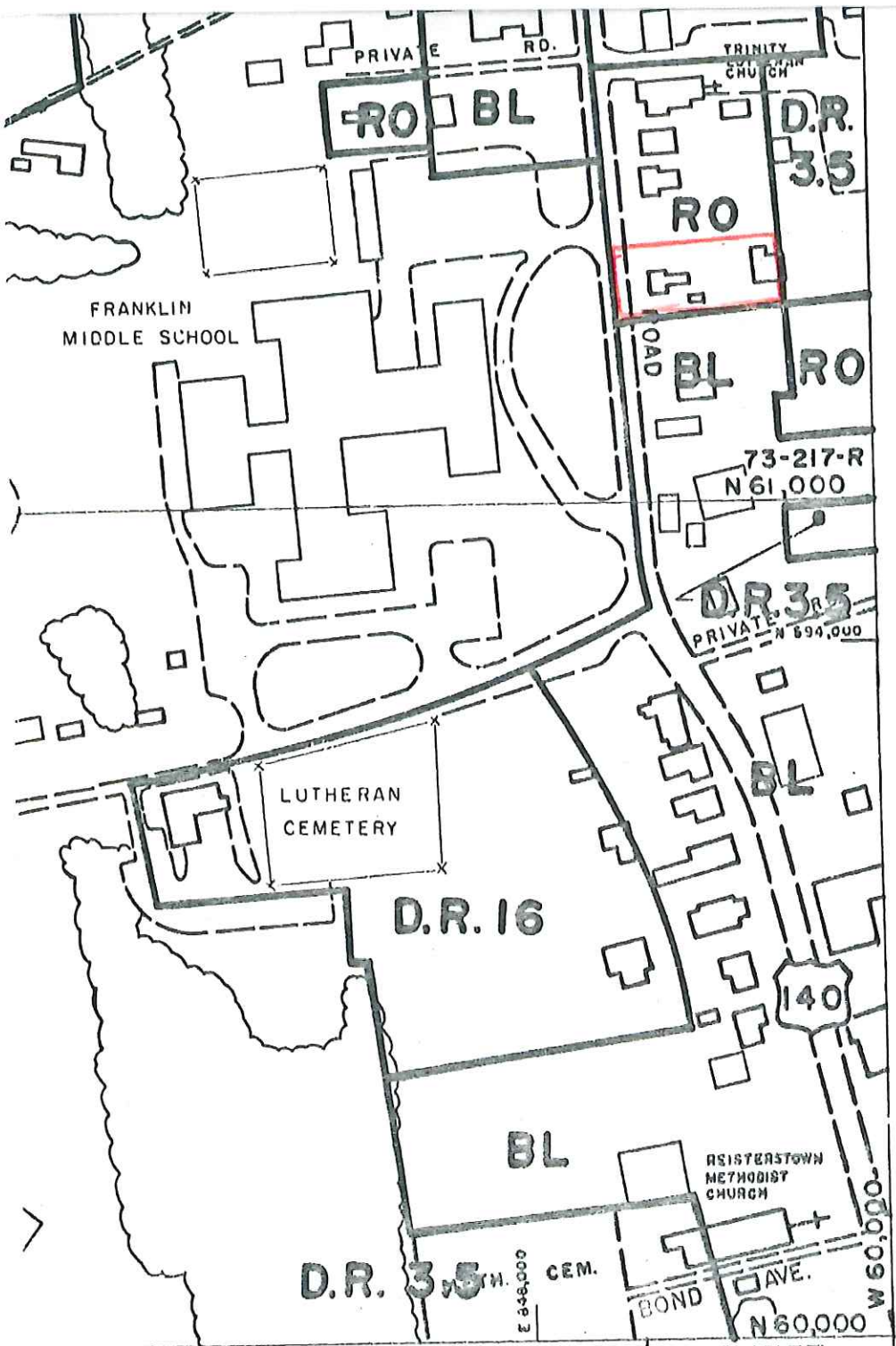
THIRD COUNCILMANIC DISTRICT

3rd Communitarian District

BALTIMORE COUNTY
1988 COMPREHENSIVE ZONING MAP ISSUESDate: 10/27/88
Sheet: 7

NO.	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION	TOTAL ACRES	EXISTING ZONING and ACRES		REQUESTED ZONING and ACRES		ZONING PLAN NO. RECOMMEN- DATIONS		ZONING COUNCIL DECISIONS		COMMENTS
3-046	Pear Development Inc by Bruce Scheer	SE Side Franklin Blvd @ Cherry Hill Rd	2.64	DR 2	2.64	RO	2.64	RO	2.64	RO		
3-047	Ann Cordes Harvey	NE Side Gaymuth Ave 900' NE of Reisterstown Rd	2.00	DR 3.5 2.00	DR 5.5, DR 10.5 or DR 16 2.00	DR 3.5 2.00	DR 3.5	DR 3.5	DR 3.5	DR 3.5		
3-048	James V. Hottes Jr & Marjorie H. Casey	NE corner York Rd & Matthews Ave (10615 York Rd)	0.50	RO 0.50	EL 0.50	RO 0.50	RO	RO	0.50	RO		
3-049	James O & Patricia M. Long	E Side Reisterstown Rd 450' S of Chatsworth Ave	0.59	RO 0.59	EL 0.59	EL 0.59	EL	EL	0.59	EL		See Issue 3-350
3-050	L. Blair & Cynthia R. Alexander Jr	E Side Reisterstown Road 400' S of Timber Grove (11503 Reisterstown Rd)	0.38	RO 0.38	EL 0.38	RO 0.38	RO	RO	0.38	RO		See Issues 3-080, 3-101, 3-248, 3-249
3-051	Joseph L. Gehring by Nolan, Plimhoff & Williams	W Side of York Rd S Padonia N of Estrella St	0.43	DR 3.5 0.43	O-1 0.43	RO 0.43	RO	RO	0.43	RO		See Issue 3-317
3-052	Amoco Oil Co by Chas. F. Bogdanowicz	W corner York & Shuman Rds	0.60	EL 0.60	EL-CMS or EL-1M 0.60	EL 0.60	EL	EL	0.60	EL-1M		
3-053	Theftford Financial Services by Newton & Williams, Esq	E Side York Rd Opposite Belcast Road	1.04	RC 5 1.04	RC 5 1.04	RC 5 1.04	RC 5	RC 5	1.04	RC 5		See Issues 3-247, 3-310





10-6

FILE	LOCATION	SHEET
200' ±		
TE	REISTERSTOWN	N.W.
IF		16-K
GRAPHY		
JARY		
86		

CO 7



KEVIN KAMENETZ
County Executive

ANDREA VAN ARSDALE, *Director*
Department of Planning

July 9, 2015

Christopher D. Mudd, Esq.
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, MD 21204

Re: 127 Main Street: Tax Account Number 0412059350

Dear Mr. Mudd:

In response to your correspondence dated August 18, 2014, this Department concludes that there is an error on the Zoning Geodatabase relative to the above-referenced property.

The staff has investigated this matter and as the Director of Planning, I certify the following findings. Based upon a review of (1) the 2012 Baltimore County Zoning Geodatabase Map; (2) the Issue maps from the 1988 Comprehensive Zoning Map Process (CZMP) Issue No. 3-049; and (3) County Council Bill No. 146-88, this department concludes that a technical drafting error occurred while implementing the final intent of the Baltimore County Council during the 1988 CZMP in transferring the County Council's enacted zoning classification to the comprehensive zoning map for Issue No. 3-049. In accordance with § 32-3-231 of the Baltimore County Code, the Department of Planning will initiate a Petition for Zoning Map Correction to remedy this error so that the zoning accurately reflects the Baltimore County Council's intent.

If you have any questions or concerns, please do not hesitate to contact Jessie Bialek at (410) 887-3521 or jbialek@baltimorecountymd.gov.

Sincerely yours,

A handwritten signature in black ink, reading "Andrea Van Arsdale".

Andrea Van Arsdale
Director

AVA:JB:lsn

c: Hon. Vicki Almond, Second District Councilwoman
Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrator Officer and Director, Department of Permits,
Approvals and Inspections
Michael E. Field, County Attorney
Nancy C. West, Assistant County Attorney
105 West Chesapeake Avenue, Suite 101 | Towson, Maryland 21204 | Phone: 410-887-3211 | Fax: 410-887-5862
planning@baltimorecountymd.gov | www.baltimorecountymd.gov/planning

Exhibit E

SECTION 3. Be it further ordained, that the dimension of any zone or district boundary shall be determined by use of the map scale, shown on the zoning map, scaled to the nearest foot. The Zoning Commissioner of Baltimore County and the County Board of Appeals shall conclusively determine the location and dimensions of zone and district boundaries from the official 200 scale zoning map.

SECTION 4. Be it further ordained, that in case it be judicially determined that any word, phrase, clause, sentence, paragraph or section of this ordinance, or that the application thereof, or the application of any portion of the Official Comprehensive Second Councilmanic District Zoning Map for Baltimore County, accompanying this ordinance, to any person, property, or circumstance is invalid, the remaining provisions of this ordinance and the application of such provisions, and the application of the remaining portions of said Comprehensive Second Councilmanic District Zoning Map For Baltimore County to other persons, properties, or circumstances shall not be affected thereby; the County Council of Baltimore County, Maryland, hereby declares that it would have ordained the remaining provisions of this ordinance and the remaining portions of said map without the provisions or portion or the application thereof so held invalid.

SECTION 5. And be it further ordained, that this Ordinance shall take effect forty-five days after its enactment.

EFFECTIVE: DECEMBER 4, 1988

BILL NO. 146-88

AN ORDINANCE concerning

The Comprehensive Zoning Maps - Third District

FOR the purpose of repealing certain existing zoning maps and to adopt an official zoning map for the Third Councilmanic District of Baltimore County, such map to be known as the 1988 Official Comprehensive Third Councilmanic District Zoning Map For Baltimore County and to supersede any previous zoning maps approved by the County Council of Baltimore County for that particular district.

WHEREAS, under the provisions of Section 22-22,

Baltimore County Code, 1978, the County Council has received a final report of the Planning Board on the Board's proposed County-wide Comprehensive Zoning Map for Baltimore County and has held public hearings thereon after giving at least 20 days' notice thereof in at least two newspapers of general circulation throughout the County; and during the period of such notice the final report of the Planning Board, with accompanying maps and supporting exhibits, were shown and exhibited in the Office of Planning and Zoning, in each Councilmanic District, and at such other public places as designated by the County Council; and after the expiration of such period of notice and hearings, the County Council made certain changes in the Comprehensive Zoning Map for the Third Councilmanic District of Baltimore County which the County Council deemed appropriate; now, therefore

SECTION 1. Be it ordained by the County Council of Baltimore County, Maryland, that the portion of the official zoning map of Baltimore County referred to in Section 100.2 of the Baltimore County Zoning Regulations and now in effect, including any amendments thereto and comprehensive revisions of portions thereof as it pertains to the Third Councilmanic District of Baltimore County, be and it is hereby repealed, and that the boundaries of zones and districts, as established by the Baltimore County Zoning Regulations, as shown on the Official Comprehensive Third Councilmanic District Zoning Map For Baltimore County accompanying this ordinance, are hereby established.

SECTION 2. Be it further ordained, that the accompanying Official Comprehensive Third Councilmanic District Zoning Map For Baltimore County is hereby adopted and declared to be a part of this ordinance to the same extent as if it were incorporated herein. The Official Comprehensive Third Councilmanic District Zoning Map is a series of maps drawn to the scale of 1"=200', and for authentication each map of the series shall be signed by the chairman of the Baltimore County Council. When this ordinance stands enacted, the secretary of the County Council shall deliver the same Official Comprehensive Third Councilmanic District Zoning Map For Baltimore County to the Zoning Commissioner who shall thereupon have legal custody of said map.

SECTION 3. Be it further ordained, that the dimension of any zone or district boundary shall be determined by use of the map scale, shown on the zoning map, scaled to the nearest foot. The Zoning Commissioner of Baltimore County and the County Board of

Appeals shall conclusively determine the location and dimensions of zone and district boundaries from the official 200 scale zoning map.

SECTION 4. Be it further ordained, that in case it be judicially determined that any word, phrase, clause, sentence, paragraph or section of this ordinance, or that the application thereof, or the application of any portion of the Official Comprehensive Third Councilmanic District Zoning Map for Baltimore County, accompanying this ordinance, to any person, property, or circumstance is invalid, the remaining provisions of this ordinance and the application of such provisions, and the application of the remaining portions of said Comprehensive Third Councilmanic District Zoning Map For Baltimore County to other persons, properties, or circumstances shall not be affected thereby; the County Council of Baltimore County, Maryland, hereby declares that it would have ordained the remaining provisions of this ordinance and the remaining portions of said map without the provisions or portion or the application thereof so held invalid.

SECTION 5. And be it further ordained, that this Ordinance shall take effect forty-five days after its enactment.

EFFECTIVE: DECEMBER 4, 1988

BILL NO. 147-88

AN ORDINANCE concerning

The Comprehensive Zoning Maps - Fourth District

FOR the purpose of repealing certain existing zoning maps and to adopt an official zoning map for the Fourth Councilmanic District of Baltimore County, such map to be known as the 1988 Official Comprehensive Fourth Councilmanic District Zoning Map For Baltimore County and to supersede any previous zoning maps approved by the County Council of Baltimore County for that particular district.

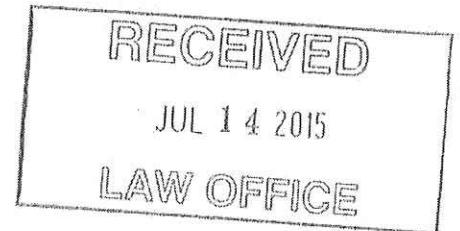
WHEREAS, under the provisions of Section 22-22, Baltimore County Code, 1978, the County Council has received a final report of the Planning Board on the Board's proposed County-wide Comprehensive Zoning Map for Baltimore County and has held public hearings thereon after giving at least 20 days' notice



CO-9
KEVIN KAMENETZ
County Executive

ANDREA VAN ARSDALE, *Director*
Department of Planning

July 9, 2015



The Honorable Vicki Almond
Baltimore County Council, 2nd District
Historic Courthouse, 2nd Floor
400 Washington Ave.
Towson, MD 21204

Re: Zoning Map Correction for 127 Main Street: Tax Account Number 04 0412059350

Dear Councilwoman Almond:

This letter is to inform you that the Department of Planning is pursuing a zoning map correction as outlined in Section 32-3-231 of the Baltimore County Code on a parcel of land that is located on the eastside of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136. The property has an address of 127 Main Street.

The property is currently split zoned BL Business Local, DR 3.5 Density Residential 3.5 units per acre, and BR Business Roadside. The correct zoning for this property should be BL for the entire parcel. This department concludes that an error occurred while implementing the final intent of the Baltimore County Council during the 1988 CZMP.

Accordingly, the Department of Planning will initiate efforts to correct this technical drafting error by filing a Petition for Zoning Map Correction with the County Board of Appeals to accurately reflect the Baltimore County Council's intent. If you have any questions, please do not hesitate to contact Jessie Bialek at (410) 887-3521 or jbialek@baltimorecountymd.gov.

Sincerely yours,

A handwritten signature in cursive script that reads "Andrea Van Arsdale".

Andrea Van Arsdale
Director

AVA:JB:lsn

c: Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrator Officer and Director, Department of Permits Approvals and Inspections
Michael E. Field, County Attorney, Law Office
Nancy C. West, Assistant County Attorney, Law Office
Christopher D. Mudd, Esq., Venable LLP

CO-10

Baltimore County Code

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP**

PART IV. CORRECTION OF ZONING MAP

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-231. NOTICE BY PROPERTY OWNER.**

§ 32-3-231. NOTICE BY PROPERTY OWNER.

(a) *Notice of error by property owner.* The owner of property may give written notice to the Director of Planning that the zoning map last enacted by the County Council does not accurately reflect the zoning classification enacted by the County Council on the owner's property during any comprehensive zoning process.

(b) *Allegations of error.* The notice given by a property owner under subsection (a) of this section shall allege an error due to:

(1) A technical drafting error made by the Department of Planning in transferring the County Council's enacted zoning classification to the comprehensive zoning map;

(2) A change in the property's zoning that was not within the boundaries of a filed issue; or

(3) A technical drafting error made by the original petitioner for a zoning change, provided the error did not impact on the intent of the County Council to place a particular zoning classification on the particular property.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004; Bill No. 55-11, §§ 1, 2, 10-16-2011)

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-232. RESPONSE OF THE DIRECTOR.**

§ 32-3-232. RESPONSE OF THE DIRECTOR.

(a) *Duty of the Director to investigate and issue findings.* Upon notification by an owner of an error in the zoning map, the Director of Planning shall:

- (1) Investigate the validity of the owner's allegation; and
- (2) Send the director's findings to the owner.

(b) *Petition to the Board of Appeals.* The Director of Planning shall:

- (1) Prepare a petition for correction of zoning classification if:

- (i) The Director finds that an error exists; and
- (ii) The owner gives a written authorization to the petition;

(2) File the petition and supporting materials with the County Board of Appeals in order to:

(i) Seek a correction of the zoning classification on the owner's property; and

(ii) Accurately reflect the legislative intent; and

(3) Before filing the petition, notify the County Council that a petition will be filed.

(c) *Owner must join as party to petition; representation by Office of Law; no fees assessed.*

- (1) The owner shall join the county as a party to the petition.

(2) The Office of Law shall represent the county and the owner in all proceedings before the Board of Appeals with regard to the petition.

(3) The Board of Appeals may not assess the county or the property owner a filing fee or posting fee that would otherwise be required by an appropriate county department or board.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004)

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-233. PETITION BY THE DEPARTMENT OF PLANNING.**

§ 32-3-233. PETITION BY THE DEPARTMENT OF PLANNING.

(a) *In general.* The Department of Planning may initiate a petition on its own if it discovers a technical error in the zoning map.

(b) *Notice of petition.* The Department of Planning shall provide written notice to property owners affected by a petition under subsection (a) of this section.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004; Bill No. 55-11, §§ 1, 2, 10-16-2011)

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-234. NOTICE OF PETITION.**

§ 32-3-234. NOTICE OF PETITION.

(a) *In general.* The county shall conspicuously post notice of a petition filed under this part on the property under petition for a period of at least 15 days following the filing of the petition.

(b) *Contents of notice.* The notice shall provide:

- (1) The address of the property under petition, but, if not available, a description;
- (2) The present zoning classification of the property;
- (3) The intended zoning classification as identified by the Director of Planning;
- (4) The recommendation of the Director of Planning to correct an error for a reason as defined in this Part; and
- (5) The date, time and place of the hearing.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004)

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-235. BOARD ACTION.**

§ 32-3-235. BOARD ACTION.

(a) *In general.* The Board of Appeals shall:

(1) Conduct a hearing on the petition within 30 days after the petition was filed or as immediately thereafter as the Board's schedule provides; and

(2) Issue an order within 10 days after the hearing if there is no opposition.

(b) *Opposition to a petition.* If there is opposition to a petition, the Board of Appeals may continue a hearing to allow for further presentation of the issues.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004)

**ARTICLE 32. PLANNING, ZONING, AND SUBDIVISION CONTROL / TITLE 3.
ZONING / SUBTITLE 2. ZONING PROCESS / PART IV. CORRECTION OF ZONING
MAP / § 32-3-236. EXCLUSIVE PROCEDURE.**

§ 32-3-236. EXCLUSIVE PROCEDURE.

A petition filed under this Part is not subject to any procedure for the filing of petitions set forth under this Code but is required to satisfy the procedure as set forth under this Part.

(1988 Code, § 26-134) (Bill No. 42, 1990, § 1; Bill No. 103-02, § 2, 7-1-2004)

Current Zoning



Zoning in Acres: BL- 0.42
BR- 0.04
DR 3.5- 0.30
Total Acres = 0.76

Zoning goes to the centerline of the road

Legend:

- Current Zoning
- Property Boundary
- Buildings
- Roads
- Property Lines

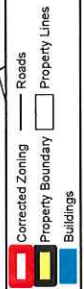
Scale: 0 50 100 200 300 400 Feet

North Arrow

CO 11

Co-12

Corrected Zoning



BL Zoning in Acres = 0.76

Zoning goes to the centerline of the road







Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

December 4, 2015

Christopher D. Mudd, Esquire
Venable, LLP
210 W. Pennsylvania Ave, Suite 500
Towson, Maryland 21204

Peter M. Zimmerman, Esquire
Carole S. Demilio, Esquire
People's Counsel for Baltimore County
The Jefferson Building Suite 204
105 W. Chesapeake Avenue
Towson, MD 21204

Michael E. Field, County Attorney
Nancy C. West, Asst County Attorney
Baltimore County Office of Law
400 Washington Avenue
Towson, Maryland 21204

RE: *In the Matter of: 127 Main Street, LLC*
Case No.: MC-16-01

Dear Counsel:

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

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **WITH A PHOTOCOPY PROVIDED TO THIS OFFICE CONCURRENT WITH FILING IN CIRCUIT COURT.** Please note that all **Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

A handwritten signature in cursive script that reads "Sunny Cannington".

Krysundra "Sunny" Cannington
Administrator

KLC/
Enclosure
Multiple Original Cover Letter

c: 127 Main Street, LLC
The Honorable Vicki Almond, 2nd District, Baltimore County Council
Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrative Officer and Director/PAI
Andrea Van Arsdale, Director/Department of Planning

IN RE: PETITION FOR ZONING
MAP CORRECTION
127 MAIN STREET

BALTIMORE COUNTY, MARYLAND
a body corporate and politic
and

127 MAIN STREET, LLC

Petitioners

BEFORE THE
COUNTY BOARD OF APPEALS

OF
BALTIMORE COUNTY

Case No.: M.C. 16-01

* * * * *

OPINION

The above entitled matter came on for hearing before this Board on November 18, 2015, on a Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C West, Assistant County Attorney, on behalf of Baltimore County, Maryland, Petitioner, and by Christopher D. Mudd, Esquire, of Venable, LLP, on behalf of 127 Main Street, LLC, Co-Petitioner. The requested correction involves a technical drafting error and seeks to reclassify the existing zoning on approximately 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County from B.L. (Business, Local), B.R. (Business, Roadside) and D.R. 3.5 (Density Residential 3.5) to B.L. for the entire property. This corrected zoning would comport with the legislative action of the County Council in reclassifying 0.598 acres during the 1988 Comprehensive Zoning Map Process ("CZMP"). The Petition is cognizable under Baltimore County Code ("BCC") §§ 32-3-231 to 32-3-236, and, specifically, § 32-3-231(b)(3), which provides for such zoning map correction in the event of:

A technical drafting error made by the original petitioner for a zoning change, provided the error did not impact on the intent of the County Council to place a particular zoning classification on the particular property.

Nancy C. West, Assistant County Attorney, represented Baltimore County, Maryland and Christopher D. Mudd, Esquire, represented the legal owner, 127 Main Street, LLC. Carole Demilio, Deputy People's Counsel for Baltimore County, participated.

At the conclusion of the November 18th hearing, this Board conducted a public deliberation and unanimously agreed to approve the requested map correction. This Opinion follows, consistent therewith.

BACKGROUND

127 Main Street, LLC, (the "Owner") is the fee simple owner of a 0.59± acre parcel of land known as 127 Main Street and located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136, also being known as Tax Map 0048, Parcel 0917 (Tax ID No.: 04-0412059350) (the "Property"). The Property is located in the 4th Election District and the 2nd Councilmanic District. A deed of the Property is recorded in the Land Records of Baltimore County at Liber 34732, folio 313.

Prior to Baltimore County's 1988 CZMP, the Property was split-zoned R-O (Residential - Office) and D.R. 3.5 (Density, Residential). As part of and pursuant to the 1988 CZMP, the owners of the Property at the time, James and Patricia Long (collectively, "Long"), submitted an Application to the Office of Planning and Zoning¹ requesting that the Property, in its entirety, be rezoned to B.L. (Business, Local). See *County Exhibit 3* for CZMP Issue No. 3-049. It was the intent of Long, as applicant, to include the entire 0.59± acre Property within the Issue as evidenced

¹ As Petitioners noted in their filing in this case, with the passage of County Council Bill No. 69-95 the name of the "Office of Planning and Zoning" was changed to the "Office of Planning." Then in 2011 the County Council passed Bill No. 55-11 as part of a reorganization of County Government and the name was changed to "Department of Planning." For purposes of clarity, all references in this Opinion and Order shall be to the "Department" rather than "Office" of Planning regardless of the time frame.

by the Application for Issue No. 3-049. The Department of Planning and the Planning Board recommended that the entire 0.59± acre Property be rezoned to B.L. At the conclusion of the 1988 CZMP, the County Council enacted Bill No. 146-88, which adopted the recommendations to rezone the entire 0.59± acres to B.L. See *County's Exhibit 8*. The Department of Planning ("Planning") perpetuated the technical drafting error made by the original petitioner when transferring the zoning classification enacted by the County Council to the comprehensive zoning map as Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

Since the 1988 County Council decision with regard to the rezoning of the Property, no other Issue has been filed on this Property.

FACTS

In the County's case-in-chief, it presented one witness, Michael Jeffrey Mayhew ("Mayhew"). He established his bona fides having been with Planning for 24 years, with the last four years as Deputy Director. Mr. Mayhew has a B.S. in Economics from the University of Delaware and a M.A. in Public Administration from the University of Baltimore. Additionally, he has met the rigorous standards of the American Institute of Certified Planners and achieved the coveted AICP designation. As Deputy Director since June 2011, Mr. Mayhew oversees the operations of the Development Review Section; Commercial Revitalization; the Zoning Process; and various Boards and Commissions, such as the Planning Board, Landmarks Preservation Commission, Design Review Panel, Commission on Disabilities, and the Agricultural Preservation Board. He works with the County Council on legislation, develops community plans and is involved with the development of Baltimore County's Master Plan every ten years as required by the Baltimore County Charter. Mr. Mayhew's Curriculum Vitae was entered as *County Exhibit 1*.

After extensive *voir dire*, the County offered and this Board accepted Mr. Mayhew as an expert in the areas of Baltimore County's quadrennial comprehensive zoning map process and cycle zoning processes, the development and adoption of community plans and growth management policies to align with the Baltimore County Master Plan, and the 10-year water and sewer plan projects.

On August 18, 2014, Christopher D. Mudd, Esquire, of Venable, LLP ("Mudd"), on behalf of the Owner, sent a letter to Andrea Van Arsdale, Director of Planning, requesting that the County correct a zoning error on the Owner's Property. The Owner had recently purchased the Property and during its due diligence discovered the zoning error which it attributed to a technical drafting error on the County's part. Mr. Mudd claimed that on the official 1998 CZMP map produced following the County Council vote, only a portion of the Owner's Property, namely approximately 0.36 acres, was rezoned to B.L., while the remainder was reflected on the map as being zoned D.R.3.5.

The official zoning map is enacted by the Baltimore County Council. As Mr. Mayhew testified, there are two principal ways by which it can be changed, namely, the CZMP and Cycle Zoning. The zoning map may also be changed through a Zoning Map Correction.

The CZMP takes place every four years on a schedule specified in the BCC. As Mr. Mayhew emphasized, any citizen may request a zoning change on any property in the County, although the usual participants in the process are individual landowners, contract purchasers, community organizations, County staff, the Planning Board and the County Council. The CZMP covers a period of approximately 12 months and results in zoning decisions that are reflected in a final log of Issues. An "Issue" under the CZMP "means a tract or parcel of land proposed for a change in zone or district classification." See, BCC § 32-3-211. Ultimately, the County Council

decides on each Issue whether to retain the existing zoning or to enact a different zone(s) or district(s). Generally, each Issue is a single property, but an Issue may cover many adjoining properties and might even cover many hundreds of acres. The zoning on all properties which were not Issues is re-enacted without change.

After receiving Mr. Mudd's letter, Mr. Mayhew testified that his staff began the arduous process of researching Planning's archived CZMP files beginning in 1988. They determined that after the County Council approved Long's request to rezone the entire 0.598 acres that comprised the Property to B. L. in 1988, no other Issue had been filed in subsequent CZMP years, namely, 1992, 1996, 2000, 2004, 2008 or 2012.

As Mr. Mayhew testified, Planning staff perused the October 13, 1987 Application submitted by Long and concluded that Long's intent was to rezone the entire Property from R.O. to B.L. He noted that James O. Long, in his own handwriting, stated on line 11 of the Application that the "Acreage or lot size" was "0.598 Ac $\pm$." On line 12, Mr. Long stated that the "Existing zoning by acres" was "RO (0.598 Ac $\pm$)" and on line 13, he stated that the "Requested zoning by acres" was "BL (0.598 Ac $\pm$)." Additionally, Mr. Mayhew opined that the accompanying maps, namely, the 200' scale zoning map and the 600' scale tax map, depicting the area for rezoning submitted with the Long application were inconsistent. This inconsistency led to the technical drafting error made by the original petitioner during the 1988 CZMP.

In 1988 the Planning Board had recommended that the entire 0.598 $\pm$ acre Property be rezoned to B.L. And the County Council adopted the Planning Board's recommendation. Yet Planning perpetuated the technical drafting error made by Long - as reflected on the 200' scale zoning map - when it transferred the zoning classification enacted by the County Council to the official zoning map. Specifically, Planning rezoned only a portion of the Property, namely 0.36

acres, rather than the entire 0.59± acres to B.L.

Mr. Mayhew averred that Planning conducted a thorough review of its archived CZMP files before concluding that a technical drafting error was made in transferring the legislatively approved zoning classification during the 1988 CZMP.

As a condition precedent to the filing of the Petition in this case, Planning sent a letter on July 9, 2015 to the Honorable Vicki Almond of the 2nd Councilmanic District of its intention to correct the zoning map error as provided in the BCC. Likewise, Planning sent a letter of the same date to Mr. Mudd of its intention to file a petition to correct the error. Mr. Mayhew testified that he met with Mrs. Almond to discuss the matter before filing the Petition, and that she did not oppose it. Further, Mr. Mayhew and other Planning staff attended a meeting on October 5, 2015 with the Reisterstown, Owings Mills and Glyndon Community Association to advise them of the County's intention to file a petition to correct the technical drafting error.

Finally, this Board finds that the notice provisions of the BCC § 32-3-234 have been met, as Mr. Mayhew testified that the Property was duly posted with the requisite particulars at least 15 days before the scheduled hearing date. See *County Exhibit 13*.

While not a party to the above entitled proceedings, Tanya Clifton, Council President, and Dennis Jensen, Property Chairman, of Trinity Lutheran Church that is adjacent to the Property, were present throughout the course of the hearing. Ms. Clifton wished to testify, and was allowed to do so by this Board. She provided some historical information relative to the Property and Long. She opined that she was not opposed to the rezoning request once she understood Petitioners' reasons, and the rationale of Planning.

In considering the articulate and reasoned testimony of the County's expert witness, Michael Jeffrey Mayhew, Deputy Director of the Department of Planning, along with a review of

the extensive exhibits introduced by the County, the testimony of Tanya Clifton, Council President of the adjacent Trinity Lutheran Church, and arguments of counsel presented at the hearing, this Board is persuaded that a technical drafting error occurred when Planning incorrectly transferred the legislatively approved zoning classification during the 1988 CZMP to the official zoning maps.

ORDER

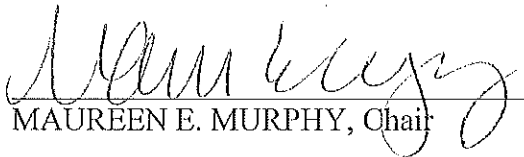
IT IS, THEREFORE, this 4th day of December, 2015, by the Board of Appeals of Baltimore County hereby

ORDERED that the entire 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County be rezoned to B.L. (Business, Local) in accord with the legislative intent of the County Council in 1988 as reflected on *County Exhibit 4*; and it is further

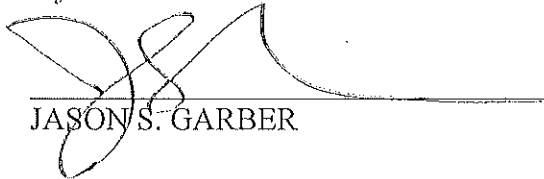
ORDERED, that the Department of Planning make the necessary changes to the official zoning maps as reflected on *County Exhibit 12*.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**


MAUREEN E. MURPHY, Chair


JANE M. HANLEY

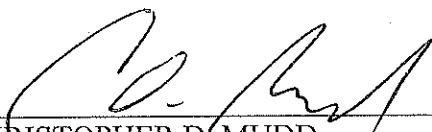

JASON S. GARBER

Reviewed and Approved as to Form
and Legal Sufficiency:



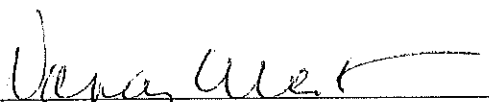
CAROLE DEMILIO

Deputy People's Counsel for
Baltimore County



CHRISTOPHER D. MUDD

Venable, LLP
Attorney for 127 Main Street, LLC



NANCY C. WEST

Assistant County Attorney
Attorney for Baltimore County, Maryland

Krysundra Cannington

From: Mudd, Christopher D. <CDMudd@Venable.com>
Sent: Tuesday, December 01, 2015 12:43 PM
To: Nancy C. West; Krysundra Cannington; Carole Demilio; Jeff Mayhew
Subject: RE: 127 Main Street Map Correction MC-16-01

This works from my perspective. Thanks all.

Chris

Christopher D. Mudd, Esq. | Venable LLP
t 410.494.6365 | f 410.821.0147 | m 410.271.9105
210 W. Pennsylvania Avenue, Suite 500, Towson, MD 21204

CDMudd@Venable.com | www.Venable.com

From: Nancy C. West [mailto:nwest@baltimorecountymd.gov]
Sent: Tuesday, December 01, 2015 12:41 PM
To: Krysundra Cannington; Mudd, Christopher D.; Carole Demilio; Jeff Mayhew
Subject: RE: 127 Main Street Map Correction MC-16-01

Sunny,

Thanks to the Board for the close read. I spoke with Jeff and we think we should add "existing" before zoning to further clarify. Also, add "for the entire property" at the end of the sentence.

Carole and Chris, please confirm you're ok with these changes....N.

The requested correction involves a technical drafting error and seeks to reclassify the **existing** zoning on approximately 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County ~~from R-O (Residential-Office) to B.L. (Business, Local)~~ from B.L. (Business, Local), B.R. (Business, Roadside) and D.R. 3.5 (Density Residential 3.5) to B. L. for the entire property.

NANCY C. WEST
Assistant County Attorney
Baltimore County Office of Law
Historic Courthouse, 2nd Floor
400 Washington Avenue
Towson, MD 21204
P: 410.887.4420
F: 410.296.0931

From: Krysundra Cannington
Sent: Tuesday, December 01, 2015 11:06 AM
To: Nancy C. West <nwest@baltimorecountymd.gov>; Chris Mudd, Esquire <cdmudd@venable.com>; Carole Demilio

<cdemilio@baltimorecountymd.gov>

Subject: 127 Main Street Map Correction MC-16-01

Good morning Counsel,

Upon review of the proposed Order, it appears the first paragraph is incorrect. The first paragraph states "...from RO (Residential-Office) and BR (Business, Roadside) to BL (Business, Local)..." when it should say "...from BL (Business, Local), BR (Business, Roadside) and DR 3.5 (Density Residential 3.5)..."

Since you drafted the order, if you are agreeable to the correction, I can change and reprint the first page leaving your signatures of approval untouched.

Please advise.

Thank you.

Sunny



CONNECT WITH BALTIMORE COUNTY



This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

Krysundra Cannington

From: Nancy C. West
Sent: Tuesday, December 01, 2015 12:41 PM
To: Krysundra Cannington; Chris Mudd, Esquire; Carole Demilio; Jeff Mayhew
Subject: RE: 127 Main Street Map Correction MC-16-01

Sunny,

Thanks to the Board for the close read. I spoke with Jeff and we think we should add "existing" before zoning to further clarify. Also, add "for the entire property" at the end of the sentence.

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NANCY C. WEST
Assistant County Attorney
Baltimore County Office of Law
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From: Krysundra Cannington
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Subject: 127 Main Street Map Correction MC-16-01

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Since you drafted the order, if you are agreeable to the correction, I can change and reprint the first page leaving your signatures of approval untouched.

Please advise.

Thank you.

Sunny



KEVIN KAMENETZ
County Executive

MICHAEL E. FIELD, *County Attorney*
Office of Law

November 30, 2015

Via Hand and E-mail

Ms. Krysundra "Sunny" Cannington
Administrator, Board of Appeals of
Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Petition for Zoning Map Correction
127 Main Street
Case No.: M.C. 16-01

Dear Ms. Cannington:

Enclosed for the Board's review is a draft Opinion and Order relative to the above referenced matter. It has been approved for form and legal sufficiency by all counsel.

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

Thank you.

Sincerely yours,


NANCY C. WEST
Assistant County Attorney

Encl.

cc: Carole Demilio, Deputy People's Counsel
Christopher D. Mudd, Esq.

**IN RE: PETITION FOR ZONING
MAP CORRECTION
127 MAIN STREET

BALTIMORE COUNTY, MARYLAND
a body corporate and politic

and

127 MAIN STREET, LLC

Petitioners**

**BEFORE THE

COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

Case No.: M.C. 16-01**

* * * * *

OPINION

The above entitled matter came on for hearing before this Board on November 18, 2015, on a Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C West, Assistant County Attorney, on behalf of Baltimore County, Maryland, Petitioner, and by Christopher D. Mudd, Esquire, of Venable, LLP, on behalf of 127 Main Street, LLC, Co-Petitioner. The requested correction involves a technical drafting error and seeks to reclassify the zoning on approximately 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County from R-O (Residential-Office) and B.R. (Business, Roadside) to B.L. (Business, Local). This corrected zoning would comport with the legislative action of the County Council in reclassifying 0.598 acres during the 1988 Comprehensive Zoning Map Process ("CZMP"). The Petition is cognizable under Baltimore County Code ("BCC") §§ 32-3-231 to 32-3-236, and, specifically, § 32-3-231(b)(3), which provides for such zoning map correction in the event of:

A technical drafting error made by the original petitioner for a zoning change, provided the error did not impact on the intent of the County Council to place a particular zoning classification on the particular property.

Nancy C. West, Assistant County Attorney, represented Baltimore County, Maryland and Christopher D. Mudd, Esquire, represented the legal owner, 127 Main Street, LLC. Carole Demilio, Deputy People's Counsel for Baltimore County, participated.

At the conclusion of the November 18th hearing, this Board conducted a public deliberation and unanimously agreed to approve the requested map correction. This Opinion follows, consistent therewith.

BACKGROUND

127 Main Street, LLC, (the "Owner") is the fee simple owner of a 0.59± acre parcel of land known as 127 Main Street and located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136, also being known as Tax Map 0048, Parcel 0917 (Tax ID No.: 04-0412059350) (the "Property"). The Property is located in the 4th Election District and the 2nd Councilmanic District. A deed of the Property is recorded in the Land Records of Baltimore County at Liber 34732, folio 313.

Prior to Baltimore County's 1988 CZMP, the Property was split-zoned R-O (Residential - Office) and D.R. 3.5 (Density, Residential). As part of and pursuant to the 1988 CZMP, the owners of the Property at the time, James and Patricia Long (collectively, "Long"), submitted an Application to the Office of Planning and Zoning¹ requesting that the Property, in its entirety, be rezoned to B.L. (Business, Local). See *County Exhibit 3* for CZMP Issue No. 3-049. It was the intent of Long, as applicant, to include the entire 0.59± acre Property within the Issue as evidenced by the Application for Issue No. 3-049. The Department of Planning and the Planning Board

¹ As Petitioners noted in their filing in this case, with the passage of County Council Bill No. 69-95 the name of the "Office of Planning and Zoning" was changed to the "Office of Planning." Then in 2011 the County Council passed Bill No. 55-11 as part of a reorganization of County Government and the name was changed to "Department of Planning." For purposes of clarity, all references in this Opinion and Order shall be to the "Department" rather than "Office" of Planning regardless of the time frame.

recommended that the entire 0.59± acre Property be rezoned to B.L. At the conclusion of the 1988 CZMP, the County Council enacted Bill No. 146-88, which adopted the recommendations to rezone the entire 0.59± acres to B.L. See *County's Exhibit 8*. The Department of Planning ("Planning") perpetuated the technical drafting error made by the original petitioner when transferring the zoning classification enacted by the County Council to the comprehensive zoning map as Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

Since the 1988 County Council decision with regard to the rezoning of the Property, no other Issue has been filed on this Property.

FACTS

In the County's case-in-chief, it presented one witness, Michael Jeffrey Mayhew ("Mayhew"). He established his bona fides having been with Planning for 24 years, with the last four years as Deputy Director. Mr. Mayhew has a B.S. in Economics from the University of Delaware and a M.A. in Public Administration from the University of Baltimore. Additionally, he has met the rigorous standards of the American Institute of Certified Planners and achieved the coveted AICP designation. As Deputy Director since June 2011, Mr. Mayhew oversees the operations of the Development Review Section; Commercial Revitalization; the Zoning Process; and various Boards and Commissions, such as the Planning Board, Landmarks Preservation Commission, Design Review Panel, Commission on Disabilities, and the Agricultural Preservation Board. He works with the County Council on legislation, develops community plans and is involved with the development of Baltimore County's Master Plan every ten years as required by the Baltimore County Charter. Mr. Mayhew's Curriculum Vitae was entered as *County Exhibit 1*.

After extensive *voir dire*, the County offered and this Board accepted Mr. Mayhew as an

expert in the areas of Baltimore County's quadrennial comprehensive zoning map process and cycle zoning processes, the development and adoption of community plans and growth management policies to align with the Baltimore County Master Plan, and the 10-year water and sewer plan projects.

On August 18, 2014, Christopher D. Mudd, Esquire, of Venable, LLP ("Mudd"), on behalf of the Owner, sent a letter to Andrea Van Arsdale, Director of Planning, requesting that the County correct a zoning error on the Owner's Property. The Owner had recently purchased the Property and during its due diligence discovered the zoning error which it attributed to a technical drafting error on the County's part. Mr. Mudd claimed that on the official 1998 CZMP map produced following the County Council vote, only a portion of the Owner's Property, namely approximately 0.36 acres, was rezoned to B.L., while the remainder was reflected on the map as being zoned D.R.3.5.

The official zoning map is enacted by the Baltimore County Council. As Mr. Mayhew testified, there are two principal ways by which it can be changed, namely, the CZMP and Cycle Zoning. The zoning map may also be changed through a Zoning Map Correction.

The CZMP takes place every four years on a schedule specified in the BCC. As Mr. Mayhew emphasized, any citizen may request a zoning change on any property in the County, although the usual participants in the process are individual landowners, contract purchasers, community organizations, County staff, the Planning Board and the County Council. The CZMP covers a period of approximately 12 months and results in zoning decisions that are reflected in a final log of Issues. An "Issue" under the CZMP "means a tract or parcel of land proposed for a change in zone or district classification." See, BCC § 32-3-211. Ultimately, the County Council decides on each Issue whether to retain the existing zoning or to enact a different zone(s) or

district(s). Generally, each Issue is a single property, but an Issue may cover many adjoining properties and might even cover many hundreds of acres. The zoning on all properties which were not Issues is re-enacted without change.

After receiving Mr. Mudd's letter, Mr. Mayhew testified that his staff began the arduous process of researching Planning's archived CZMP files beginning in 1988. They determined that after the County Council approved Long's request to rezone the entire 0.598 acres that comprised the Property to B. L. in 1988, no other Issue had been filed in subsequent CZMP years, namely, 1992, 1996, 2000, 2004, 2008 or 2012.

As Mr. Mayhew testified, Planning staff perused the October 13, 1987 Application submitted by Long and concluded that Long's intent was to rezone the entire Property from R.O. to B.L. He noted that James O. Long, in his own handwriting, stated on line 11 of the Application that the "Acreage or lot size" was "0.598 Ac±." On line 12, Mr. Long stated that the "Existing zoning by acres" was "RO (0.598 Ac±)" and on line 13, he stated that the "Requested zoning by acres" was "BL (0.598 Ac±)." . Additionally, Mr. Mayhew opined that the accompanying maps, namely, the 200' scale zoning map and the 600' scale tax map, depicting the area for rezoning submitted with the Long application were inconsistent. This inconsistency led to the technical drafting error made by the original petitioner during the 1988 CZMP.

In 1988 the Planning Board had recommended that the entire 0.598± acre Property be rezoned to B.L. And the County Council adopted the Planning Board's recommendation. Yet Planning perpetuated the technical drafting error made by Long - as reflected on the 200' scale zoning map - when it transferred the zoning classification enacted by the County Council to the official zoning map. Specifically, Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

Mr. Mayhew averred that Planning conducted a thorough review of its archived CZMP files before concluding that a technical drafting error was made in transferring the legislatively approved zoning classification during the 1988 CZMP.

As a condition precedent to the filing of the Petition in this case, Planning sent a letter on July 9, 2015 to the Honorable Vicki Almond of the 2nd Councilmanic District of its intention to correct the zoning map error as provided in the BCC. Likewise, Planning sent a letter of the same date to Mr. Mudd of its intention to file a petition to correct the error. Mr. Mayhew testified that he met with Mrs. Almond to discuss the matter before filing the Petition, and that she did not oppose it. Further, Mr. Mayhew and other Planning staff attended a meeting on October 5, 2015 with the Reisterstown, Owings Mills and Glyndon Community Association to advise them of the County's intention to file a petition to correct the technical drafting error.

Finally, this Board finds that the notice provisions of the BCC § 32-3-234 have been met, as Mr. Mayhew testified that the Property was duly posted with the requisite particulars at least 15 days before the scheduled hearing date. See *County Exhibit 13*.

While not a party to the above entitled proceedings, Tanya Clifton, Council President, and Dennis Jensen, Property Chairman, of Trinity Lutheran Church that is adjacent to the Property, were present throughout the course of the hearing. Ms. Clifton wished to testify, and was allowed to do so by this Board. She provided some historical information relative to the Property and Long. She opined that she was not opposed to the rezoning request once she understood Petitioners reasons, and the rationale of Planning.

In considering the articulate and reasoned testimony of the County's expert witness, Michael Jeffrey Mayhew, Deputy Director of the Department of Planning, along with a review of the extensive exhibits introduced by the County, the testimony of Tanya Clifton, Council President

of the adjacent Trinity Lutheran Church, and arguments of counsel presented at the hearing, this Board is persuaded that a technical drafting error occurred when Planning incorrectly transferred the legislatively approved zoning classification during the 1988 CZMP to the official zoning maps.

ORDER

IT IS, THEREFORE, this _____ day of _____, 2015, by the Board of Appeals of Baltimore County hereby

ORDERED that the entire 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County be rezoned to B.L. (Business, Local) in accord with the legislative intent of the County Council in 1988 as reflected on *County Exhibit 4*; and it is further

ORDERED, that the Department of Planning make the necessary changes to the official zoning maps as reflected on *County Exhibit 12*.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**

MAUREEN E. MURPHY, Chair

JANE M. HANLEY

JASON S. GARBER

Krysundra Cannington

From: Nancy C. West
Sent: Monday, November 30, 2015 11:39 AM
To: Krysundra Cannington
Cc: caroledemilio@verizon.net; Carole Demilio; Mudd, Christopher
Subject: 127 Main Street
Attachments: 11.30.15 Cannington ltr.pdf; 11.25.16 Final Order .docx

Ms. Cannington,

Following up on our earlier conversation this morning, attached is a proposed Opinion and Order for the Board's review. The originals will be hand-delivered to you today.
Thank you.

NANCY C. WEST
Assistant County Attorney
Baltimore County Office of Law
Historic Courthouse, 2nd Floor
400 Washington Avenue
Towson, MD 21204
P: 410.887.4420
F: 410.296.0931



KEVIN KAMENETZ
County Executive

MICHAEL E. FIELD, *County Attorney*
Office of Law

November 30, 2015

Via Hand and E-mail

Ms. Krysundra "Sunny" Cannington
Administrator, Board of Appeals of
Baltimore County
Jefferson Building, Suite 203
105 W. Chesapeake Avenue
Towson, MD 21204

Re: Petition for Zoning Map Correction
127 Main Street
Case No.: M.C. 16-01

Dear Ms. Cannington:

Enclosed for the Board's review is a draft Opinion and Order relative to the above referenced matter. It has been approved for form and legal sufficiency by all counsel.

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

Thank you.

Sincerely yours,


NANCY C. WEST
Assistant County Attorney

Encl.

cc: Carole Demilio, Deputy People's Counsel
Christopher D. Mudd, Esq.

**IN RE: PETITION FOR ZONING
MAP CORRECTION
127 MAIN STREET**

**BALTIMORE COUNTY, MARYLAND
a body corporate and politic
and**

**127 MAIN STREET, LLC

Petitioners**

**BEFORE THE

COUNTY BOARD OF APPEALS**

**OF

BALTIMORE COUNTY**

Case No.: M.C. 16-01

* * * * *

OPINION

The above entitled matter came on for hearing before this Board on November 18, 2015, on a Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C West, Assistant County Attorney, on behalf of Baltimore County, Maryland, Petitioner, and by Christopher D. Mudd, Esquire, of Venable, LLP, on behalf of 127 Main Street, LLC, Co-Petitioner. The requested correction involves a technical drafting error and seeks to reclassify the zoning on approximately 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County from R-O (Residential-Office) and B.R. (Business, Roadside) to B.L. (Business, Local). This corrected zoning would comport with the legislative action of the County Council in reclassifying 0.598 acres during the 1988 Comprehensive Zoning Map Process ("CZMP"). The Petition is cognizable under Baltimore County Code ("BCC") §§ 32-3-231 to 32-3-236, and, specifically, § 32-3-231(b)(3), which provides for such zoning map correction in the event of:

A technical drafting error made by the original petitioner for a zoning change, provided the error did not impact on the intent of the County Council to place a particular zoning classification on the particular property.

Nancy C. West, Assistant County Attorney, represented Baltimore County, Maryland and Christopher D. Mudd, Esquire, represented the legal owner, 127 Main Street, LLC. Carole Demilio, Deputy People's Counsel for Baltimore County, participated.

At the conclusion of the November 18th hearing, this Board conducted a public deliberation and unanimously agreed to approve the requested map correction. This Opinion follows, consistent therewith.

BACKGROUND

127 Main Street, LLC, (the "Owner") is the fee simple owner of a 0.59± acre parcel of land known as 127 Main Street and located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136, also being known as Tax Map 0048, Parcel 0917 (Tax ID No.: 04-0412059350) (the "Property"). The Property is located in the 4th Election District and the 2nd Councilmanic District. A deed of the Property is recorded in the Land Records of Baltimore County at Liber 34732, folio 313.

Prior to Baltimore County's 1988 CZMP, the Property was split-zoned R-O (Residential - Office) and D.R. 3.5 (Density, Residential). As part of and pursuant to the 1988 CZMP, the owners of the Property at the time, James and Patricia Long (collectively, "Long"), submitted an Application to the Office of Planning and Zoning¹ requesting that the Property, in its entirety, be rezoned to B.L. (Business, Local). See *County Exhibit 3* for CZMP Issue No. 3-049. It was the intent of Long, as applicant, to include the entire 0.59± acre Property within the Issue as evidenced by the Application for Issue No. 3-049. The Department of Planning and the Planning Board

¹ As Petitioners noted in their filing in this case, with the passage of County Council Bill No. 69-95 the name of the "Office of Planning and Zoning" was changed to the "Office of Planning." Then in 2011 the County Council passed Bill No. 55-11 as part of a reorganization of County Government and the name was changed to "Department of Planning." For purposes of clarity, all references in this Opinion and Order shall be to the "Department" rather than "Office" of Planning regardless of the time frame.

recommended that the entire 0.59± acre Property be rezoned to B.L. At the conclusion of the 1988 CZMP, the County Council enacted Bill No. 146-88, which adopted the recommendations to rezone the entire 0.59± acres to B.L. See *County's Exhibit 8*. The Department of Planning ("Planning") perpetuated the technical drafting error made by the original petitioner when transferring the zoning classification enacted by the County Council to the comprehensive zoning map as Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

Since the 1988 County Council decision with regard to the rezoning of the Property, no other Issue has been filed on this Property.

FACTS

In the County's case-in-chief, it presented one witness, Michael Jeffrey Mayhew ("Mayhew"). He established his bona fides having been with Planning for 24 years, with the last four years as Deputy Director. Mr. Mayhew has a B.S. in Economics from the University of Delaware and a M.A. in Public Administration from the University of Baltimore. Additionally, he has met the rigorous standards of the American Institute of Certified Planners and achieved the coveted AICP designation. As Deputy Director since June 2011, Mr. Mayhew oversees the operations of the Development Review Section; Commercial Revitalization; the Zoning Process; and various Boards and Commissions, such as the Planning Board, Landmarks Preservation Commission, Design Review Panel, Commission on Disabilities, and the Agricultural Preservation Board. He works with the County Council on legislation, develops community plans and is involved with the development of Baltimore County's Master Plan every ten years as required by the Baltimore County Charter. Mr. Mayhew's Curriculum Vitae was entered as *County Exhibit 1*.

After extensive *voir dire*, the County offered and this Board accepted Mr. Mayhew as an

expert in the areas of Baltimore County's quadrennial comprehensive zoning map process and cycle zoning processes, the development and adoption of community plans and growth management policies to align with the Baltimore County Master Plan, and the 10-year water and sewer plan projects.

On August 18, 2014, Christopher D. Mudd, Esquire, of Venable, LLP ("Mudd"), on behalf of the Owner, sent a letter to Andrea Van Arsdale, Director of Planning, requesting that the County correct a zoning error on the Owner's Property. The Owner had recently purchased the Property and during its due diligence discovered the zoning error which it attributed to a technical drafting error on the County's part. Mr. Mudd claimed that on the official 1998 CZMP map produced following the County Council vote, only a portion of the Owner's Property, namely approximately 0.36 acres, was rezoned to B.L., while the remainder was reflected on the map as being zoned D.R.3.5.

The official zoning map is enacted by the Baltimore County Council. As Mr. Mayhew testified, there are two principal ways by which it can be changed, namely, the CZMP and Cycle Zoning. The zoning map may also be changed through a Zoning Map Correction.

The CZMP takes place every four years on a schedule specified in the BCC. As Mr. Mayhew emphasized, any citizen may request a zoning change on any property in the County, although the usual participants in the process are individual landowners, contract purchasers, community organizations, County staff, the Planning Board and the County Council. The CZMP covers a period of approximately 12 months and results in zoning decisions that are reflected in a final log of Issues. An "Issue" under the CZMP "means a tract or parcel of land proposed for a change in zone or district classification." See, BCC § 32-3-211. Ultimately, the County Council decides on each Issue whether to retain the existing zoning or to enact a different zone(s) or

district(s). Generally, each Issue is a single property, but an Issue may cover many adjoining properties and might even cover many hundreds of acres. The zoning on all properties which were not Issues is re-enacted without change.

After receiving Mr. Mudd's letter, Mr. Mayhew testified that his staff began the arduous process of researching Planning's archived CZMP files beginning in 1988. They determined that after the County Council approved Long's request to rezone the entire 0.598 acres that comprised the Property to B. L. in 1988, no other Issue had been filed in subsequent CZMP years, namely, 1992, 1996, 2000, 2004, 2008 or 2012.

As Mr. Mayhew testified, Planning staff perused the October 13, 1987 Application submitted by Long and concluded that Long's intent was to rezone the entire Property from R.O. to B.L. He noted that James O. Long, in his own handwriting, stated on line 11 of the Application that the "Acreage or lot size" was "0.598 Ac±." On line 12, Mr. Long stated that the "Existing zoning by acres" was "RO (0.598 Ac±)" and on line 13, he stated that the "Requested zoning by acres" was "BL (0.598 Ac±)." . Additionally, Mr. Mayhew opined that the accompanying maps, namely, the 200' scale zoning map and the 600' scale tax map, depicting the area for rezoning submitted with the Long application were inconsistent. This inconsistency led to the technical drafting error made by the original petitioner during the 1988 CZMP.

In 1988 the Planning Board had recommended that the entire 0.598± acre Property be rezoned to B.L. And the County Council adopted the Planning Board's recommendation. Yet Planning perpetuated the technical drafting error made by Long - as reflected on the 200' scale zoning map - when it transferred the zoning classification enacted by the County Council to the official zoning map. Specifically, Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

Mr. Mayhew averred that Planning conducted a thorough review of its archived CZMP files before concluding that a technical drafting error was made in transferring the legislatively approved zoning classification during the 1988 CZMP.

As a condition precedent to the filing of the Petition in this case, Planning sent a letter on July 9, 2015 to the Honorable Vicki Almond of the 2nd Councilmanic District of its intention to correct the zoning map error as provided in the BCC. Likewise, Planning sent a letter of the same date to Mr. Mudd of its intention to file a petition to correct the error. Mr. Mayhew testified that he met with Mrs. Almond to discuss the matter before filing the Petition, and that she did not oppose it. Further, Mr. Mayhew and other Planning staff attended a meeting on October 5, 2015 with the Reisterstown, Owings Mills and Glyndon Community Association to advise them of the County's intention to file a petition to correct the technical drafting error.

Finally, this Board finds that the notice provisions of the BCC § 32-3-234 have been met, as Mr. Mayhew testified that the Property was duly posted with the requisite particulars at least 15 days before the scheduled hearing date. See *County Exhibit 13*.

While not a party to the above entitled proceedings, Tanya Clifton, Council President, and Dennis Jensen, Property Chairman, of Trinity Lutheran Church that is adjacent to the Property, were present throughout the course of the hearing. Ms. Clifton wished to testify, and was allowed to do so by this Board. She provided some historical information relative to the Property and Long. She opined that she was not opposed to the rezoning request once she understood Petitioners reasons, and the rationale of Planning.

In considering the articulate and reasoned testimony of the County's expert witness, Michael Jeffrey Mayhew, Deputy Director of the Department of Planning, along with a review of the extensive exhibits introduced by the County, the testimony of Tanya Clifton, Council President

of the adjacent Trinity Lutheran Church, and arguments of counsel presented at the hearing, this Board is persuaded that a technical drafting error occurred when Planning incorrectly transferred the legislatively approved zoning classification during the 1988 CZMP to the official zoning maps.

ORDER

IT IS, THEREFORE, this _____ day of _____, 2015, by the Board of Appeals of Baltimore County hereby

ORDERED that the entire 0.59± acres located at 127 Main Street that is adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County be rezoned to B.L. (Business, Local) in accord with the legislative intent of the County Council in 1988 as reflected on *County Exhibit 4*; and it is further

ORDERED, that the Department of Planning make the necessary changes to the official zoning maps as reflected on *County Exhibit 12*.

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

**COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY**

MAUREEN E. MURPHY, Chair

JANE M. HANLEY

JASON S. GARBER

Reviewed and Approved as to Form
and Legal Sufficiency:

CAROLE DEMILIO
Deputy People's Counsel for
Baltimore County

CHRISTOPHER D. MUDD
Venable, LLP
Attorney for 127 Main Street, LLC

NANCY C. WEST
Assistant County Attorney
Attorney for Baltimore County, Maryland

BOARD OF APPEALS OF BALTIMORE COUNTY
MINUTES OF DELIBERATION

IN THE MATTER OF: 127 Main Street, LLC MC-16-01

DATE: November 18, 2015

BOARD/PANEL: Maureen E. Murphy, Chairman
Jane M. Hanley
Jason S. Garber

RECORDED BY: Sunny Cannington/Administrator

PURPOSE: To deliberate the following:

Petition for Zoning Map Correction to correct technical error – to reclassify the entire 0.59 ± acre parcel of land located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland that is owned by 127 Main Street, LLC to the B.L. (Business, Local) zone in accordance with the 1988 CZMP and County Council Bill No. 146-88.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

STANDING

- The Board reviewed the history of this matter.
- The Board discussed that there was no opposition to the request from anyone in the community or People's Counsel. People's Counsel was involved to ensure that proper procedure was followed.
- Representatives from the nearby Trinity Lutheran Church were in attendance. They testified that their concerns were remedied at the hearing.
- The Board determined that it was the intent of the County Council to reclassify the entire parcel to B.L in 1988. The Board determined that the Department of Planning the reclassification was only applied to the front portion of the property. The Board determined that this was in error.

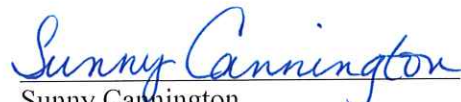
DECISION BY BOARD MEMBERS:

The Board determined that it was the intention of the County Council to reclassify the entire parcel as B. L. in 1988.

FINAL DECISION: After thorough review of the facts, testimony, and law in the matter, the Board unanimously agreed to GRANT the requested relief.

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

Respectfully Submitted,


Sunny Cannington



Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

October 23, 2015

NOTICE OF ASSIGNMENT

IN THE MATTER OF: BALTIMORE COUNTY, MARYLAND - Petitioner
MC-16-01 127 Main Street, LLC – Legal Owner
127 Main Street
4th Election District; 2nd Councilmanic District

Petition for Map Correction to correct a technical error – To reclassify the 0.59± acre parcel of land located on the adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, as B. L. (Business, Local) zone in accordance with the 1988 CZMP, and County Council Bill No. 146-88.

ASSIGNED FOR: **WEDNESDAY, NOVEMBER 18, 2015 AT 10:00 A.M.**

LOCATION: Hearing Room #2, Second Floor, Suite 206
Jefferson Building, 105 W. Chesapeake Avenue, Towson

NOTICE: This matter has been assigned for a hearing in accordance with Section 32-3-231 of the *Baltimore County Code (BCC)*.

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

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

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

For further information, including our inclement weather policy, please visit our website www.baltimorecountymd.gov/Agencies/appeals/index.html

Krysundra "Sunny" Cannington
Administrator

c: Counsel for Petitioner, Baltimore County, Maryland : Michael E. Field, County Attorney
Nancy C. West, Assistant County Attorney

Counsel for Legal Owner : Christopher D. Mudd, Esquire
Legal Owner : 127 Main Street, LLC

The Honorable Vicki Almond, 2nd District, Baltimore County Council
Office of People's Counsel
Arnold Jablon, Director/PAI
Andrea Van Arsdale, Director/Department of Planning
Jeff Mayhew, Deputy Director, Department of Planning
Jessie Bialek/Department of Planning

RE: ZONING MAP CORRECTION
127 Main Street

2nd Election & 4th Council Districts

Petitioner(s): Baltimore County, Maryland
And 127 Main Street, LLC

* BEFORE THE
* BOARD OF
* APPEALS FOR
* BALTIMORE COUNTY
* M.C. 16-01

* * * * *

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

OCT 20 2015

**BALTIMORE COUNTY
BOARD OF APPEALS**

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 20th day of October, 2015, a copy of the foregoing Entry of Appearance was sent to Christopher Mudd, Esquire, 210 W. Pennsylvania Avenue, Suite 500, Towson, Maryland 21204 and Michael E. Field, County Attorney and Nancy C. West, Assistant County Attorney, 400 Washington Avenue, 2nd Floor, Towson, Maryland 21204.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

IN RE: PETITION FOR ZONING
MAP CORRECTION
127 MAIN STREET

BEFORE THE
COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY, MARYLAND
a body corporate and politic

BALTIMORE COUNTY

and

Case No.: M.C. 16-01

127 MAIN STREET, LLC

Petitioners

RECEIVED
OCT 16 2015

* * * * *
PETITION FOR ZONING MAP CORRECTION

BALTIMORE COUNTY
BOARD OF APPEALS

Petitioners, Baltimore County, Maryland, by Michael E. Field, County Attorney, and Nancy C. West, Assistant County Attorney, and 127 Main Street, LLC, by its attorneys, Christopher D. Mudd and Venable, LLP, file this Petition for Zoning Map Correction pursuant to Section 32-3-231 (b)(3) *et seq* of the Baltimore County Code and state as follows:

1. 127 Main Street, LLC, (the "Owner") is the fee simple owner of a 0.59± acre parcel of land known as 127 Main Street and located adjacent to and on the east side of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136, also being known as Tax Map 0048, Parcel 0917 (Tax ID No.: 04-0412059350) (the "Property").

2. The Property is located in the 4th Election District and the 2rd Councilmanic District. A deed of the Property is recorded in the Land Records of Baltimore County at Liber 34732, folio 313.

3. Prior to Baltimore County's 1988 Comprehensive Zoning Map Process ("CZMP"), the Property was split-zoned R-O (Residential - Office) and D.R. 3.5 (Density, Residential).

4. As part of and pursuant to the 1988 CZMP, the owners of the Property at the time,

James and Patricia Long, submitted an Application to the Office of Planning and Zoning requesting that the Property, in its entirety, be rezoned to B.L. (Business, Local). *See* CZMP Issue No. 3-049. It was the intent of the Longs, as applicants, to include the entire 0.59± acre Property within the Issue¹ as evidenced by the Application for Issue No. 3-049. A redacted copy of the 1988 County Council Log of Issues for Issue No. 3-049 is attached hereto as **Exhibit A** and incorporated herein by reference. Copies of the Application, the 600' scale tax map, and the 200' scale tax map are attached hereto as **Exhibits B-1, B-2 and B-3**, respectively, and incorporated herein by reference. Exhibits B-1 through B-3 present inconsistent information, which led to a technical drafting error made by the original petitioner.

5. The Planning Board recommended that the entire 0.59± acre Property be rezoned to B.L. At the conclusion of the 1988 CZMP, the County Council enacted Bill No. 146-88, which adopted the Planning Board's recommendation to rezone the entire 0.59± acres to B.L.

6. The Department of Planning² ("Department") perpetuated the technical drafting error made by the original petitioner when transferring the zoning classification enacted by the County Council to the comprehensive zoning map as Planning rezoned only a portion of the Property, namely 0.36 acres, rather than the entire 0.59± acres to B.L.

7. Since the 1988 County Council decision with regard to the rezoning of the Property, no other Issue has been filed on this Property.

8. A copy of the current zoning map for the Property is attached hereto as **Exhibit C**

¹ Pursuant to Baltimore County Code, Section 32-3-211, under the Comprehensive Zoning Map Process "issue" means a tract or parcel of land proposed for a change in zone or district classification.

² With the passage of County Council Bill No. 69-95, the name of the "Office of Planning and Zoning" was changed to the "Office of Planning." Then in 2011 the County Council passed Bill No. 55-11 as part of a reorganization of County Government and the name was changed to "Department of Planning." For purposes of clarity, all references hereinafter shall be to the "Department" rather than "Office" of Planning regardless of the time frame.

and a copy of the zoning map depicting the correct zoning for the entire Property as B.L. is attached hereto as **Exhibit D**. Both exhibits are incorporated herein by reference.

9. The Department sent a letter dated July 9, 2015 to Christopher D. Mudd, Esq., of Venable LLP, attorney for the Owner, advising him that there is a technical drafting error on the zoning map for the Property and that it would take the necessary steps to remedy it. A copy of the letter is attached hereto as **Exhibit E** and incorporated herein by reference.

10. As a condition precedent to this filing, the Department notified the County Council that it intended to file a petition to correct the zoning map error. A copy of a letter dated July 9, 2015 that was sent to the Honorable Vicki Almond of the Second Councilmanic District is attached hereto as **Exhibit F** and incorporated herein by reference.

WHEREFORE, Petitioners respectfully pray that the County Board of Appeals:

- a. Enter an Order reclassifying the zoning on the 0.59± acre of land known as 127 Main Street to Business, Local in accord with the legislative intent of the County Council;
- b. Enter an Order directing the Department of Planning to correct the official zoning maps as reflected on **Exhibit D** hereinabove;
- c. And for such other and further relief as the County Board of Appeals may deem just and appropriate.

MICHAEL E. FIELD
County Attorney



NANCY C. WEST
Assistant County Attorney
Baltimore County Office of Law
Historic Courthouse, 2nd Floor
400 Washington Ave
Towson, MD 21204

Phone: 410.887.4420

E-mail: nwest@baltimorecountymd.gov

Attorneys for Baltimore County, Maryland

A handwritten signature in black ink, appearing to read 'C. Mudd', is positioned above a horizontal line.

CHRISTOPHER D. MUDD

Venable LLP

210 W. Pennsylvania Avenue

Suite 500

Towson, Maryland 21204

Phone: 410.494.6200

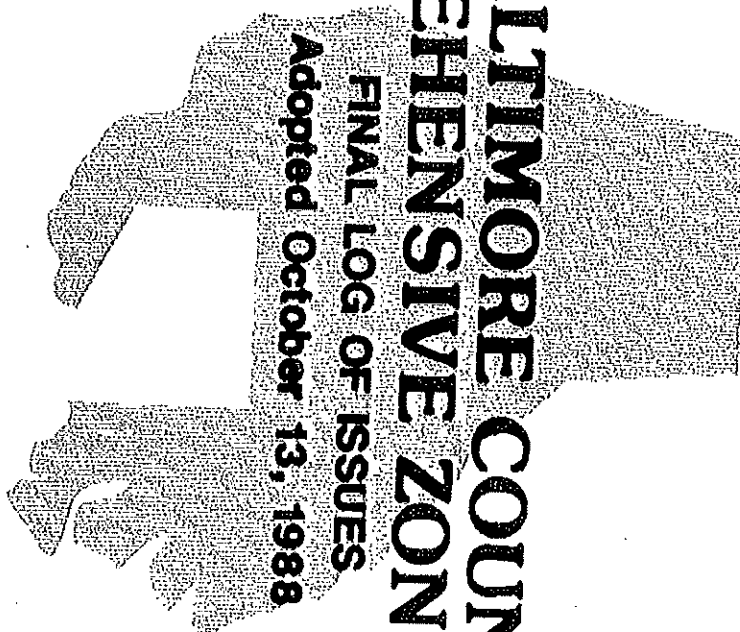
E-mail: cdmudd@venable.com

Attorneys for 127 Main Street, LLC

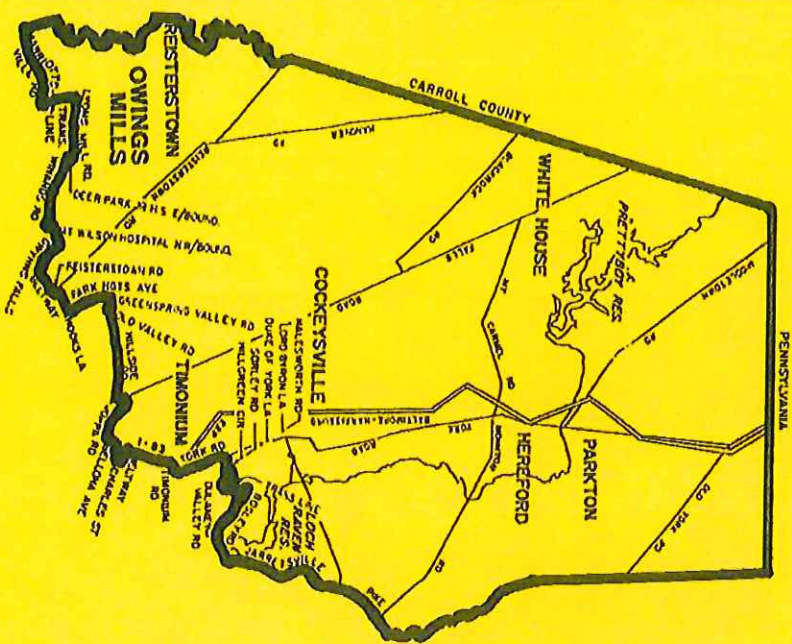
BALTIMORE COUNTY COMPREHENSIVE ZONING MAP

FINAL LOG OF ISSUES

Adopted October 13, 1988

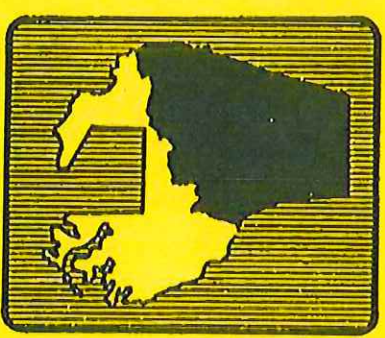


BALTIMORE COUNTY COUNCIL 1988 REZONING



HON. C.A. DUTCH RUPPERSBERGER M
COUNCIL OFFICE 887-3387

THIRD COUNCILMANIC DISTRICT



3rd Councilmanic District

BALTIMORE COUNTY
1988 COMPREHENSIVE ZONING MAP ISSUESDate: 10/27/88
Sheet: 7

NO.	SPONSOR, OWNER, PETITIONER, ORGANIZATION OR PLACE NAME	LOCATION	TOTAL		EXISTING		REQUESTED		ZONING		COMMENTS
			ACRES		ZONING and ACRES		ZONING and ACRES		PLAN NO RECOMMEN- DATIONS	COUNTY COUNCIL DECISIONS	
3-046	Peer Development Inc by Bruce Scheer	SE Side Franklin Blvd & Cherry Hill Rd	2.64	DR 2	RO	2.64	RO	2.64	RO	RO	
3-047	Ann Cordes Harvey	NE Side Gaymuthock Ave 900' NE of Reisterstown Rd	2.00	DR 3.5 2.00	DR 5.5, DR 10.5 or DR 16 2.00	2.00	DR 3.5 2.00	DR 3.5	DR 3.5	DR 3.5	
3-048	James V Bottes Jr & Marjorie H Casey	NE corner York Rd & Matthews Ave (10615 York Rd)	0.50	RO	EL	0.50	RO	0.50	RO	RO	
3-049	James O & Patricia H Long	E Side Reisterstown Rd 450' S of Oatisworth Ave	0.59	RO	EL	0.59	EL	0.59	EL	EL	See Issue 3-350
3-050	L Blair & Cynthia R Alexander Jr	E Side Reisterstown Road 400' S of Timber Grove (11503 Reisterstown Rd)	0.38	RO	EL	0.38	RO	0.38	RO	RO	See Issues 3-080, 3-101, 3-248, 3-249
3-051	Josef L Gehring by Nolan, Plumbhoff & Williams	N Side of York Rd S Padonia N of Estrella St	0.43	DR 3.5 0.43	O-1 0.43	RO	0.43	RO	RO	RO	See Issue 3-317
3-052	Amoco Oil Co by Chas T Boydenowicz	NW cor York & Shuman Rds	0.60	EL	EL-CNS or EL-TH 0.60	EL	EL	EL	EL-TH	EL-TH	
3-053	Therford Financial Services by Newton & Williams, Esq	E Side York Rd Opposite Belfast Road	1.04	RC 5 1.04	RO 1.04	RC 5 1.04	RC 5 1.04	RC 5	RC 5	RC 5	See Issues 3-247, 3-310

Note: If this request is granted, it does not guarantee the issuance of plan approval or a building permit. At the time of development processing, all County, State and Federal requirements in effect at that time must be satisfied.

1988() COMPREHENSIVE ZONING MAP Request For Change

Office of Planning and Zoning
Baltimore County, Maryland

(Office Use Only)	
COUNCIL DISTRICT	3rd
ISSUE NO.	300491
AREA	310
PLANNER	MD
RECEIPT DATE	12/13/87

- 1 APPLICANT'S NAME JAMES O. + PATRICIA M. LONG
- 2 ADDRESS 127 MAIN Street
- 3 CITY REISTERSTOWN 4 STATE MD. 5 ZIP 21136 6 PHONE 833-2245
- 7 ORGANIZATION (if any) NONE 8 COMMUNITY ORGANIZATION INVOLVED: _____
- 9 APPLICANT STATUS: (Please Circle one)
☒ Property Owner; ☐ Contract Purchaser; ☐ Legal Rep.
- 10 PROPERTY LOCATION E/S Reid Pl 450' S of Chatsworth Ave.
- 11 ACREAGE OR LOT SIZE 0.598 Ac.
- 12 EXISTING ZONING BY ACRES RO (0.598 Ac.)
- 13 REQUESTED ZONING BY ACRES BL (0.598 Ac.)
- 14 EXISTING USE RESIDENCE
- 15 PROPOSED USE (if known) Not known
- 16 ZONING HISTORY: 17(a) Comprehensive Zoning Map Process: 18 Issue No. _____ 19 Year _____
 (if applicable) 20(b) Cycle Zoning: 21 Case No. _____
- 22 WATER SERVICE ZONE Reisterstown 5th
- 23 SUBSEWERSHED NUMBER (If request is located in more than one subsewershed, the number of dwelling units for each subsewershed must be shown, if known.) #67
- 24 Property information from tax bills - Also available from Assessments Recordation Office, Room 48, Court House, Towson, MD 21204 (494-3691)

District	Property Number		
	04	12	059350
Deed	Liber		Folio
	5328		915

Map	Block	Parcel
48.	11	917
Rec. Plat	Liber	Folio
	Block	Lot

25 APPLICANT ACKNOWLEDGEMENT:

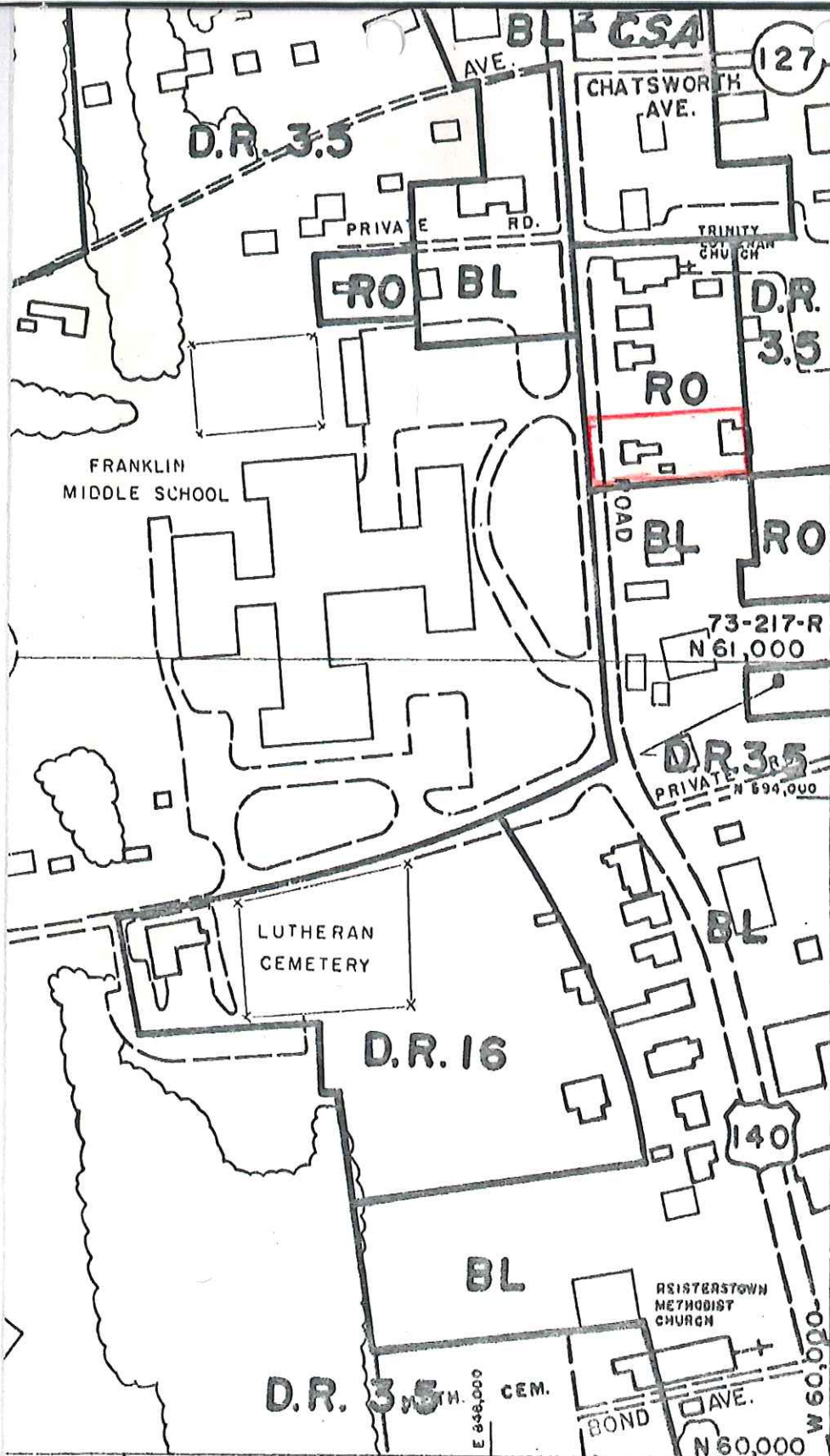
I hereby grant permission to Baltimore County for any required field inspections or sign posting of my property in regard to the subject zoning request.

I hereby acknowledge that if the requested zoning is granted, a change in the property tax assessment and/or transfer taxes may result for which the property owner would be responsible.

NAME JAMES O. LONG (Type or Print)
 ((Landowner), Contract Purchaser and/or Legal Representative)

SIGNATURE James O Long

Application Must be Presented in Person



SCALE
200' ±

LOCATION

SHEET

TE
F
GRAPHY
JARY

REISTERSTOWN

N.W.
16-K

Exhibit B-3



Exhibit C



KEVIN KAMENETZ
County Executive

ANDREA VAN ARSDALE, *Director*
Department of Planning

July 9, 2015

Christopher D. Mudd, Esq.
Venable LLP
210 W. Pennsylvania Avenue, Suite 500
Towson, MD 21204

Re: 127 Main Street: Tax Account Number 0412059350

Dear Mr. Mudd:

In response to your correspondence dated August 18, 2014, this Department concludes that there is an error on the Zoning Geodatabase relative to the above-referenced property.

The staff has investigated this matter and as the Director of Planning, I certify the following findings. Based upon a review of (1) the 2012 Baltimore County Zoning Geodatabase Map; (2) the Issue maps from the 1988 Comprehensive Zoning Map Process (CZMP) Issue No. 3-049; and (3) County Council Bill No. 146-88, this department concludes that a technical drafting error occurred while implementing the final intent of the Baltimore County Council during the 1988 CZMP in transferring the County Council's enacted zoning classification to the comprehensive zoning map for Issue No. 3-049. In accordance with § 32-3-231 of the Baltimore County Code, the Department of Planning will initiate a Petition for Zoning Map Correction to remedy this error so that the zoning accurately reflects the Baltimore County Council's intent.

If you have any questions or concerns, please do not hesitate to contact Jessie Bialek at (410) 887-3521 or jbialek@baltimorecountymd.gov.

Sincerely yours,

A handwritten signature in black ink, reading "Andrea Van Arsdale".

Andrea Van Arsdale
Director

AVA:JB:lsn

c: Hon. Vicki Almond, Second District Councilwoman
Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrator Officer and Director, Department of Permits,
Approvals and Inspections
Michael E. Field, County Attorney
Nancy C. West, Assistant County Attorney
105 West Chesapeake Avenue, Suite 101 | Towson, Maryland 21204 | Phone: 410-887-3211 | Fax: 410-887-5862
planning@baltimorecountymd.gov | www.baltimorecountymd.gov/planning

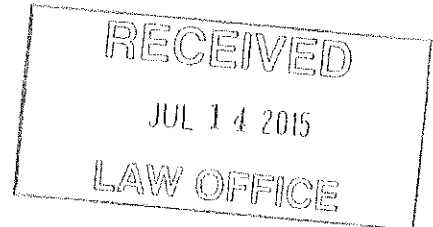
Exhibit E



KEVIN KAMENETZ
County Executive

ANDREA VAN ARSDALE, *Director*
Department of Planning

July 9, 2015



The Honorable Vicki Almond
Baltimore County Council, 2nd District
Historic Courthouse, 2nd Floor
400 Washington Ave.
Towson, MD 21204

Re: Zoning Map Correction for 127 Main Street: Tax Account Number 04 0412059350

Dear Councilwoman Almond:

This letter is to inform you that the Department of Planning is pursuing a zoning map correction as outlined in Section 32-3-231 of the Baltimore County Code on a parcel of land that is located on the eastside of Main Street, just north of Business Center Drive in the Reisterstown area of Baltimore County, Maryland 21136. The property has an address of 127 Main Street.

The property is currently split zoned BL Business Local, DR 3.5 Density Residential 3.5 units per acre, and BR Business Roadside. The correct zoning for this property should be BL for the entire parcel. This department concludes that an error occurred while implementing the final intent of the Baltimore County Council during the 1988 CZMP.

Accordingly, the Department of Planning will initiate efforts to correct this technical drafting error by filing a Petition for Zoning Map Correction with the County Board of Appeals to accurately reflect the Baltimore County Council's intent. If you have any questions, please do not hesitate to contact Jessie Bialek at (410) 887-3521 or jbialek@baltimorecountymd.gov.

Sincerely yours,

Andrea Van Arsdale
Director

AVA:JB:lsn

- c: Fred Homan, Administrative Officer
Arnold Jablon, Deputy Administrator Officer and Director, Department of Permits Approvals and Inspections
Michael E. Field, County Attorney, Law Office
Nancy C. West, Assistant County Attorney, Law Office
Christopher D. Mudd, Esq., Venable LLP

Real Property Data Search (w2)

Guide to searching the database

Search Result for BALTIMORE COUNTY

View Map		View GroundRent Redemption		View GroundRent Registration	
Account Identifier:		District - 04 Account Number - 0412059350			
Owner Information					
Owner Name:	127 MAIN STREET LLC		Use:	COMMERCIAL/RESIDENTIAL NO	
Mailing Address:	2560 LORD BALTIMORE DRIVE BALTIMORE MD 21244-		Principal Residence:		
			Deed Reference:	/34732/ 00313	
Location & Structure Information					
Premises Address:		127 MAIN ST REISTERSTOWN 21136-1211		Legal Description:	ES MAIN ST .621 AC 416 S CHATSWORTH AV
Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section: Block: Lot:
0048	0011	0917		0000	
				Assessment Year:	Plat No:
				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
	1956			26,048 SF	06
Stories	Basement	Type	Exterior	Full/Half Bath	Garage Last Major Renovation
Value Information					
		Base Value	Value As of 01/01/2014	Phase-in Assessments As of 07/01/2015 As of 07/01/2016	
Land:		138,000	138,000		
Improvements		0	0		
Total:		138,000	138,000	138,000	138,000
Preferential Land:		0			0
Transfer Information					
Seller: LONG JAMES O		Date: 03/05/2014		Price: \$275,000	
Type: ARMS LENGTH IMPROVED		Deed1: /34732/ 00313		Deed2:	
Seller: LONG ELSIE E		Date: 01/12/1973		Price: \$28,200	
Type: ARMS LENGTH IMPROVED		Deed1: /05328/ 00915		Deed2:	
Seller:		Date:		Price:	
Type:		Deed1:		Deed2:	
Exemption Information					
Partial Exempt Assessments:	Class	07/01/2015		07/01/2016	
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					