KEVIN KAMENETZ
County Executive

LAWRENCE M. STAHL
Managing Administrative Law Judge
JOHN E. BEVERUNGEN
Administrative Law Judge

December 29, 2017

Thomas Larkin
Linda Larkin
1122 Heaps Road
Street, Maryland 21154

RE: **REVISED** Order on Motions for Reconsideration
Case Nos. 2018-0091-SPHA & 2018-0092-SPHA
Property: 4204 & 4202 Louisa Avenue

Dear Mr. & Mrs. Larkin:

Enclosed please find a copy of the **REVISED** Order on Motions for Reconsideration rendered in the above-captioned matters.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:dlw
Enclosure

c: J. Scott Dallas, P.O. Box 26, Baldwin, Maryland 21013
Peter Zimmerman, Esq., People's Counsel for Baltimore County
R. Brady Locher, Assistant County Attorney for Baltimore County

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4204 Louisa Avenue, NE/S Louisa Avenue, 92' E/S of Belair Road 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-091-SPHA
RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4202 Louisa Avenue, NE/S Louisa Avenue, SE corner of Belair Road & Louisa Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-092-SPHA

REVISED ORDER UPON MOTIONS FOR RECONSIDERATION

Upon review of the entire record and People's Counsel's further request for reconsideration, thereby withdrawing that office's original motion for reconsideration, and in light of the totality of unusual circumstances described in this Administrative Law Judge's November 8, 2017 and December 20, 2017 opinions to date, and referred to in People's Counsel's motion,

THEREFORE, IT IS FURTHER ORDERED this 29 day of December, 2017, ~~2018~~, by this Administrative Law Judge, that the further motion for reconsideration is hereby GRANTED.

IT IS FURTHER ORDERED that the special hearing relief granted in the November 8, 2017 Orders be and hereby are restored and once again approved.

Any appeal of this decision must be made within (30) days of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

ORDER RECEIVED FOR FILING
Date 12-29-17
By DW

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(4202 Louisa Avenue) 11th Election District	*	OFFICE OF
5th Council District	*	ADMINISTRATIVE HEARINGS
TYKA Building Group, LLC *Legal Owner*	*	FOR BALTIMORE COUNTY
Petitioner	*	**Case Nos. 2018-0091-SPHA & 2018-0092-SPHA**

* * * * * * * *

OPINION AND ORDER ON MOTIONS FOR RECONSIDERATION

Now pending in the captioned matters are Motions for Reconsideration filed by the Office of People's Counsel and Baltimore County. The Motions will be granted as discussed below, although that does not mean (at least in my opinion) the County's rezoning process is fair or transparent. The Movants contend the Administrative Law Judge (ALJ) "reclassified" or "invalidated" the DR-1 zoning on the subject property. That is incorrect; instead, the special hearing relief was granted on the theory Baltimore County should be estopped from enforcing the DR-1 regulations against *this* owner. While applied sparingly, the doctrine of "zoning estoppel" will apply in special circumstances where it would be "highly inequitable" to enforce the regulations. *Maryland Reclamation Inc. v. Harford County,* 414 Md. 1, 54-59 (2010).

But Movants are correct that courts are loathe to interfere with enactments of the legislative branch, and this principle is applicable in the context of a comprehensive rezoning process. As such, Petitioner's property was rezoned to DR-1 in the 2016 Comprehensive Zoning Map Process (CZMP), and he must use and/or develop the property in accordance with that designation.

While Petitioner will not be able to construct a single-family dwelling on each of the lots, it would be entitled to "merge" the lots and seek approval for one single-family dwelling on the

ORDER RECEIVED FOR FILING
Date 12/20/17
By

combined parcel, whether under B.C.Z.R. §304 or otherwise. *Friends of the Ridge v. Baltimore Gas & Electric Co.*, 352 Md. 645 (1999) ("a landowner who clearly desires to combine or merge several parcels or lots of land into one larger parcel may do so"). If the lots are merged Petitioner would most likely be entitled to construct one single-family dwelling on the resultant parcel.

But I continue to believe the rezoning process, at least as exemplified in a case like this, is defective and does not comport with due process. Under familiar legal principles, due process requires that "a property owner must be notified when its rights are changed". *Bing Construction Co. v. County of Douglas,* 810 P. 2d 768, 770 (Nev. 1991). Many courts across the country have invalidated aspects of a city's comprehensive rezoning process when the owner was not advised his property may in fact be down-zoned. *Passalino v. City of Zion*, 928 N.E.2d 814, 818-19 (Ill. 2010) (citing cases).

The County Code in fact requires such notice in the context of the CZMP. Baltimore County Code (BCC) §32-3-215. That statute requires the "property being considered for a possible change in zoning classification" to be posted. B.C.C. §32-3-215(a). This was not done. The statute also requires a letter to the owner explaining "the request for change in zoning." B.C.C. § 32-3-215(d)(2). But the letter sent by the County did not explain to the owner that a zoning change was proposed for his property. In fact, the notice told the owner the zoning would stay the same, which I believe is arguably a basis for zoning estoppel.

I certainly understand the CZMP process is complex and burdensome for County staff. But when an individual's real property (most likely the largest investment they have) rights are at issue I believe more is required. If as the County contends there are many instances where the County Council is unclear what the ultimate zoning will be, a letter should not be sent advising it will stay the same. Instead, the notice should tell the owner the County Council has

included his/her property in the identified issue, and while it is not clear at the present time what change would be made, it is possible/probable the current zoning on the site will change. This would provide adequate notice to the owner and allow him/her to take appropriate action. The notice provided in this case did one of two things: (1) confused the owner; or (2) lulled him into a false sense of security the zoning on his property was not going to change.

THEREFORE, IT IS ORDERED this 20th day of **December, 2017**, by this Administrative Law Judge, that the Motion for Reconsideration be and is hereby GRANTED.

IT IS FURTHER ORDERED that the special hearing relief granted in the Order dated November 8, 2017, be and is hereby RESCINDED.

IT IS FURTHER ORDERED Petitioner shall be entitled to merge the lots at the subject property and seek approval for one single-family dwelling on the combined parcels. Any subsequent petition or request in this regard shall not be barred by *res judicata* or collateral estoppel.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING
Date 12/20/17
By SLN

IN RE: **PETITIONS FOR SPECIAL HEARING AND VARIANCE**	*	BEFORE THE
(4202 Louisa Avenue) 11th Election District	*	OFFICE OF
5th Council District	*	ADMINISTRATIVE HEARINGS
TYKA Building Group, LLC *Legal Owner*	*	FOR BALTIMORE COUNTY
Petitioner	*	**Case No. 2018-0092-SPHA**

* * * * * * * *

OPINION AND ORDER

This matter comes before the Office of Administrative Hearings (OAH) for consideration of Petitions for Special Hearing and Variance filed on behalf of TYKA Building Group, LLC, legal owner ("Petitioner"). The Special Hearing was filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R.") to approve an undersized lot. A Petition for Variance seeks: (1) to permit existing Parcel 1 with a lot width of 92.48 ft. in lieu of the minimum required 150 ft.; (2) to permit a side yard setback of 10 ft. with a sum of 42 ft. of both sides in lieu of the minimum required 20 ft. side yard and sum of sides of 50 ft.; and (3) to permit a front yard setback of 38 ft. and a rear yard setback of 30 ft. in lieu of the required 50 ft., respectively. A site plan was marked and accepted into evidence as Petitioner's Exhibit 1.

Thomas and Linda Larkin and surveyor J. Scott Dallas appeared in support of the requests. There were no protestants or interested citizens in attendance. The Petition was advertised and posted as required by the Baltimore County Zoning Regulations. A substantive Zoning Advisory Committee (ZAC) comment was received from the Department of Planning (DOP). That agency opposed the request.

SPECIAL HEARING

This is a companion case to No. 2018-0091-SPHA, and involves a 9,070 sq. ft. parcel of land near the intersection of Belair Road and Louisa Avenue. A dwelling existed on the property many years ago but the lot is presently unimproved. Petitioner proposes to construct a 30'x 50' single-family dwelling on the property. As noted in the order in Case No. 2018-0091-SPHA, this property was downzoned from R.O to D.R. 1 during the 2016 Comprehensive Zoning Map Process (CZMP). As discussed below, I do not believe the property is unique, and therefore variance relief cannot be granted.

But at the same time I believe the rezoning process was defective, and special hearing relief will be granted to allow a dwelling to be constructed on the lot. A more complete discussion of this issue can be found in the Order in Case No. 2018-0091-SPHA. If the property had not been rezoned, Petitioner would be entitled to construct a single-family dwelling on this lot without zoning relief. The lot width, area and proposed setbacks as shown on the site plan would comply with the R.O./D.R. 5.5 requirements. B.C.Z.R. §1B02.3.C.

VARIANCE

A variance request involves a two-step process, summarized as follows:

(1) It must be shown the property is unique in a manner which makes it unlike surrounding properties, and that uniqueness or peculiarity must necessitate variance relief; and
(2) If variance relief is denied, Petitioner will experience a practical difficulty or hardship.

Cromwell v. Ward, 102 Md. App. 691 (1995).

The lot in question is essentially square and it does not appear to have any unusual or defining characteristics which make it unlike neighboring properties. As such the petition for variance must be denied.

ORDER RECEIVED FOR FILING
Date 11/8/17
By. DEN

THEREFORE, IT IS ORDERED this 8th day of **November, 2017**, by this Administrative Law Judge, that the Petition for Special Hearing filed pursuant to § 500.7 of the Baltimore County Zoning Regulations ("B.C.Z.R") to approve the construction of a single-family dwelling on the subject property, be and is hereby GRANTED.

IT IS FURTHER ORDERED that the Petition for Variance seeking: (1) to permit existing Parcel 1 with a lot width of 92.48 ft. in lieu of the minimum required 150 ft.; (2) to permit a side yard setback of 10 ft. with a sum of 42 ft. of both sides in lieu of the minimum required 20 ft. side yard and sum of sides of 50 ft.; and (3) to permit a front yard setback of 38 ft. and a rear yard setback of 30 ft. in lieu of the required 50 ft., respectively, be and is hereby DENIED.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at its own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

JOHN E. BEVERUNGEN
Administrative Law Judge
for Baltimore County

JEB:sln

ORDER RECEIVED FOR FILING
Date 11/8/17
By

PETITION FOR ZONING HEARING(S)

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

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

Address Parcel 1 Louisa Avenue #4202 which is presently zoned DR1

Deed References: 37214-140 P.1 10 Digit Tax Account # 1108005530

Property Owner(s) Printed Name(s) TYKA Building Group LLC

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

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

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

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

3. ✓ **a Variance** from Section(s) (see attached)

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

Site was rezoned from R.O. to DR1. R.O. would have allowed the proposed dwelling. Only one occupied dwelling in neighborhood. Additional information to be presented at hearing.

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.
Legal Owner(s) Affirmation: I / we do so solemnly declare and affirm, under the penalties of perjury, that I / We are the legal owner(s) of the property which is the subject of this / these Petition(s).

Contract Purchaser/Lessee:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

Legal Owners (Petitioners):

TYKA Building Group LLC(Thomas Larkin, owner)
Name #1 – Type or Print Name #2 – Type or Print

Signature #1 Signature # 2

1122 Heaps Rd Street MD
Mailing Address City State

21154 / 443-807-8475 / tykagroup@gmail.com
Zip Code Telephone # Email Address

Attorney for Petitioner:

Name- Type or Print

Signature

Mailing Address City State

Zip Code Telephone # Email Address

ORDER RECEIVED FOR FILING
Date 11/8/17
By

Representative to be contacted:

J. Scott Dallas
Name – Type or Print

Signature

P.O. Box 26 Baldwin MD
Mailing Address City State

21013 / 410-817-4600 / jsdinc@aol.com
Zip Code Telephone # Email Address

CASE NUMBER 2018-0092-SPHA **Filing Date** 9/29/17 **Do Not Schedule Dates:** ____ **Reviewer** JR

REV. 10/4/11

#4202 LOUISA AVENUE

(Petition attachment)

1. a **Special Hearing** under Section 500.7 of the Zoning regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve an undersized lot pursuant to section 304 of B.C.Z.R.

2. a **Variance** from Section(s) 1B02.3.C.1 B.C.Z.R. to permit existing Parcel 1 with a lot width of 92.48' in lieu of the minimum required 150' and to permit a side yard setback of 10' with a sum of 42' of both sides in lieu of the minimum required 20' side yard and sum of sides of 50' and to permit a front yard setback of 38' and rear yard setback of 30' in lieu of the required 50', respectively.

J.S. DALLAS, INC.
Surveying & Engineering

P.O. Box 26
Baldwin, MD 21013
(410)817-4600
FAX (410)817-4602

ZONING DESCRIPTION OF 4202 LOUISA AVENUE

BEGINNING *at the intersection of the northeast side of Louisa Avenue, 20' wide and the southeast side of Belair Road, U.S. Route #1 as shown on SHA/SRC Plat No. 49324 thence running with and binding on said southeast side of Belair Road and the property of the State Highway Administration the four following courses and distances:* ***(1)*** *North 51 degrees 49 minutes 26 seconds East 82.81 feet* ***(2)*** *North 87 degrees 16 minutes 42 seconds East 21.89 feet* ***(3)*** *South 41 degrees 12 minutes 00 seconds East 78.62 feet and* ***(4)*** *South 51 degrees 10 minutes 00 seconds West 100.00 feet to intersect said northeast side of Louisa Avenue thence running with and binding on said northeast side of Louisa Avenue* ***(5)*** *North 41 degrees 08 minutes 54 seconds West 92.48 feet to the place of beginning.*

CONTAINING 9070 square feet (or 0.208 acres) of land, more or less.

KNOWN *as #4202 Louisa Avenue and located in the 11th Election District , 5th Councilmanic District.*

Note: above description is based on remainder of existing deed and is for zoning purposes only.

THE BALTIMORE SUN MEDIA GROUP

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

WE HEREBY CERTIFY, that the annexed advertisement of Order No 5241372

Sold To:
TYKA Building Group LLC - CU00622598
1122 Heaps Rd
Street,MD 21154-1413

Bill To:
TYKA Building Group LLC - CU00622598
1122 Heaps Rd
Street,MD 21154-1413

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

Oct 17, 2017

NOTICE OF ZONING HEARING

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

Case: # 2018-0092-SPHA
4202 Louisa Avenue
S/e corner of Belair and Louisa Avenue
11th Election District - 5th Councilmanic District
Legal Owner(s) TYKA Building Group, LLC

Special Hearing to determine whether or not the Administrative Law Judge should approve an undersized lot. Variance to permit existing Parcel 1 with a lot width of 92.48 ft. in lieu of the minimum required 150 ft. and to permit a side yard setback of 10 ft. with a sum of 42 ft. of both sides in lieu of the minimum required 20 ft. side yard and sum of sides of 50 ft. and to permit a front yard setback of 38 ft. and a rear yard setback of 30 ft. in lieu of the required 50 ft., respectively.

Hearing: Monday, November 6, 2017 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204.

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

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

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

JT 10/699 October 17 5241372

The Baltimore Sun Media Group

By S. Wilkinson

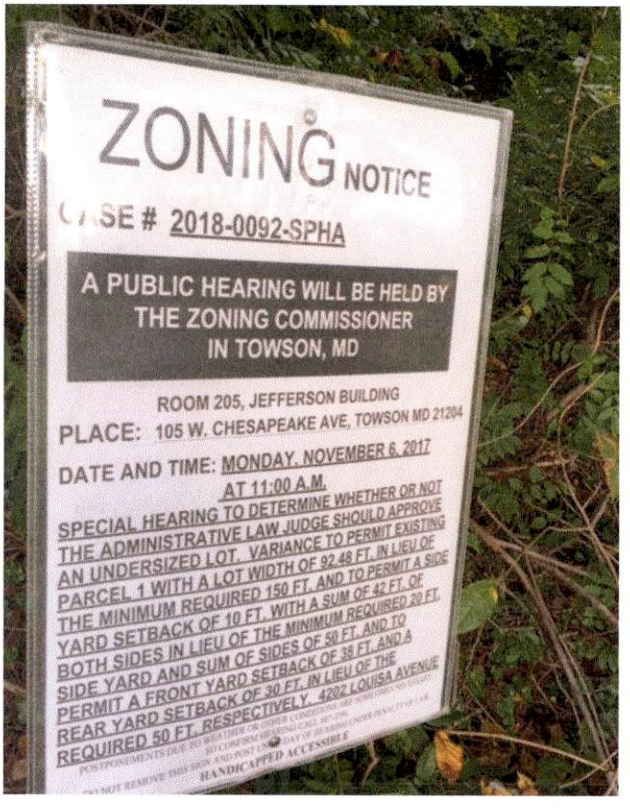
Legal Advertising

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 10/15/2017
Case Number: 2018-0092-SPHA
Petitioner / Developer: J. SCOTT DALLAS ~ THOMAS LARKIN
Date of Hearing (Closing) : NOVEMBER 6, 2017

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
4202 LOUISA AVENUE

The sign(s) were posted on: OCTOBER 14, 2017



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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

KEVIN KAMENETZ
County Executive

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

October 10, 2017

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2018-0092-SPHA
4202 Louisa Avenue
S/e corner of Belair and Louise Avenue
11th Election District – 5th Councilmanic District
Legal Owners: TYKA Building Group, LLC

Special Hearing to determine whether or not the Administrative Law Judge should approve an undersized lot. **Variance** to permit existing Parcel 1 with a lot width of 92.48 ft. in lieu of the minimum required 150 ft. and to permit a side yard setback of 10 ft. with a sum of 42 ft. of both sides in lieu of the minimum required 20 ft. side yard and sum of sides of 50 ft. and to permit a front yard setback of 38 ft. and arear yard setback of 30 ft. in lieu of the required 50 ft., respectively.

Hearing: Monday, November 6, 2017 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

Arnold Jablon
Director

AJ:kl

C: J. Scott Dallas, P.O. Box 26, Baldwin 21013
Thomas Larkin, 1122 Heaps Road, Street 21154

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY TUESDAY, OCTOBER 17, 2017.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ADMINISTRATIVE HEARINGS OFFICE AT 410-887-3868.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, October 17, 2017 Issue - Jeffersonian

Please forward billing to:
Thomas Larkin 443-807-8475
TYKA Building Group, LLC
1122 Heaps Road
Street, MD 21154

NOTICE OF ZONING HEARING

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

CASE NUMBER: 2018-0092-SPHA
4202 Louisa Avenue
S/e corner of Belair and Louise Avenue
11th Election District – 5th Councilmanic District
Legal Owners: TYKA Building Group, LLC

Special Hearing to determine whether or not the Administrative Law Judge should approve an undersized lot. **Variance** to permit existing Parcel 1 with a lot width of 92.48 ft. in lieu of the minimum required 150 ft. and to permit a side yard setback of 10 ft. with a sum of 42 ft. of both sides in lieu of the minimum required 20 ft. side yard and sum of sides of 50 ft. and to permit a front yard setback of 38 ft. and arear yard setback of 30 ft. in lieu of the required 50 ft., respectively.

Hearing: Monday, November 6, 2017 at 11:00 a.m. in Room 205, Jefferson Building, 105 West Chesapeake Avenue, Towson 21204

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

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

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4202 Louisa Avenue, NE/S Louisa Avenue, SE corner of Belair Road & Louisa Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-092-SPHA

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

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.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
SEP 05 2017

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 5th day of October, 2017, a copy of the foregoing Entry of Appearance was mailed to J. Scott Dallas, P.O. Box 26, Baldwin, Maryland 21013, Representative for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

DEPARTMENT OF PERMITS, APPROVALS AND INSPECTIONS
ZONING REVIEW OFFICE

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the legal owner/petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least twenty (20) days before the hearing.

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

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

For Newspaper Advertising:

Case Number: 2018-0092-SPHA

Property Address: PARCEL 1 LOUISA AVENUE (4202

Property Description: P.I 37214-140

Legal Owners (Petitioners): TYKA BUILDING GROUP LLC

Contract Purchaser/Lessee: (THOMAS LARKIN)

PLEASE FORWARD ADVERTISING BILL TO:

Name: THOMAS LARKIN

Company/Firm (if applicable): TYKA BUILDING GROUP LLC

Address: 1122 HEARS RD.
STREET MD 21154

Telephone Number: 443-807-8475

Revised 7/9/2015

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET AND FINANCE
MISCELLANEOUS CASH RECEIPT

No 157262

Date: 9/26/17

Fund	Dept	Unit	Sub Unit	Rev Source/ Obj	Sub Rev/ Sub Obj	Dept Obj	BS Acct	Amount
001	806	0004		6152				150.00

Total: 150.00

Rec From: Scott Dallas

For: Case # 2015-0092-SPHA
4202 Louise Ave.

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER GOLD - ACCOUNTING
PLEASE PRESS HARD!!!!

PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
9/27/2017	9/26/2017	11:13:58	5

REG WEGS WALKIN LRB
>>RECEIPT # 923058 9/26/2017 OFLN
Dept 5 528 ZONING VERIFICATION
CR NO. 157262
Rcpt Tot $150.00
$300.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

KEVIN KAMENETZ
County Executive

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

November 1, 2017

TYKA Building Group LLC
Thomas Larkin
1122 Heaps Road
Street MD 21154

RE: Case Number: 2018-0092 SPHA, Address: 4202 Louisa Avenue

Dear Mr. Larkin:

The above referenced petition was accepted for processing **ONLY** by the Bureau of Zoning Review, Department of Permits, Approvals, and Inspection (PAI) on September 26, 2017. This letter is not an approval, but only a **NOTIFICATION.**

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

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

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: jaw

Enclosures

c: People's Counsel
J Scott Dallas, P O Box 26, Baldwin MD 21013

MARYLAND DEPARTMENT
OF TRANSPORTATION

STATE HIGHWAY
ADMINISTRATION

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

Gregory Slater
Administrator

Date: 10/2/17

Ms. Kristen Lewis
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

Dear Ms. Lewis:

Thank you for the opportunity to review your referral request on the subject of the Case number referenced below. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Case No. 2018-0092-SPHA
Special Hearing Variance
TYKA Building Group. Thomas Larkin
4202 Louise Avenue

Should you have any questions regarding this matter, please contact Mr. Richard Zeller at 410-229-2332 or 1-866-998-0367 (in Maryland only) extension 2332, or by email at (rzeller@sha.state.md.us).

Sincerely,

Richard A. Zeller

Wendy Wolcott, P.L.A.
Metropolitan District Engineer
Maryland Department of Transportation
State Highway Administration
District 4 - Baltimore and Harford Counties

WW/RAZ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 11/1/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 18-092

INFORMATION:

Property Address: 4202 Louisa Avenue
Petitioner: TYKA Building Group, LLC
Zoning: DR 1
Requested Action: Special Hearing, Variance

The Department of Planning has reviewed the petition for special hearing to determine whether or not the administrative law judge should approve an undersized lot and the petition for variance to permit existing Parcel 1 with a width of 92.48 feet in lieu of the minimum required 150 feet and to permit a side yard setback of 10 feet on each side with a sum of 42 feet of both sides in lieu of the minimum required 20 feet side yard and sum of sides of 50 feet and to permit a front yard setback of 38 feet and rear yard setback of 30 feet in lieu of the required 50 feet respectively.

A site visit was conducted on October 12, 2017. The site is located within the boundaries of the Perry Hall Community Plan adopted on February 22, 2011. The site was the subject of 2016 CZMP issue # 5-044 and was rezoned from RO to DR 1. The petitioners are currently pursuing similar zoning relief at 4204 Louisa Avenue.

The Department objects to granting the petitioned zoning relief.

The established pattern of development is of dwellings situated on larger lots. Access to all properties is via Louisa Avenue, a 20 foot wide sub-standard gravel drive. There exists an 11% change in elevation across the site. Extensive grading is necessary to provide a usable yard area in such a small space and will possibly include substantial retaining walls. These factors cause the Department of Planning to recommend this site be combined with the aforementioned 4204 Louisa Avenue to provide a single residential lot that can integrate more successfully into the neighborhood.

Be advised that the petitioners must demonstrate to the satisfaction of the administrative law judge that a lot that is undersized and requires variance relief can be approved pursuant to BCZR § 304.1

For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Ngone Seye Diop
J. Scott Dallas
Office of the Administrative Hearings
People's Counsel for Baltimore County

11-6-17 10Am

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

RECEIVED
OCT 12 2017
OFFICE OF
ADMINISTRATIVE HEARINGS

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: October 12, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0092-SPHA
Address 4202 Louisa Avenue
(TYKA Building Group, LLC Property)

Zoning Advisory Committee Meeting of **October 9, 2017**.

_____ The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

_____ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

Reviewer: _____ Date: _____

C:\Users\dwiley\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\DXWB6LKP\ZAC 18-0092-SPHA 4202 Louisa Avenue.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

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

DATE: October 19, 2017

FROM: Vishnu Desai, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For October 9, 2017
Item No. 2018-0079-SPH, 0091-SPHA, 0092-SPHA, 0093-A, and 0094-A.

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

* * * * *

VKD: CEN
cc: file

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence

TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: October 12, 2017

SUBJECT: DEPS Comment for Zoning Item # 2018-0092-SPHA
Address 4202 Louisa Avenue
(TYKA Building Group, LLC Property)

Zoning Advisory Committee Meeting of **October 9, 2017**.

_____ The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

_____ The Department of Environmental Protection and Sustainability offers the following comments on the above-referenced zoning item:

_____ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 33-3-101 through 33-3-120 of the Baltimore County Code).

_____ Development of this property must comply with the Forest Conservation Regulations (Sections 33-6-101 through 33-6-122 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 33-2-101 through 33-2-1004, and other Sections, of the Baltimore County Code).

Additional Comments:

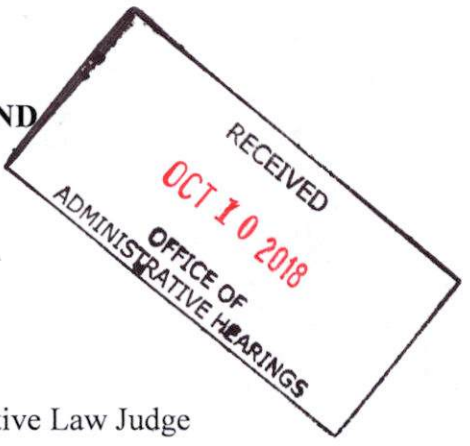
Reviewer: _____ Date: _____

C:\Users\jwisnom\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\XEGA1Q0V\ZAC 18-0092-SPHA 4202 Louisa Avenue.doc

12-3

BALTIMORE COUNTY, MARYLAND

Inter-Office Correspondence



TO: Hon. Lawrence M. Stahl; Managing Administrative Law Judge
Office of Administrative Hearings

FROM: Jeff Livingston, Department of Environmental Protection and Sustainability (EPS) - Development Coordination

DATE: October 10, 2018

SUBJECT: DEPS Comment for Zoning Item # 2019-0092-SPH
Address 1836 Green Tree Road
(Lifebridge Investments, Inc. Property)

Zoning Advisory Committee Meeting of **October 8, 2018**.

X The Department of Environmental Protection and Sustainability has no comment on the above-referenced zoning item.

Reviewer: Steve Ford

12-3

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 10/24/2018

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: **ZONING ADVISORY COMMITTEE COMMENTS**
Case Number: 19-092

INFORMATION:
Property Address: 1836 Greene Tree Road
Petitioner: LifeBridge Investments, Inc.
Zoning: BM, OR 2
Requested Action: Special Hearing

The Department of Planning has reviewed the petition for special hearing to determine whether or not the Administrative Law Judge should permit the relief contained on attachment submitted in support of the petition.

A site visit was conducted on October 11, 2018. The site is the subject of prior zoning case #98-275-SPHA.

The Department of Planning has no objections to granting the petitioned zoning relief.

For further information concerning the matters stated herein, please contact Bill Skibinski at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Jenifer G. Nugent

AVA/JGN/LTM/

c: Bill Skibinski
David H. Karceski, Esquire
Office of the Administrative Hearings
People's Counsel for Baltimore County

CASE NO. 2018-0092-SPHA

CHECKLIST

Comment Received	Department	Support/Oppose/ Conditions/ Comments/ No Comment
10/19	DEVELOPMENT PLANS REVIEW (if not received, date e-mail sent _____)	no comment
10/12	DEPS (if not received, date e-mail sent _____)	no comment
_____	FIRE DEPARTMENT	_____
11/2	PLANNING (if not received, date e-mail sent _____)	Comment
10/2	STATE HIGHWAY ADMINISTRATION	no objection
_____	TRAFFIC ENGINEERING	_____
_____	COMMUNITY ASSOCIATION	_____
_____	ADJACENT PROPERTY OWNERS	_____

ZONING VIOLATION (Case No. _____)

PRIOR ZONING (Case No. _____)

NEWSPAPER ADVERTISEMENT Date: 10/17/17

SIGN POSTING Date: 10/14/17 by O'Keefe

PEOPLE'S COUNSEL APPEARANCE Yes ☒ No ☐

PEOPLE'S COUNSEL COMMENT LETTER Yes ☐ No ☐

Comments, if any: _____

Real Property Data Search

Search Result for BALTIMORE COUNTY

View Map	View GroundRent Redemption	View GroundRent Registration

Account Identifier: **District - 11 Account Number -** 1108005530

Owner Information

Owner Name:	TYKA BUILDING GROUP LLC	**Use:**	RESIDENTIAL
		Principal Residence:	NO
Mailing Address:	1122 HEAPS RD STREET MD 21154-	**Deed Reference:**	/37214/ 00140

Location & Structure Information

Premises Address:	8323 BELAIR RD BALTIMORE MD 21236-	**Legal Description:**	SES BELAIR RD .189 AC 805 N COR LOUISA AV

Map:	Grid:	Parcel:	Sub District:	Subdivision:	Section:	Block:	Lot:	Assessment Year:	Plat No:
0071	0024	0197		0000				2018	Plat Ref:

Special Tax Areas:		**Town:**	NONE
		Ad Valorem:	
		Tax Class:	

Primary Structure Built	Above Grade Living Area	Finished Basement Area	Property Land Area	County Use
			8,232 SF	04

Stories	Basement	Type	Exterior	Full/Half Bath	Garage	Last Major Renovation

Value Information

	Base Value	Value	Phase-in Assessments	
		As of 01/01/2015	As of 07/01/2017	As of 07/01/2018
Land:	20,700	20,700		
Improvements	0	0		
Total:	20,700	20,700	20,700	
Preferential Land:	0			

Transfer Information

Seller: HARTMAN MILLARD M TRUSTEE	**Date:** 02/25/2016	**Price:** $50,000
Type: ARMS LENGTH MULTIPLE	**Deed1:** /37214/ 00140	**Deed2:**
Seller: HARTMAN MILLARD M	**Date:** 09/26/2012	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /32591/ 00181	**Deed2:**
Seller:	**Date:**	**Price:** $0
Type: NON-ARMS LENGTH OTHER	**Deed1:** /04818/ 00001	**Deed2:**

Exemption Information

Partial Exempt Assessments:	Class	07/01/2017	07/01/2018
County:	000	0.00	
State:	000	0.00	
Municipal:	000	0.00	0.00

Tax Exempt:	**Special Tax Recapture:**
Exempt Class:	NONE

Homestead Application Information

Homestead Application Status: No Application

Homeowners' Tax Credit Application Information

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4204 Louisa Avenue, NE/S Louisa Avenue, 92' E/S of Belair Road 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group, LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-091-SPHA
RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4202 Louisa Avenue, NE/S Louisa Avenue, E/S corner of Belair Road & Louisa Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group, LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-092-SPHA

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

Motion for Reconsideration

Baltimore County, pursuant to Rule 4K, hereby files this Motion for Reconsideration of the two decisions issued by the Office of Administrative Hearings in the above captioned cases on November 8, 2017. In addition to the reasons set forth below, the County adopts People's Counsel for Baltimore County's Combined Motion for Reconsideration in Related Cases filed on December 4, 2017.

Argument

In its November 8, 2016, order OAH determined that the zoning of the instant properties should be different than the zoning that the County Council adopted in Bill 58-16. In doing so, OAH reached beyond its jurisdiction to reclassify zoning of real property in Baltimore County.

The Baltimore County Code allows for a property owner to challenge a new zone imposed by the CZMP via a Petition for Zoning Reclassification. *See* B.C.C. § 32-3-501 *et seq.* Pursuant to Article VI, Section 602(e) of the County Charter, "the County Board of Appeals shall have original and exclusive jurisdiction over all petitions for reclassification." *See also* B.C.C. § 32-3-502.

Here, the owners of 4202 and 4204 Louisa Avenue filed for a Petition for Special Hearing to approve an undersized lot and a Petition for Variance from certain setback restrictions. Had the owners filed a Petition for a Zoning Reclassification, not only would that petition have been evaluated against the rubrics of Section 33-3-210, which it was not, the review was required to be done by the Board of Appeals, not the Office of Administrative Hearings. Petitioners are well within their rights to raise these issues in a zoning reclassification case before the Board of Appeals. But because the Board's jurisdiction is exclusive, as noted above, OAH cannot address reclassification, no matter how raised.

Moreover, as People's Counsel explains in greater detail in their brief, and Judge Moylan in *People's Council v. Beachwood,* the County Council is due substantial deference when it makes a zoning determination via the CZMP. *See Beachwood,* 107 Md. App. 627, 639 (1995), cert. denied 342 MD. 472 (1996). As Judge Moylan explained for the Court, "[t]he circumstances under which ... [the Board of Appeals] may overturn or countermand a decision of the County Council are narrowly construed. ... The deference that is due ... is explained in part by the Jeffersonian homage that we pay to the legislative branch of the government generally."

WHEREFOR, for the foregoing reasons and any other that justice may so require, Baltimore County respectfully requests this Office of Administrative Hearings to reconsider and deny each Petition for Special Hearing and Variance in the above captioned cases without prejudice allowing for the Petitioners to either refile amended petitions or seek a zoning reclassification with the Board of Appeals.

Respectfully submitted,

MICHAEL E. FIELD
Baltimore County Attorney

R. BRADY LOCHER
Assistant County Attorney
Dept. of Permits, Approvals & Inspections
111 W. Chesapeake Ave, Room 112
Towson, Maryland 21204
410-887-6008 (direct)
410-832-8587 (fax)
blocher@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2017, a copy of the foregoing Motion for Reconsideration was mailed to Peter Max Zimmerman, People's Counsel for Baltimore, 105 W. Chesapeake Avenue, Room 204, Towson, MD 21204; Lloyd Moxley, Office of Planning, 105 W. Chesapeake Avenue, Suite 101, Towson, Maryland 21204; Thomas Larkin, Owner, TYKA Building Group LLC, 1122 Heaps Road, Street, Maryland 21154; and J. Scott Dallas, P.O. Box 26, Baldwin, Maryland 21013, Representative for Petitioner(s).

R. BRADY LOCHER

Baltimore County, Maryland
OFFICE OF PEOPLE'S COUNSEL
Jefferson Building
105 West Chesapeake Avenue, Room 204
Towson, Maryland 21204

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

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

December 28, 2017

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

Re: Petitions for Special Hearing and Variance
4204 and 4202 Louisa Avenue
Case Nos.: 2018-091-SPHA and 2018-092-SPHA

Dear Judge Beverungen,

Upon review of your December 20, 2017 Opinion and Order on Motions for Reconsideration, our office submits this letter request for reconsideration to withdraw our original motion for reconsideration and rescind your December 20th Order. Your original Order of November 18, 2017 Order granting relief with respect to the undersized lots would remain intact and effective.

Here are the reasons. We can recognize special hearing relief may be acceptable for the two undersized lots here under an expansive reading of BCZR 304 due to the facts particular to this case. Many undersized lot cases come about because a change in zoning now requires a greater area or width for a residential dwelling. The focus is on the undersized lot statute and the facts. If the relief involves two adjacent lots, the issue as to whether the lots merged is a factual finding as well. In these cases, we will respect the decision of the administrative agency without further review, or after a proper appellate review in the administrative forum or the courts. Here, an argument can be made that Mueller v. People's Counsel 177 Md. 43 (2007) is compatible. Thus, in our experience, these undersized lot cases involved simply an interpretation/application of BCZR 304 in light of the facts presented. At its core, we now recognize your November 18th Order granted relief under the undersized lot statute.

Other extraneous facts, although not generally a legal basis for relief, enter into our assessment of this unusual confluence of events. We recognize the timing of the acquisition

complicated the notice process for the Petitioner. There is no citizen opposition, and we perceive the lack of any genuine adverse impact on the area. The entire set of equitable and/or practical circumstances as described in your opinions have led us to request the withdrawal of our Motion for Reconsideration and the concomitant rescission of your December 20th Order. Accordingly, we are now content to leave the original approval orders standing and to concur in their results.

We are sorry for any inconvenience and intrusion. Please accept this unusual additional request made in good faith and not for the purpose of imposition. In perspective, this is a particularly challenging and difficult pair of cases to balance in view of the totality of the situation.

We are hopeful that the County Attorney's Office will concur. In any event, this is our office's respectful ultimate position and request.

We also enclose a tentative proposed Order on these consolidated cases in the hope that this will be helpful.

Sincerely,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S DeMilio

Carole S. DeMilio
Deputy People's Counsel

CC: Thomas Larkin, Petitioner
J. Scott Dallas, Petitioner's representative
R. Brady Locher, Assistant County Attorney

John E. Beverungen

From: John E. Beverungen
Sent: Thursday, February 15, 2018 4:47 PM
To: 'Scott Dallas'
Cc: Peter Max Zimmerman; Jeffrey N Perlow
Subject: Case Nos. 2018-0091/92

Mr. Dallas,

I am writing in response to your email dated February 6, concerning the above cases. As you will recall, special hearing relief was granted, rescinded upon motion for reconsideration filed by Baltimore County and People's Counsel, and then reinstated at the request of Mr. Zimmerman, who is copied on this email.

Mr. Perlow sent to me the files on both cases which I have now reviewed. As noted in Mr. Zimmerman's letter dated Dec. 28, 2017, though not stated in the initial orders the special hearing relief was in essence granted under Sec. 304, concerning use of undersized lots. But that regulation only permits construction of SFD on a lot with a deficient width or lot area. That regulation requires the petitioner to satisfy the setback, height and other area regulations for the zone, which in this case is now DR 1. The Office of Zoning Review has indicated you must meet the setback requirements for the DR 1 zone, which you cannot satisfy given the width of the lots in question.

This is a very unusual case with a confusing procedural history, and I confess I have not dealt with a situation like this previously. As noted in the original orders dated Nov. 8, 2017, I believe Petitioner should be entitled to construct dwellings on each of these lots, and in my opinion it is within the "spirit and intent" of those orders to allow a dwelling to be constructed on each of those lots provided the setbacks comply with DR 5.5 requirements. But I cannot dictate that the zoning office accept this interpretation or agree the relief envisioned is within the "spirit and intent" of the original orders.

If you are unable to construct dwellings on each of these lots, I suppose your other option would be to merge the lots and seek to construct one dwelling in compliance with the DR 1 regulations (as discussed in the order dated Dec. 20, 2017), although that is a matter for you and your client to discuss. I will include a copy of this email in each of the case files, which will be returned to Mr. Perlow.

John Beverungen
ALJ

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE MEMORANDUM

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

DATE: 11/1/2017

FROM: Andrea Van Arsdale
Director, Department of Planning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS
Case Number: 18-092

INFORMATION:

Property Address:	4202 Louisa Avenue
Petitioner:	TYKA Building Group, LLC
Zoning:	DR 1
Requested Action:	Special Hearing, Variance

The Department of Planning has reviewed the petition for special hearing to determine whether or not the administrative law judge should approve an undersized lot and the petition for variance to permit existing Parcel 1 with a width of 92.48 feet in lieu of the minimum required 150 feet and to permit a side yard setback of 10 feet on each side with a sum of 42 feet of both sides in lieu of the minimum required 20 feet side yard and sum of sides of 50 feet and to permit a front yard setback of 38 feet and rear yard setback of 30 feet in lieu of the required 50 feet respectively.

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Be advised that the petitioners must demonstrate to the satisfaction of the administrative law judge that a lot that is undersized and requires variance relief can be approved pursuant to BCZR § 304.1

For further information concerning the matters stated herein, please contact Ngone Seye Diop at 410-887-3480.

Prepared by:

Lloyd T. Moxley

Division Chief:

Kathy Schlabach

AVA/KS/LTM/ka

c: Ngone Seye Diop
J. Scott Dallas
Office of the Administrative Hearings
People's Counsel for Baltimore County

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4204 Louisa Avenue, NE/S Louisa Avenue, 92' E/S of Belair Road 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-091-SPHA

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

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4202 Louisa Avenue, NE/S Louisa Avenue, SE corner of Belair Road & Louisa Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-092-SPHA

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

COMBINED MOTION FOR RECONSIDERATION IN RELATED CASES

TABLE OF CONTENTS

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4204 Louisa Avenue, NE/S Louisa Avenue, 92' E/S of Belair Road 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-091-SPHA

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

RE: PETITION FOR SPECIAL HEARING AND VARIANCE 4202 Louisa Avenue, NE/S Louisa Avenue, SE corner of Belair Road & Louisa Avenue 11th Election & 5th Councilmanic Districts Legal Owner(s): TYKA Building Group LLC By Thomas Larkin, Owner Petitioner(s)	*	BEFORE THE OFFICE OF ADMINSTRATIVE HEARINGS FOR BALTIMORE COUNTY 2018-092-SPHA

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

COMBINED MOTION FOR RECONSIDERATION IN RELATED CASES

People's Counsel for Baltimore County moves under Rule 4K for reconsideration of the Administrative Law Judge's opinion and orders dated November 8, 2017 granting undersized lots in the above-captioned companion related cases.

I. The Administrative Law Judge Has No Jurisdiction or Authority to Invalidate Comprehensive Rezoning Legislation; Petitioner Must Follow and Exhaust the Statutory County Board of Appeals Rezoning Process to Mount Any Challenge

The ALJ Orders invalidate the 2016 comprehensive legislative rezoning of the subject parcels to D.R. 1 and effectively restore the R.O. Zone (with D.R. 5.5 split). But County Charter Sec. 602(e) assigns original and exclusive jurisdiction to the County Board of Appeals (CBA) for administrative zoning reclassifications. There is a specific CBA statutory process for property owners such as Tyka Building Group (Tyka) to seek administrative reclassification per County Code Sections 32-3-501 to 32-3-517. The CBA may address the core change-mistake rule and constitutional issues. People's Counsel v. Beachwood 107 Md. App. 627 (1995), cert. denied 342 Md. 472 (1996).

The Maryland case law on exhaustion is settled, including numerous land use cases involving constitutional and other issues. Poe v. Baltimore City 241 Md. 303 (1966); Gingell v. County Comm'rs 249 Md. 374 (1968); Holiday Point Marina v. Anne Arundel County 349 Md. 190 (1998); Josephson v. City of Annapolis 353 Md. 667 (1998); Maryland Reclamation. v. Harford County 382 Md. 348 (2004); Prince George's County v. Ray's Used Cars 398 Md. 632 (2007); Renaissance Centro Columbia v. Broida 421 Md. 474 (2011). Moreover, an administrative special hearing under BCZR Sec. 500.7 is equivalent to a declaratory judgment action. Antwerpen v. Baltimore County 163 Md. App. 194 (2005). Such actions are inappropriate where there has not been exhaustion of administrative remedies. The same doctrine applies here logically and by analogy.

II. An Additional Jurisdictional Defect Is that the Special Hearing Petitions and Public Notice Did Not Include Any Notice of a Rezoning Challenge

Also, an administrative notice problem arises for Tyka's special hearing petitions to approve their two undersized lots and setback variances. Neither the petitions nor attached public notices provide any notice at all of a challenge to the 2016 legislative rezoning. So, even apart from failure to exhaust, Tyka gave no notice of objection to the rezoning. Neither the public, County staff, nor our office had any inkling that there would be a CZMP challenge. This does not pass the substantial compliance test.

The defective notice is another reason for lack of jurisdiction to invalidate legislative rezoning. It involves the principle of fairness underlying procedural due process. Cassidy v. Board of Zoning Appeals 218 Md. 418, 421-22 (1956): confirmed,

> "It has been stated so frequently and so generally that the failure of an administrative official or board to give a proper notice of a hearing, required by law, is fatal to the jurisdiction of the official or the board to conduct the hearing that it requires no citation of authority to support the proposition;"

The Court of Appeals quoted Professor Merrill's treatise on Notice,

> "Professor Merrill has this to say concerning the sufficiency of notice in administrative procedure:
>
> > 'In the first place, I think we may say that the notification, to be effective, must clearly apprise the notice that he is to defend his interests with respect to action yet to be taken rather than create in him the impression that appearance on his part is futile

> because a final decision already has been achieved. But, the monition must be read by the notice in the light of the provisions of the law under which it is given, and in that light statements may appear clearly to relate to contemplated action despite some awkwardness of phrase.
>
> 'In the second place, the notification must indicate the authority under which the administration is acting and the facts which bring the matter within its jurisdiction. A monition of a proceeding of one character may not be used as the foundation for action of a different sort, though it may bear some relation to the subject of the original hearing. The notification is adequate if it fairly informs the noticee of the nature of the proceedings and the capacity in which he is required to appear and answer.
>
> 'Finally, and here is the heart of the requirement of notification in administrative proceedings, the noticee should be apprised clearly of the character of the action proposed and enough of the basis upon which it rests to enable him intelligently to prepare for the hearing. If this minimum requirement is met, the notification is adequate, no matter how much it may fall short of the standards of pleading in judicial contests.' 2 Merrill, Notice, sec. 796."

Maryland law tracks national law, as shown in Dean Patricia Salkin's review of the required content for notice and hearing. 4 Am. Law Zoning Sec. 40:21 (5th Ed. 2016).

III. On the Other Hand, There Is No Constitutional Requirement for Notice of Proposed Legislation; the County Council May Make Changes to the Listed Zoning Any Time Up to Enactment

The County Commissioners enacted comprehensive zoning in 1945. After the advent of the 1956 County Charter, the County Council framed the quadrennial countywide process in 1970. It is, or is imputed to be, well known to all property owners.

Unlike the administrative process, there is no constitutional requirement for notice of proposed legislation. Moreover, once a property is placed in issue in the CZMP under County Code Sec. 32-3-214(a), the County Council may make any change up to and including the date of the legislation. Swarthmore Co. v. Kaestner 258 Md. 517 (1970); Ark Readi-Mix Concrete Corp. v. Smith 251 Md. 1 (1968); Mayor & City Council v. Biermann 187 Md. 514 (1947).

When the County Council places a property in issue, it often lists the existing zoning as requested zoning. This begins the review and envisions that the Council may decide to reclassify the property to another zone. Otherwise, it would be superfluous and

a waste of time for the Council to raise the issue. The Issue 5-044 filing, legislative minutes, Bill 58-16, and final log are attached.

IV. Failure to Provide Statutory Notice, Including Posting of Property and Mailing the Owner Does Not Invalidate Legislative Rezoning; There Is No Such Private Right of Action

County Code Sec. 32-3-215 provides for notice by mail to the owner and posting of the property. If a zoning issue contains more than one property (i.e. Issue 5-044 here), the Department of Planning may place one or more notices for all properties included in the issue. Sec. 32-3-215(e). But failure to post a property or mail notice does not invalidate any subsequent change in the zoning. Sec. 32-3-215(f).

Otherwise stated, there is no statutory private right of action to challenge rezoning for lack of notice. Baker v. Montgomery County 427 Md. 691, 709-10 (2012) stated,

> "The U.S. Supreme Court fashioned the prevailing test for determining whether a statute contains implicitly a private cause of action:
>
> > In determining whether a private remedy is implicit in a statute not expressly providing one, several factors are relevant. First, is the plaintiff "one of the class for whose especial benefit the statute was enacted [.]" Second, is there any indication of legislative intent, explicit or implicit, either to create such a remedy or to deny one? Third, is it consistent with the underlying purposes of the legislative scheme to imply such a remedy for the plaintiff?
>
> *Cort v. Ash,* 422 U.S. 66, 78, 95 S.Ct. 2080, 2087–88, 45 L.Ed.2d 26, 36 (1975) (internal citations omitted)."

This was reiterated in Scull v. Groover, Christie, and Merritt 435 Md. 112 (2013).

V. There was anyway substantial compliance with notice requirements.

Here, it is anyway conceded that the Planning Director sent written notice to then property owner "Hartman Millard, Trustee ..." by letter dated February 5, 2016. This described the CZMP, the Council's filing of Issue 5-044, and the date of the scheduled Planning Board hearing. Tyka asserts there was no posting. But research reveals the attached notice, which appears to be posted near the Belair Road/Louisa Ave corner. This complies with Sec. 32-3-215(e).

Furthermore, in Greene Tree Homeowners Association v. Baltimore County, Circuit Court No. 03-C-16-9301, there was a challenge to the 2016 CZMP notice. The County filed affidavits from Paula Miller (Library Director), Jeff Mayhew (Deputy Planning Director), Robert Stradling (OIT Director), and Thomas Peddicord (County Council Legislative Counsel Secretary). These described extensive physical and online notice of CZMP issues and maps, with free availability on County library computers, information at Planning Board and County Council hearings, and in County Council offices. In her 2017 opinion and order, Judge Sherrie Bailey found substantial compliance with notice requirements. The memorandum and order, order denying motion to alter or amend judgment, and affidavits are attached. Greene Tree is now on appeal.

The general rule with respect to notice, even in the administrative process, is that substantial compliance will suffice. Cassidy, supra; Rogers v. Eastport Yachting Center 408 Md. 722 (2009). Here, the compliance far surpassed this baseline.

VI. The D.R. 1 Zone is Valid and the Relevant Zone for Undersized Lot Review

This follows from the above discussion. There is no dispute that the entire property, even both lots combined, are undersized for the required 40,000 square feet minimum lot area and 150 feet minimum lot width for the D.R. 1 Zone. The ensuing question is whether the two proposed lots qualify for undersized lot approval and variances under BCZR Sec. 304 and, if not, the appropriate resolution.

VII. Tyka's Proposed Undersized Lots Fail to Satisfy the Prerequisite Zoning Criteria and Are Subject to Statutory Merger

The core elements for potential allowance of dwellings on undersized lots are in current BCZR Sec. 304.1. Their source is Sec. 304 in the 1955 revision of the zoning regulations. There are the three prerequisites for lots undersized as to lot area and/or front lot width (per the BCZR Sec. 1B02.3.C chart for existing small lots). The proposed two lots here fail the legal test.

The first prerequisite is that the lot be duly recorded by deed or subdivision approval by March 10, 1955. That appears to be satisfied here. Sec. 304.1.A.

The second is that all other height and area requirements are complied with. That

is not satisfied here because Tyka's companion petitions both request side yard, front yard, and/or rear yard variances. This is an immediate disqualification. Sec. 304.1.B.

The third is that the owner does not own sufficient adjoining land to conform to width and area requirements. Sec. 304.1.C. This effectuates statutory merger where the property owner does own adjoining lots. While the two lots together here still do not comply, their merger much reduces the degree of noncompliance. It fits the underlying legislative purpose to merge the lots so as to come closer to compliance. The legislative purpose of merger is to provide a reasonable use, a single dwelling, for applicable undersized lots. It is not to award compound or multiple lots where adjacent undersized lots are under common ownership. It is contrary to the legislative purpose and would be absurd to provide an extra benefit or reward where noncompliance is most extreme.

A statute must read in its entirety and in context to discern its essential purpose. Board of Physicians v. Mullan 381 Md. 157, 168 (2004) stated:

> "...we 'avoid constructions that are illogical, unreasonable, or inconsistent with common sense..., and instead interpret and harmonize statutes as a whole, giving meaning and effect to all parts of the statutory language and refraining from interpretations that render any part of a law surplusage or contradictory."

Legislation "... usually has some objective, goal, or purpose. It seeks to remedy some evil, to advance some interest, to attain some end." Kaczorowski v. Baltimore, 309 Md. 505, 513 (1987). See also Baltimore County Coalition Against Unfair Taxes v. Baltimore County, 321 Md. 184 (1990).

Lucas v. People's Counsel 147 Md. App. 209, 232 (2002) similarly explained,

> "[T]he plain meaning rule of construction is not absolute." *Tracey v. Tracey*, 328 Md. 380, 387, 614 A.2d 590 (1992). ...*See State v. Bell*, 351 Md. 709, 718, 720 A.2d 311 (1998) (statutory language is not read in isolation and must be read in the full context it appears)."

Accord, Washington Gas Light Company v. Maryland Public Service Commission ____ Md. App. ___ (2017).

Dean Patricia Salkin addressed "Common ownership of adjacent lots," in 1 American Law of Zoning (5th Ed.) treatise, Secs. 9.68-9.69,

> "The common exception of lots which were recorded prior to the effective date of a restrictive ordinance is limited to lots which were in single and separate ownership on that date. Under such a provision, owners are entitled to an exception only if their lot is isolated. Where owners of such a lot own another lot adjacent to it, they are not entitled to an exception. Rather, they must combine the two lots to form one which will meet, or more closely approximate, the frontage and area requirements of the ordinance"

See Williams and Taylor, American Land Planning Law (Rev. Ed.) Sec. 42:1, 42:2, note 22; West Goshen Township v. Crater 538 A.2d 952 (Pa. Cmwlth. 1988); Skelley v. Zoning Board of Review of the Town of South Kingston 569 A.2d 1054 (R.I. 1990); Brum v. Conley 572 A.2d 1332 (R.I. 1990); Timperio v. Zoning Board of Appeals of Weston 993 N.E.2d 1211 (Mass. App. 2013); Galdieri v. Bd. of Adjustment of Town of Morris 398 A.2d 893 (N.J. App. 1979); Application of Fecteau 543 A.2ed 693 (Vt. 1988).

The Supreme Court recently confirmed the constitutionality of undersized lot merger statutes in Murr v. Wisconsin 582 U.S. ___ (2017). This involved the takings issue, discussed further in Section IX.

VIII. There Are Also Serious Compatibility Issues

Even where the three prerequisites are satisfied, approval is not mandatory. This flows, first of all, from the use of the word "may" in the introductory paragraph. See Md. Nat'l Cap. Park & Pl. Comm'n v. Silkor Dev. Corp. 246 Md. 516 (1967); Miller v. Pinto 305 Md. 396 (1986); Anne Arundel Co. v. Dvorak 189 Md. 46 (2009). This relates, in turn, to the added requirement of compatibility in BCZR Sec. 304.2.

In 2010, the County Council amended BCZR Sec. 304. This added new compatibility criteria in BCZR Sec. 304.2. Even where undersized lots satisfy BCZR Sec. 304.1, there is required this additional review. The Department of Planning has raised serious compatibility objections in its November 1, 2017 correspondence. Wahler v. Montgomery County 249 Md. 62 (1968), Aubinoe v. Lewis, 250 Md. 645 (1968), and Mayor and City Council v. Pumphrey 218 Md. App. 160 (2014) discuss this subject.

IX. There Is No Taking Due to Statutory Merger

Basically, a property owner may not be deprived of *all* reasonable use of property. The relevant property is the entire property owned contiguously. While Tyka here may be entitled to a single dwelling for the entirety of the two-parcel property, there is no

entitlement to two undersized dwelling lots. Moreover, there are available special exception uses. BCZR Sec. 1B01.1.C. There is no taking.

The quadrennial CZMP has functioned in Baltimore County for almost half a century. Anyone who holds or acquires property is subject to potential zoning reclassification. The core undersized lot law has been in place for well over half a century. The entire property here has apparently been vacant for some period of time. A property owner cannot reasonably expect to be immune from downzoning. Otherwise, the legislative process would be one-sided and/or eviscerated. As with other types of legislation, they have impacts which some citizens and/or property owners may find positive or negative. It is in the nature of zoning to restrict property rights. It is in the nature of representative democracy that legislation may be controversial and impactful.

The Maryland Court of Appeals has rejected similar takings claims in several rezoning cases. Stratakis v. Beauchamp 268 Md. 643, 654 (1973) stated,

> "In order to obtain a rezoning on the basis of unconstitutional confiscation, an applicant must show that he has been deprived of *all* reasonable use of his property and it cannot be used for *any* of the permitted uses in the existing zone." Italics in original. Mayor & Council of Rockville v. Henley 268 Md. 469 (1973); Cabin John v. Ltd. v. Montgomery County 259 Md. 661 (1970); Montgomery County v. Kacur 253 Md. 220 (1969).

See Trainer v. Lipchin 269 Md. 668 (1973); Coppolino v. County Board of Appeals 23 Md. App. 358 (1974); Howard County v. Dorsey 292 Md. 351 (1982). The scope of available uses includes uses permitted by right or special exception.

A comparable body of Maryland case law rejects takings claims in other land use controversies. Baltimore City v. Borinsky 239 Md. 611, 622 (1965), Potomac Sand & Gravel Co. v. Governor 266 Md. 358, 370-71 (1972); Md. Nat'l Cap. P. & P. Comm'n v. Chadwick 286 Md. 1, 10 (1979); Greenspring Racquet Club v. Baltimore County 70 F. Supp. 2d 598, 604 (D. Md. 1999), aff'd *per curiam* 232 F.3d 887 (4th Cir. 2000); HNS Dev. Co. v. People's Counsel 200 Md. App. 1, 43-44 (2011), aff'd 425 U.S. 436 (2012).

The Maryland law is consistent with Supreme Court jurisprudence. Lingle v. Chevron 544 U.S. 528, 539 (2005) stated the Court's takings jurisprudence "... aims to identify regulatory actions that are functionally equivalent to the classic taking in which

government directly appropriates private property or ousts the owner from his domain." citing Lucas v. South Carolina Coastal Council 505 U.S. 1003, 1017 (1992), "(positing that 'total deprivation of beneficial use is, from the landowner's point of view, the equivalent of a physical appropriation')." 544 U.S. at 539-540. Lucas put it this way,

> "... the owner of real property has been called upon to sacrifice all economically beneficial uses in the name of the common good, that it, to leave his property economically idle, [that] he has suffered a taking." 505 U.S. at 1019.

See Penn Central Transport. Co. v. City of New York 438 U.S. 104 (1978); Keystone Bituminous Coal Ass'n v. DeBendectis 480 U.S. 487 (1987); Stop the Beach Renourishment v. Florida Dep't of Env'tl Protection 560 U.S. 702 (2010); Murr v. Wisconsin 582 U.S. ___ (2017).

X. The Appropriate Resolution Is to Merge the Two Lots So as to Envision a Single Dwelling or Available Special Exception Use

Tyka should prepare a new or amended petition and site plan with one dwelling on the entire combined or merged parcels. This will necessarily still involve an undersized lot area and front lot width, along with any setback variances. So long as the proposal is not unreasonable, we would not oppose a single dwelling lot on the combined merged two parcels.

Notably, a single dwelling would likely have much more quality and value than each of the proposed compressed undersized lots. There would thus still be substantial value. The SDAT records indicate that Tyka acquired in their entirety the combined parcels for $50,000 in a single deed dated February 19, 2016 and recorded February 25. This does not seem an excessive price to pay for the opportunity to build, occupy, use, and/or sell a quality dwelling at this location close to Belair Road and MD 43.

It should be kept in mind that there are also available special exception uses.

Conclusion

The Administrative Law Judge should reconsider and then deny the proposed two dwellings on undersized lots in Cases 2018-91-SPHA and 2018-92-SPHA. This would be without prejudice to a new or amended petition for a single lot and dwelling on the merged parcels.

Respectfully submitted,

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
peoplescounsel@baltimorecountymd.gov

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of December, 2017, a copy of the foregoing Motion for Reconsideration was mailed to Michael E. Field, County Attorney and R. Brady Locher, Assistant County Attorney, 111 West Chesapeake Avenue, Towson, Maryland 21204, Lloyd Moxley, Office of Planning, 105 West Chesapeake Avenue, Suite 101, Towson, Maryland 21204; Thomas Larkin, Owner, TYKA Building Group LLC, 1122 Heaps Road, Street, Maryland 21154; and J. Scott Dallas, P.O. Box 26, Baldwin, Maryland 21013, Representative for Petitioner(s).

Peter Max Zimmerman

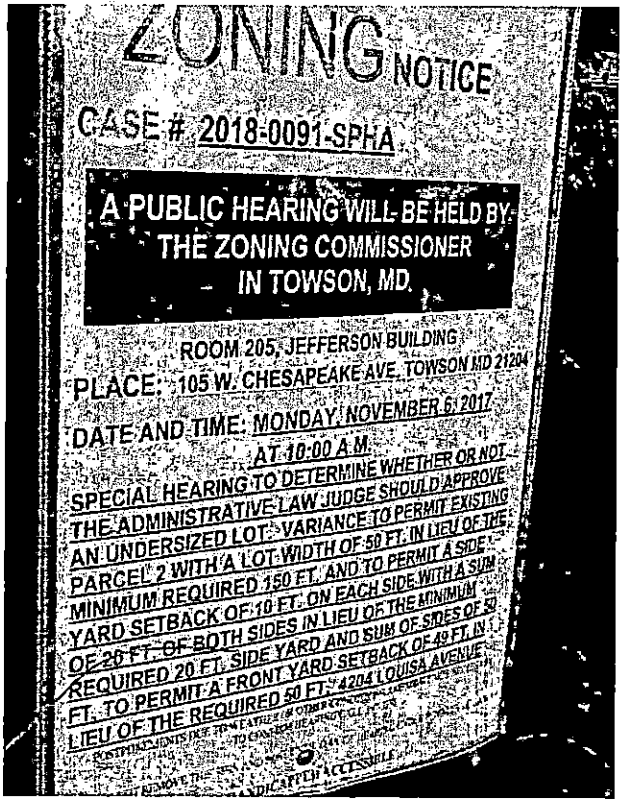
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 10/15/2017
Case Number: 2018-0091-SPHA
Petitioner / Developer: J. SCOTT DALLAS ~ THOMAS LARKIN
Date of Hearing (Closing) : NOVEMBER 6, 2017

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
4204 LOUISA AVENUE

The sign(s) were posted on: OCTOBER 14, 2017



Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

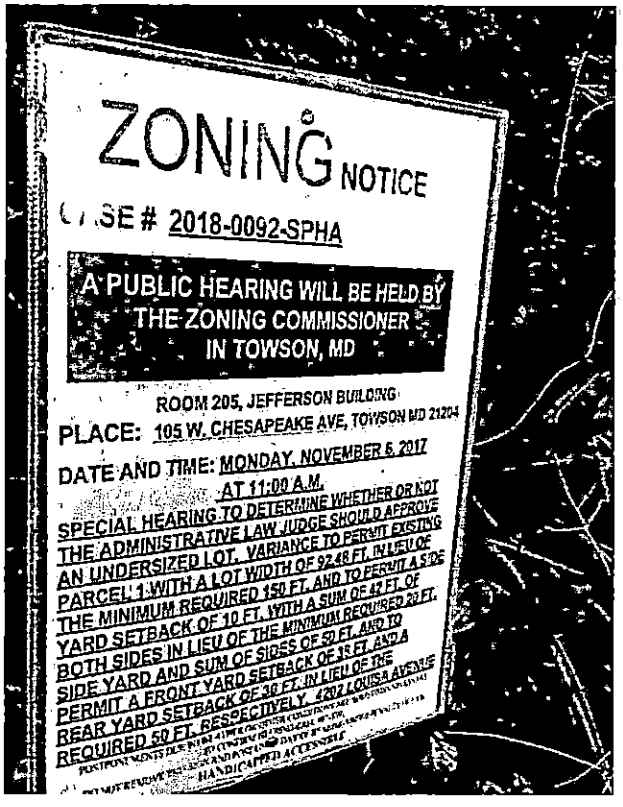
410 – 666 – 5366
(Telephone Number of Sign Poster)

CERTIFICATE OF POSTING

ATTENTION: KRISTEN LEWIS
DATE: 10/15/2017
Case Number: 2018-0092-SPHA
Petitioner / Developer: J. SCOTT DALLAS ~ THOMAS LARKIN
Date of Hearing (Closing) : NOVEMBER 6, 2017

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:
4202 LOUISA AVENUE

The sign(s) were posted on: OCTOBER 14, 2017



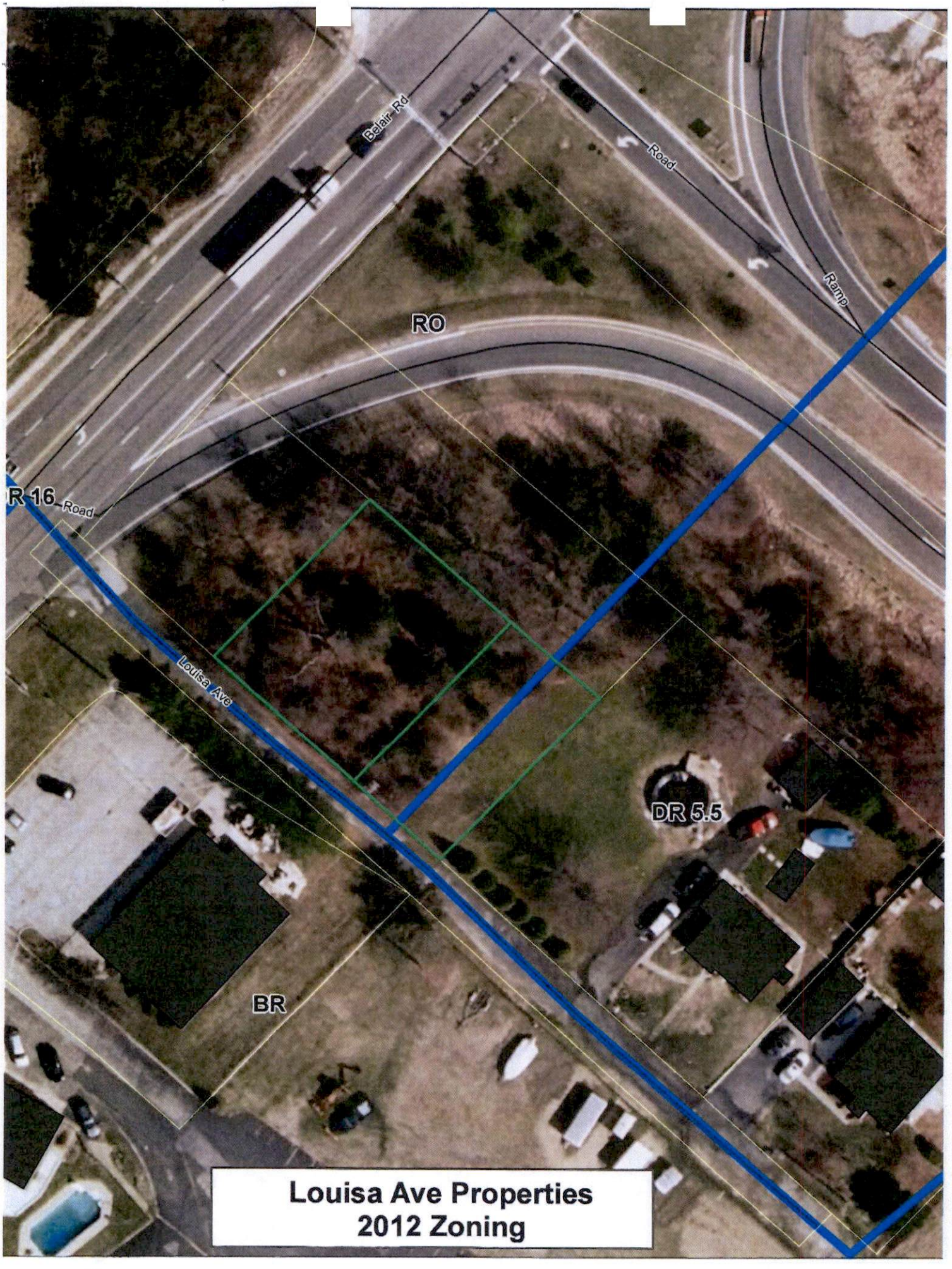
Linda O'Keefe
(Signature of Sign Poster)

Linda O'Keefe
(Printed Name of Sign Poster)

523 Penny Lane
(Street Address of Sign Poster)

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

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


Bdlair Rd
Road
Ramp
RO
R 16
Road
Louisa Ave
DR 5.5
BR
Louisa Ave Properties
2012 Zoning

Baltimore County 2016 Comprehensive Zoning Map Process
Applicant Summary Report

ISSUE NUMBER 5-044

TRACKING NUMBER 131

Applicant Information

Applicant Name and
David Scott Marks
400 Washington Avenue
Towson MD 21204

Phone Number: 410-887-3384
Email: dmarks@baltimorecountymd.gov
Organization: County Council

Representative Information

Representative Name:
Representative Phone:
Email:

Rezoning Information

Existing Use:
BR, DR 5.5, RO

Proposed Use:
BR, DR 5.5, RO

Total Acreage:
UNK

Zoning History:
Unknown

Zoning History Described:

Justification:
To review the development potential of various properties east of Dunfield Road and Belair Road near the White Marsh Boulevard access road.

Zoning Information

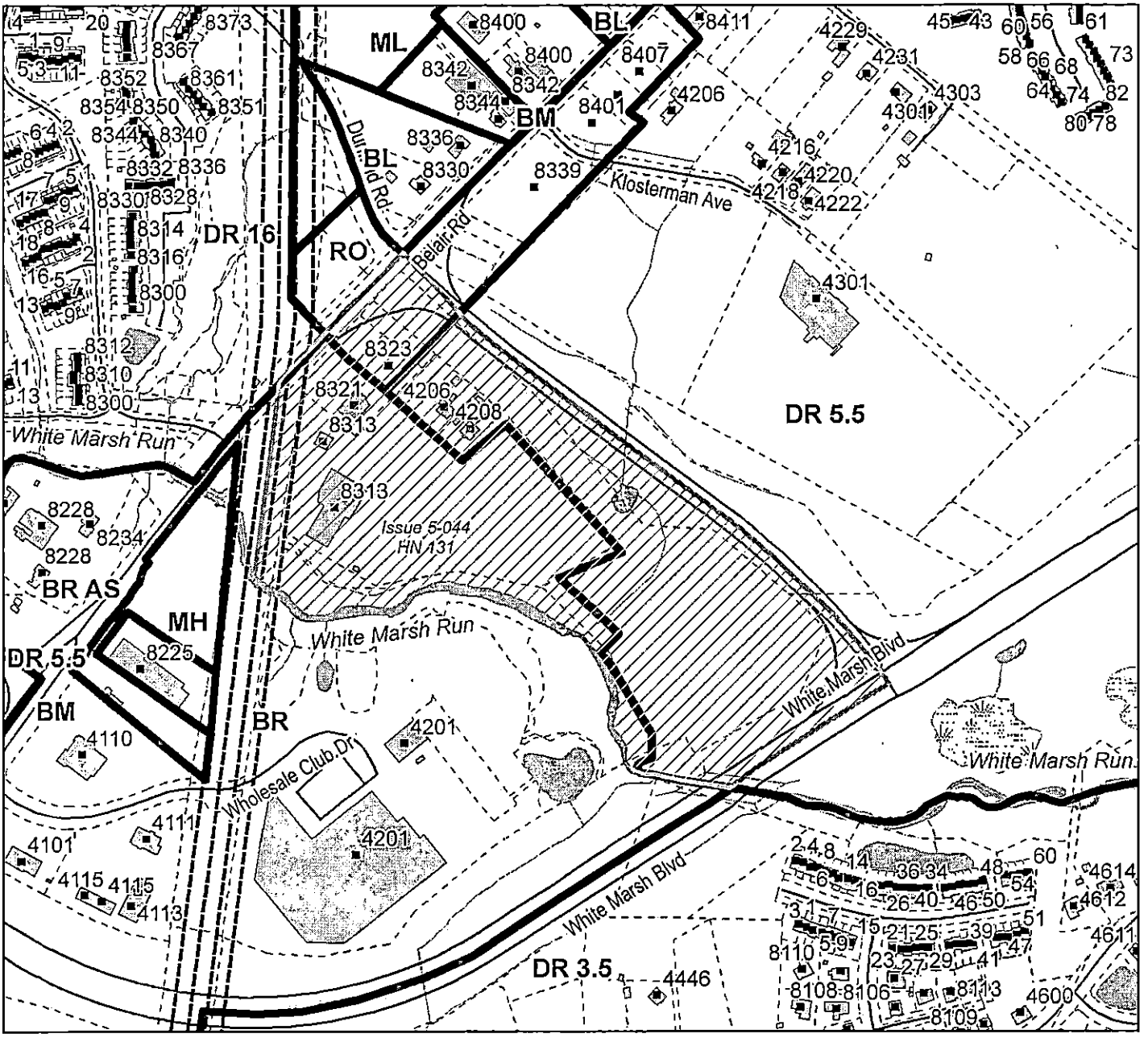
Existing Zoning:		Requested Zoning:	
BR	9.91	BR	9.91
DR 16	0.02	DR 16	0.02
DR 5.5	11.68	DR 5.5	11.68
RO	1.39	RO	1.39
	23.00		**23.00**

Property Information

Tax Account:
1102004270
2000000716
2100008077
2100008077

Applicant/Representative Signature _____ Date _____

CZMP 2016 - Issue Map
Issue Number: 5-044



Iteration: EXISTING

Tracking#: CZMP16-00131

Zone	District	Acreage
BR		9.91
DR 16		0.02
DR 5.5		11.68
RO		1.39

Total Acreage: 23.00

DM 1/26/16

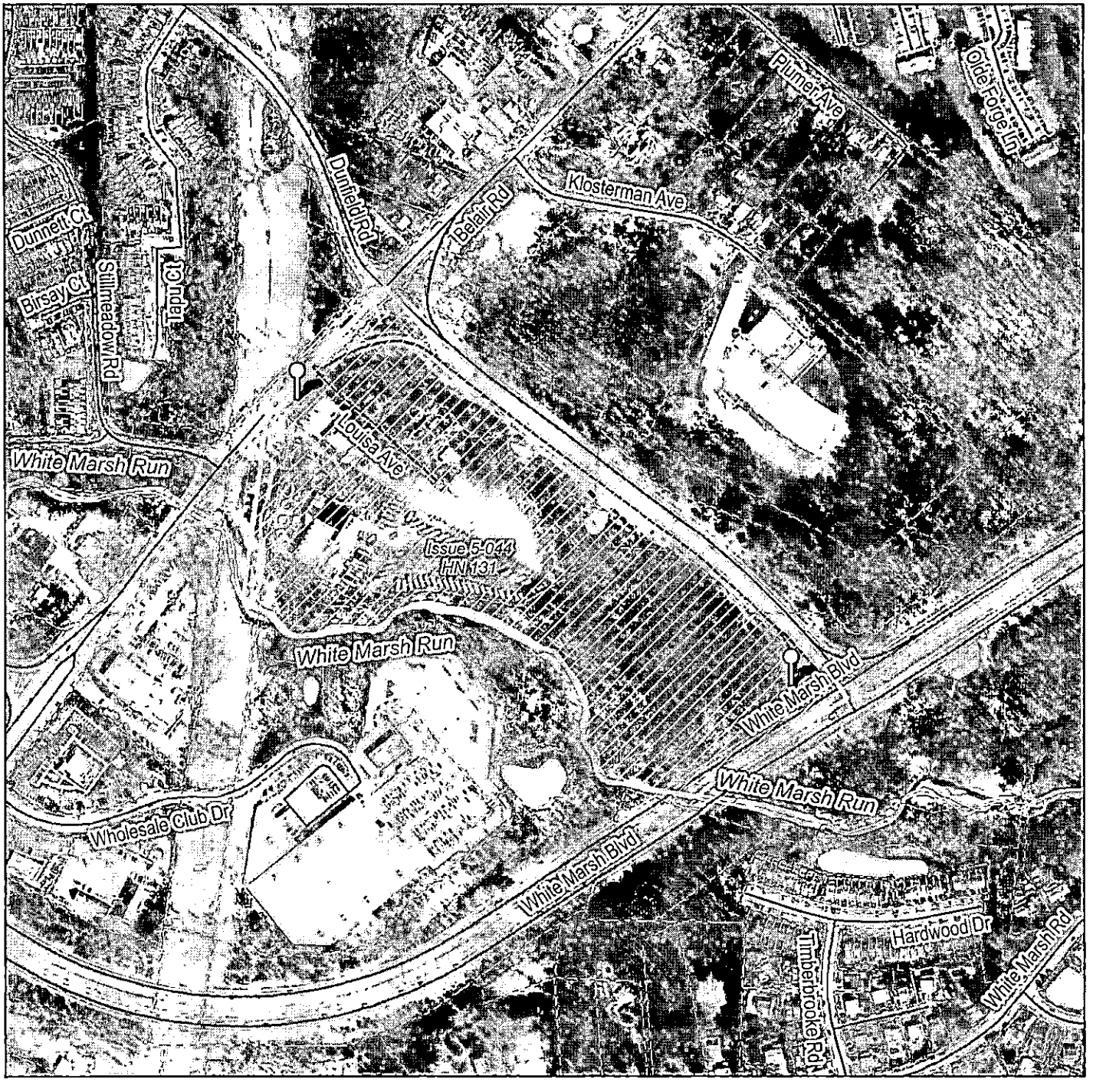
Legend
- Zoning Boundary
- Issue Boundary

Publication Date: January 21, 2016
Publication Agency: Department of Planning
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

400 0 400 Feet

1 inch = 400 feet

CZMP 2016 - Sign Location Map
Issue Number: 5-044



Tracking#: CZMP16-00131

Publication Date: January 29, 2016
Publication Agency: Department of Planning
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

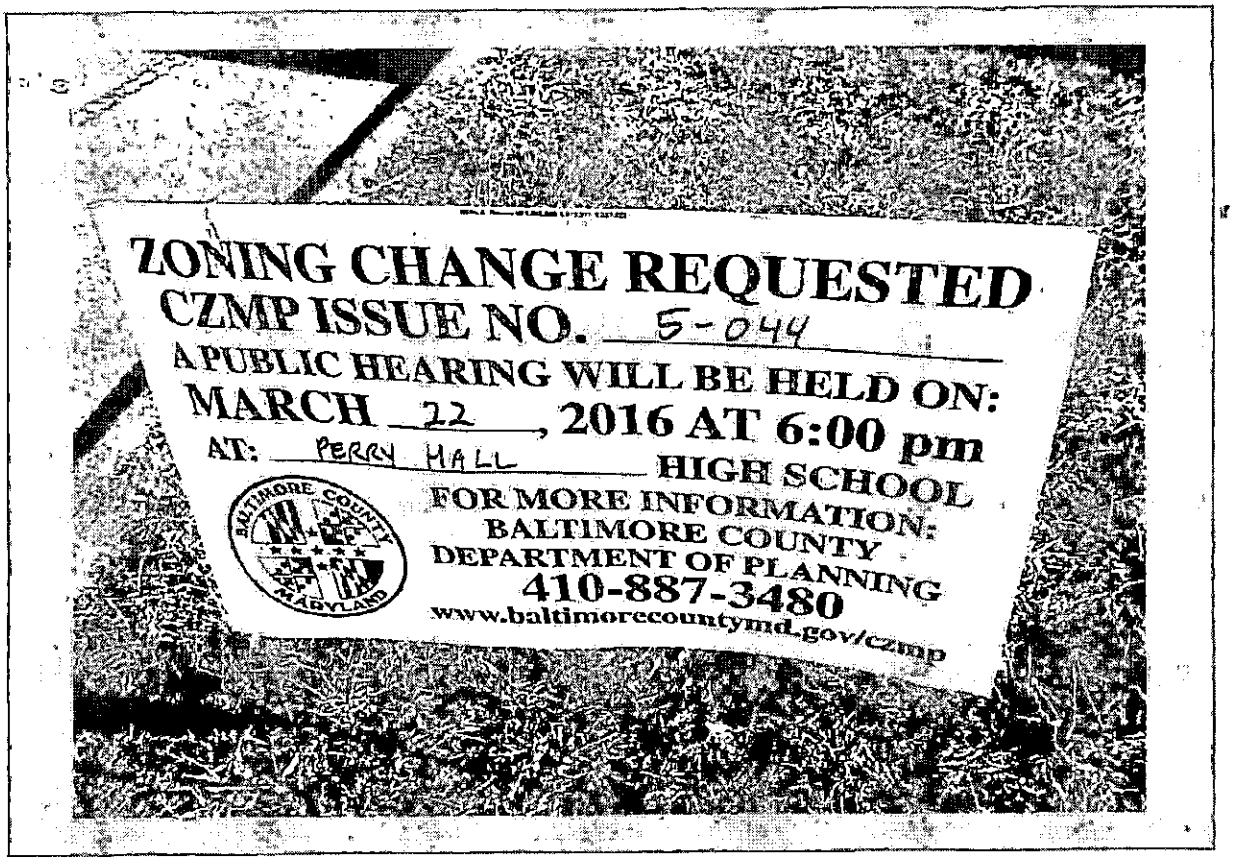
Legend
CZMP Signs
Issue Boundary

400 0 400 Feet

1 inch = 400 feet

N
W E
S


ZONING CHANGE REQUESTED
CZMP ISSUE NO. 5-044
A PUBLIC HEARING WILL BE HELD ON:
MARCH 22, 2016 AT 6:00 pm
AT: PERRY HALL HIGH SCHOOL
FOR MORE INFORMATION:
BALTIMORE COUNTY
DEPARTMENT OF PLANNING
410-887-3480
www.baltimorecountymd.gov/czmp


ZONING CHANGE REQUESTED
CZMP ISSUE NO. 5-044
A PUBLIC HEARING WILL BE HELD ON:
MARCH 22, 2016 AT 6:00 pm
AT: PERRY HALL HIGH SCHOOL
FOR MORE INFORMATION:
BALTIMORE COUNTY
DEPARTMENT OF PLANNING
410-887-3480
www.baltimorecountymd.gov/czmp

CERTIFICATE OF POSTING – CZMP 2016

Issue No. 5-044

Sign No. _____

Tracking Number _____

Date of Planning Board

Public Hearing _____

Applicant Baltimore County

Sign Location _____

Baltimore County Department of Planning
Attention: CZMP Coordinator
Jefferson Building
105 W. Chesapeake Avenue, Suite 101
Towson MD 21204

Ladies and Gentlemen:

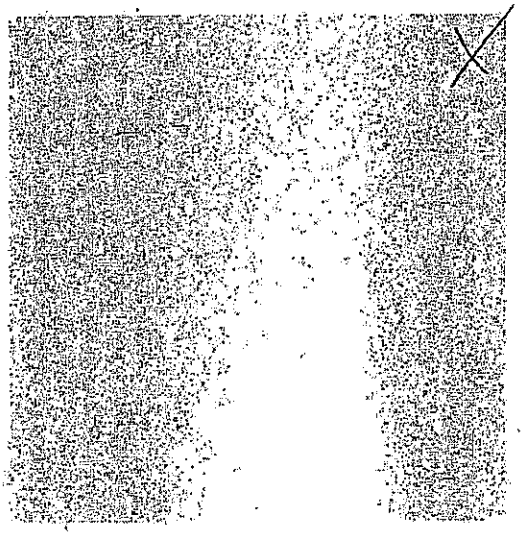
This letter is to certify under the penalties of perjury that the necessary sign(s) required by Section 32-3-215.(a) of the County Code was posted conspicuously for the property known as:

Address:

_____

The sign(s) were posted on 2/26/16 X
(Month, Day, Year)

Photograph of Sign



Sincerely,

_____ 2/26/16 X
(Signature of Sign Poster) **Date**

Phillip Mills
Print Name

_____
Address

_____
(City, State, Zip Code)

_____
(Telephone Number)

8/18

DM

MEMORANDUM

TO: Thomas J. Peddicord, Jr.

FROM: David Marks

SUBJECT: 2016 Comprehensive Zoning Map Process (CZMP)

DATE: August 30, 2016

I wish to accept the Planning Board's recommendations on the following:

Issue 5-004
Issue 5-005
Issue 5-008
Issue 5-010
~~Issue 5-015~~
Issue 5-020
Issue 5-022
Issue 5-024
Issue 5-025
Issue 5-030
Issue 5-032
Issue 5-033
Issue 5-038
Issue 5-050 - 5-081
Issue 5-091
Issue 5-101
Issue 5-126
Issue 5-128
Issue 5-151
Issue 5-156
Issue 5-157

I wish to change the Planning Board's recommendations on the following:

Issue 5-001, from BL (0.67 acres) to CB (0.67 acres)

Issue 5-002, from DR 5.5 (0.5 acres) to DR 1 (0.5 acres)

Issue 5-003, from BM (0.06 acres), DR 16 (0.01 acres), and RO (0.80 acres) to DR 16 (0.01 acres), RO (0.80 acres), and BM (0.06 acres) **as shown on the map**

Issue 5-006, from ROA (0.23 acres) to CB (0.23 acres)

Issue 5-007, from BLR (0.56 acres), DR 16 (0.13 acres), and DR 3.5 (0.13 acres) to BLR (0.39 acres), DR 16 (0.03 acres), and DR 3.5 (0.40 acres) **as shown on the map**

Issue 5-009, from BLR (0.06 acres) and RO (0.42 acres) to BL (0.47 acres)

Issue 5-011, from DR 10.5 (18.63 acres), DR 5.5 (83.13 acres), and RAE 1 (20.89 acres) to DR 1 (29.33 acres), DR (0.08 acres), RAE 1 (20.89 acres), and DR 5.5 (72.34 acres) **as shown on the map** 10.5

Issue 5-012, from BL (0.49 acres) to RO (0.49 acres)

Issue 5-013, from DR 5.5 (0.36 acres) to DR 2 (0.36 acres)

Issue 5-014, from DR 3.5 (0.09 acres) and RO (0.58 acres) to CB (0.68 acres)

Issue 5-015, from CB (2.94 acres) to BLR (2.94 acres)

Issue 5-016 - from BR AS (3.63 acres) to BL (0.37 acres) and BR AS (3.26 acres) **as shown on the map**

Issue 5-017, from BM CT (8.62 acres) to BM DT (8.62 acres) 4.26

Issue 5-018, from BM (8.89 acres) and RAE 2 (0.16 acres) to DR 1 NC (4.41 acres) and BM (4.65 acres) as shown on the map

4.65 and RAE2 (0.15 acres)

Issue 5-019, from BM CCC (3.09 acres) and MLR (5.37 acres) to BM CCC (8.46 acres)

Issue 5-021, from BM AS (2.19 acres) to BL (1.62 acres), DR 5.5 (0.01 acres), and BM (0.56 acres) **as shown on the map**

Issue 5-023 – from BM CT (2.62 acres) and RAE 2 (0.08 acres) to BM (2.62 acres) and RAE 2 (0.08 acres) **as shown on the map**

Issue 5-026, from BL CR (4.91 acres) and RC 6 (19.50 acres) to RC 5 (0.36 acres) and RC 6 (24.05 acres) **as shown on the map**

Issue 5-027, from BLR (0.08 acres), BM (1.05 acres), DR 1 (3.96 acres), DR 2 (206.24 acres), DR 2 H (15.89 acres), DR 3.5 (0.15 acres), DR 3.5 H (11.13 acres), and RC 2 (0.03 acres) to DR 2 (21.28 acres), DR 1 NC (1.09 acres), DR 1 H (15.94 acres), RC 2 (0.01 acres), DR 1 (187.77 acres), DR 3.5 (2.63 acres), DR 3.5 H (8.75 acres); and BM (1.09 acres) **as shown on the map**

Issue 5-041, from BL (11.54 acres), BLR (9.07 acres), BM (1.72 acres), DR 1 (9.57 acres), DR 1 H (1.90 acres), DR 1 NC (1.32 acres), DR 10.5 (8.14 acres), DR 3.5 (26.82 acres), DR 3.5 H (213.76 acres), DR 3.5 H1 (8.97 acres), DR 5.5 (21.83 acres) to DR 1 NC (101.48 acres), DR 1 (49.71 acres), DR 1 H (98.17 acres), BL H (0.92 acres), BLR (9.35 acres), DR 10.5 (1.69 acres), BL (12.18 acres), DR 16 (0.89 acres), DR 3.5 H (37.87 acres), and BM (2.39 acres) **as shown on the map**

Issue 5-042, from DR 3.5 (3.34 acres), DR 5.5 (0.01 acres), and RO (0.46 acres) to DR 1 (3.71 acres) and RO (0.11 acres) **as shown on the map**

Issue 5-043 – from BL (1.02 acres), BM (0.01 acres), BR (0.01 acres), DR 16 (24.83 acres), DR 5.5 (182.61 acres), and RO (5.40 acres) to DR 1 NC (90.16 acres), DR 1 (103.97 acres), DR 3.5 (11.42 acres), BL (1.99 acres), DR 16 (0.57 acres), DR 5.5 (5.75 acres), and BM (0.01 acres) **as shown on the map**

Issue 5-044 – from BR (9.91 acres), DR 16 (0.02 acres), DR 5.5 (11.68 acres), and RO (1.39 acres) to DR 1 NC (11.94 acres), DR 1 (1.24 acres), BR (9.80 acres), and DR 16 (0.02 acres) **as shown on the map**

Issue 5-045 – from DR 1 (172.56 acres), DR 1 NC (5.10 acres), DR 2 H (82.60 acres), DR 3.5 (88.70 acres), DR 3.5 H (84.25 acres), DR 3.5 H1 (32.29 acres), and DR 5.5 (8.11 acres) to DR 2 (0.27 acres), DR 1 NC (280.42 acres), DR 1 (137.26 acres), DR 1 H (51.31 acres), DR 2 H (0.64 acres), DR 3.5 (0.05 acres), DR 5.5 (0.12 acres), and DR 3.5 H (3.56 acres) **as shown on the map**

Issue 5-046 –from DR 16 (1.47 acres) and DR 5.5 (4.41 acres) to DR 1 NC (5.63 acres) and DR 16 (0.24 acres) **as shown on the map**

Issue 5-047 – from BL CR (0.02 acres) and RC 2 (1.05 acres) to RC 5 (0.02 acres), RC 7 (1.04 acres), and BM CR (0.02 acres) **as shown on the map**

Issue 5-048 –from BL CR (8.82 acres), BM CR (2.75 acres), RC 5 (2.03 acres), RCC (0.47 acres), and RO CR (0.37 acres) to RC 5 (6.75 acres), BM CR (1.28 acres), and RCC (6.44 acres) **as shown on the map**

Issue 5-049, from RC 8 (4.69 acres) to RC 7 (4.69 acres)

Issue 5-051, from RC 2 (68.42 acres) and RC 5 (0.25 acres) to RC 7 (68.67 acres)

Issue 5-052, from DR 2 (1.22 acres) and RC 2 (147.06 acres) to RC 7 (148.28 acres)

Issue 5-053, from DR 2 (7.88 acres) and RC 2 (0.07 acres) to DR 1 NC (7.69 acres), DR 2 (0.07 acres), and RC 2 (0.19 acres) **as shown on the map**

Issue 5-054, from DR 2 (0.50 acres) to DR 1 NC (0.50 acres)

Issue 5-055, from DR 2 (1.05 acres) to DR 1 NC (1.05 acres)

Issue 5-056, from BL (1.11 acres), BLR (7.81 acres), CB (0.77 acres), DR 2 (52.46 acres), DR 3.5 (75.31 acres), DR 3.5 H (0.32 acres), and DR 5.5 (4.78 acres) to DR 1 NC (20.80 acres), DR 2 (11.05 acres), DR 1 (102.60 acres), RC 2 (0.02 acres), BLR (7.82 acres), BL (0.27 acres), and DR 3.5 (0.01 acres) as shown on the map

Issue 5-057, from RC 5 (6.67 acres) to RC 7 (6.67 acres)

Issue 5-058, from RC 5 (0.98 acres) to RC 7 (0.98 acres)

Issue 5-059, from RC 5 (5.39 acres) to RC 7 (5.39 acres)

Issue 5-060, from RC 5 (18.23 acres) to RC 7 (18.23 acres)

Issue 5-061, from RC 5 (1.77 acres) to RC 7 (1.77 acres)

Issue 5-062, from DR 3.5 (0.05 acres) and DR 3.5 H (2.55 acres) to DR 1 NC (2.60 acres)

Issue 5-063, from DR 2 (26.80 acres), DR 3.5 (7.35 acres), RO (0.10 acres), and ROA (0.08 acres) to DR 1 (32.42 acres), DR 3.5 (0.76 acres), and DR 5.5 (1.15 acres) **as shown on the map**

Issue 5-064, from DR 3.5 H (5.72 acres) to DR 1 NC (5.72 acres)

Issue 5-065, from DR 5.5 (12.52 acres) to DR 1 NC (12.23 acres) and DR 5.5 (0.29 acres) **as shown on the map**

Issue 5-066, from DR 5.5 (9.22 acres) to DR 1 NC (9.22 acres)

Issue 5-067, from DR 5.5 (6.72 acres) to DR 1 NC (4.50 acres) and DR 1 (2.22 acres) **as shown on the map**

Issue 5-068, from DR 5.5 (2.33 acres) to DR 1 NC (2.33 acres)

Issue 5-069, from DR 5.5 (0.88 acres) to DR 1 NC (0.88 acres)

Issue 5-070, from DR 5.5 (2.49 acres) to DR 1 NC (2.49 acres)

Issue 5-071, from DR 5.5 (2.34 acres) to DR 1 NC (2.34 acres)

Issue 5-072, from DR 2 (7.21 acres) and RC 2 (0.11 acres) to RC 7 (7.32 acres)

Issue 5-073, from DR 5.5 (0.63 acres) to DR 1 NC (0.63 acres)

Issue 5-074, from DR 3.5 (1.14 acres) to DR 1 (1.05 acres), DR 3.5 (0.03 acres), BL (0.04 acres), and DR 5.5 (0.01 acres) **as shown on the map**

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2016, LEGISLATIVE DAY NO. 14
August 30, 2016 6:00 P.M.

****

A. The meeting was called to order by Chairwoman Almond at 6:10 P.M. The Chairwoman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 50 persons in attendance and the following Councilmembers were present:

TOM QUIRK	FIRST DISTRICT
VICKI ALMOND	SECOND DISTRICT
WADE KACH	THIRD DISTRICT
JULIAN E. JONES, JR.	FOURTH DISTRICT
DAVID MARKS	FIFTH DISTRICT
CATHY BEVINS	SIXTH DISTRICT
TODD K. CRANDELL	SEVENTH DISTRICT

B. CALL OF BILLS FOR FINAL READING AND VOTE

Bill 54-16- The Comprehensive Zoning Map - First District, was called. Councilman Quirk moved to accept the Planning Board's recommendation on the following issues:

1-001 (strike comments), 1-003, 1-004, 1-006, 1-007, 1-010, 1-011 (strike comments), 1-013 (strike comments), 1-015, 1-018 (strike comments), 1-019 (strike comments), 1-020 (strike comments), 1-021 (strike comments), 1-023, 1-024, 1-025 (strike comments), 1-026 (strike comments) and 1-027 (strike comments).

Councilman Kach seconded the motion and these issues were passed unanimously.

Councilman Quirk then moved the following changes in the First District Comprehensive Zoning Map:

1-002 from BL (0.26 acres) and RO (0.41 acres) to DR 2 (0.13 acres) and RO (0.55 acres) as shown on the map. Motion was seconded by Councilman Kach and passed unanimously.

1-005 from CB (1.90 acres) to DR 2 (1.84 acres) and DR 5.5 (0.06 acres) as shown on the map, (strike comments). Motion was seconded by Councilman Kach and passed unanimously.

1-008 from BL (0.05 acres) and RO (0.34 acres) to RO (0.39 acres). Motion was seconded by Councilman Kach and passed unanimously.

1-009 from BL (0.04 acres) and RO (0.53 acres) to BL (0.04 acres) and CB (0.53 acres) (strike comments). Motion was seconded by Councilman Kach and passed unanimously.

1-012 from BL (3.15 acres) and DR 5.5 (4.27 acres) to CB (3.15 acres) and DR 5.5 (4.27 acres) (strike comments). Motion was seconded by Councilman Kach and passed unanimously.

1-014 from BL (0.21 acres), DR 16 (0.07 acres) and DR 3.5 (1.35 acres) to DR 3.5 (1.63 acres) as shown on the map, (strike comments). Motion was seconded by Councilman Kach and passed unanimously.

1-016 from BL (6.73 acres) to BL (0.02 acres), DR 1 (6.45 acres) and DR 2 (0.26 acres) as shown on map, (strike comments). Was passed unanimously.

5-041 from BL (11.54 acres), BLR (9.07 acres), BM (1.72 acres), DR 1 (9.57 acres), DR 1 H (1.90 acres), DR 1 NC (1.32 acres), DR 10.5 (8.14 acres), DR 3.5 (26.82 acres), DR 3.5 H (213.76 acres), DR 3.5 H1 (8.97 acres), DR 5.5 (21.83 acres) to DR 1 NC (101.48 acres), DR 1 (49.71 acres), DR 1 H (98.17 acres), BL H (0.92 acres), BLR (9.35 acres), DR 10.5 (1.69 acres), BL (12.18 acres), DR 16 (0.89 acres), DR 3.5 H (37.87 acres), and BM (2.39 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-042 from DR 3.5 (3.34 acres), DR 5.5 (0.01 acres), and RO (0.46 acres) to DR 1 (3.71 acres) and RO (0.11 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-043 from BL (1.02 acres), BM (0.01 acres), BR (0.01 acres), DR 16 (24.83 acres), DR 5.5 (182.61 acres), and RO (5.40 acres) to DR 1 NC (90.16 acres), DR 1 (103.97 acres), DR 3.5 (11.42 acres), BL (1.99 acres), DR 16 (0.57 acres), DR 5.5 (5.75 acres), and BM (0.01 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-044 from BR (9.91 acres), DR 16 (0.02 acres), DR 5.5 (11.68 acres), and RO (1.39 acres) to DR 1 NC (11.94 acres), DR 1 (1.24 acres), BR (9.80 acres), and DR 16 (0.02 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-045 from DR 1 (172.56 acres), DR 1 NC (5.10 acres), DR 2 H (82.60 acres), DR 3.5 (88.70 acres), DR 3.5 H (84.25 acres), DR 3.5 HI (32.29 acres), and DR 5.5 (8.11 acres) to DR 2 (0.27 acres), DR 1 NC (280.42 acres), DR 1 (137.26 acres), DR 1 H (51.31 acres), DR 2 H (0.64 acres), DR 3.5 (0.05 acres), DR 5.5 (0.12 acres), and DR 3.5 H (3.56 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-046 from DR 16 (1.47 acres) and DR 5.5 (4.41 acres) to DR 1 NC (5.63 acres) and DR 16 (0.24 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-047 from BL CR (0.02 acres) and RC 2 (1.05 acres) to RC 5 (0.02 acres), RC 7 (1.04 acres), and BM CR (0.02 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-048 from BL CR (8.82 acres), BM CR (2.75 acres), RC 5 (2.03 acres), RCC (0.47 acres), and RO CR (0.37 acres) to RC 5 (6.75 acres), BM CR (1.28 acres), and RCC (6.44 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-049 from RC 8 (4.69 acres) to RC 7 (4.69 acres). Motion was seconded by Councilwoman Bevins and passed unanimously.

5-051 from RC 2 (68.42 acres) and RC 5 (0.25 acres) to RC 7 (68.67 acres). Motion was seconded by Councilwoman Bevins and passed unanimously.

5-052 from DR 2 (1.22 acres) and RC 2 (147.06 acres) to RC 7 (148.28 acres). Motion was seconded by Councilwoman Bevins and passed unanimously.

5-053 from DR 2 (7.88 acres) and RC 2 (0.07 acres) to DR 1 NC (7.69 acres), DR 2 (0.07 acres), and RC 2 (0.19 acres) as shown on the map. Motion was seconded by Councilwoman Bevins and passed unanimously.

5-054 from DR 2 (0.50 acres) to DR 1 NC (0.50 acres). Motion was seconded by Councilwoman Bevins and passed unanimously.

5-055 from DR 2 (1.05 acres) to DR 1 NC (1.05 acres). Motion was seconded by Councilwoman Bevins and passed unanimously.

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2016, Legislative Day No. 13

Bill No. 58-16

Mr. David Marks, Councilman

By the County Council, August 1, 2016

A BILL
ENTITLED

AN ACT concerning

The Comprehensive Zoning Map - Fifth District

FOR the purpose of repealing certain existing zoning maps and to adopt an official zoning map for the Fifth Councilmanic District of Baltimore County, such map to be known as the 2016 Official Comprehensive Fifth 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 Sections 32-3-221 through 32-3-223, Baltimore County Code, 2003, 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 10 working days' notice thereof in a newspaper 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 Department of Planning, 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,

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

the County Council made certain changes in the Comprehensive Zoning Map for the Fifth Councilmanic District of Baltimore County which the County Council deemed appropriate; now, therefore

SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the portion of the official zoning map of Baltimore County referred to in Section 32-1-101 of the Baltimore County Code and now in effect, including any amendments thereto and comprehensive revisions of portions thereof as it pertains to the Fifth 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 Fifth Councilmanic District Zoning Map for Baltimore County accompanying this Act, are hereby established.

SECTION 2. BE IT FURTHER ENACTED, that the accompanying Official Comprehensive Fifth Councilmanic District Zoning Map for Baltimore County is hereby adopted and declared to be a part of this Act to the same extent as if it were incorporated herein. The Official Comprehensive Fifth Councilmanic District Zoning Map is the map described in Section 32-3-202(d) of the Baltimore County Code, the correctness of which is attested to by the signature of the Chairwoman of the Baltimore County Council. When this Act stands enacted, the Director of Permits, Approvals and Inspections shall thereupon have legal custody of said map.

SECTION 3. BE IT FURTHER ENACTED, 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 Director of Permits, Approvals and Inspections and the County Board of Appeals shall conclusively determine the location and dimensions of zone and district boundaries from the official zoning map.

SECTION 4. BE IT FURTHER ENACTED, that in case it be judicially determined that any word, phrase, clause, sentence, paragraph or section of this Act, or that the application thereof, or the application of any portion of the Official Comprehensive Fifth Councilmanic District Zoning Map for Baltimore County, accompanying this Act, to any person, property, or circumstance is invalid, the remaining provisions of this Act and the application of such provisions, and the application of the remaining portions of said Comprehensive Fifth 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 enacted the remaining provisions of this Act and the remaining portions of said map without the provision or portion or the application thereof so held invalid.

SECTION 5.. AND BE IT FURTHER ENACTED, that this Act, having been passed by the affirmative vote of five members of the County Council, shall take effect on the date of its enactment.

BALTIMORE COUNTY

2016 Comprehensive Zoning Map Process

Final Log of Issues

Adopted August 30, 2016

COMPREHENSIVE ZONING MAP PROCESS 2016

FIFTH COUNCILMANIC DISTRICT

Baltimore County 2016 Comprehensive Zoning Map Process
Log of Issues - District 5

September 22, 2016

Issue Number 5-043 **Petitioner** County Council **Location** East of Walther Blvd, North of White Marsh Blvd, South of Ridgelys Choice Dr

Existing Zoning and Acres		Requested Zoning and Acres		Final Staff Recommendations		Planning Board Recommendations		County Council Decision	
BL	1.02	BL	1.41	BL	1.02	BL	1.02	BL	1.99
BM	0.01	BM	0.01	BM	0.01	BM	0.01	BM	0.01
BR	0.01	DR 1 NC	108.93	BR	0.01	BR	0.01	DR 1	103.97
DR 16	24.83	DR 16	0.57	DR 16	24.83	DR 16	24.83	DR 1 NC	90.16
DR 5.5	182.61	DR 5.5	97.56	DR 5.5	182.61	DR 5.5	182.61	DR 16	0.57
RO	5.40	RO	5.40	RO	5.40	RO	5.40	DR 3.5	11.42
	213.88		213.88		213.88		213.88	DR 5.5	5.75
									213.87

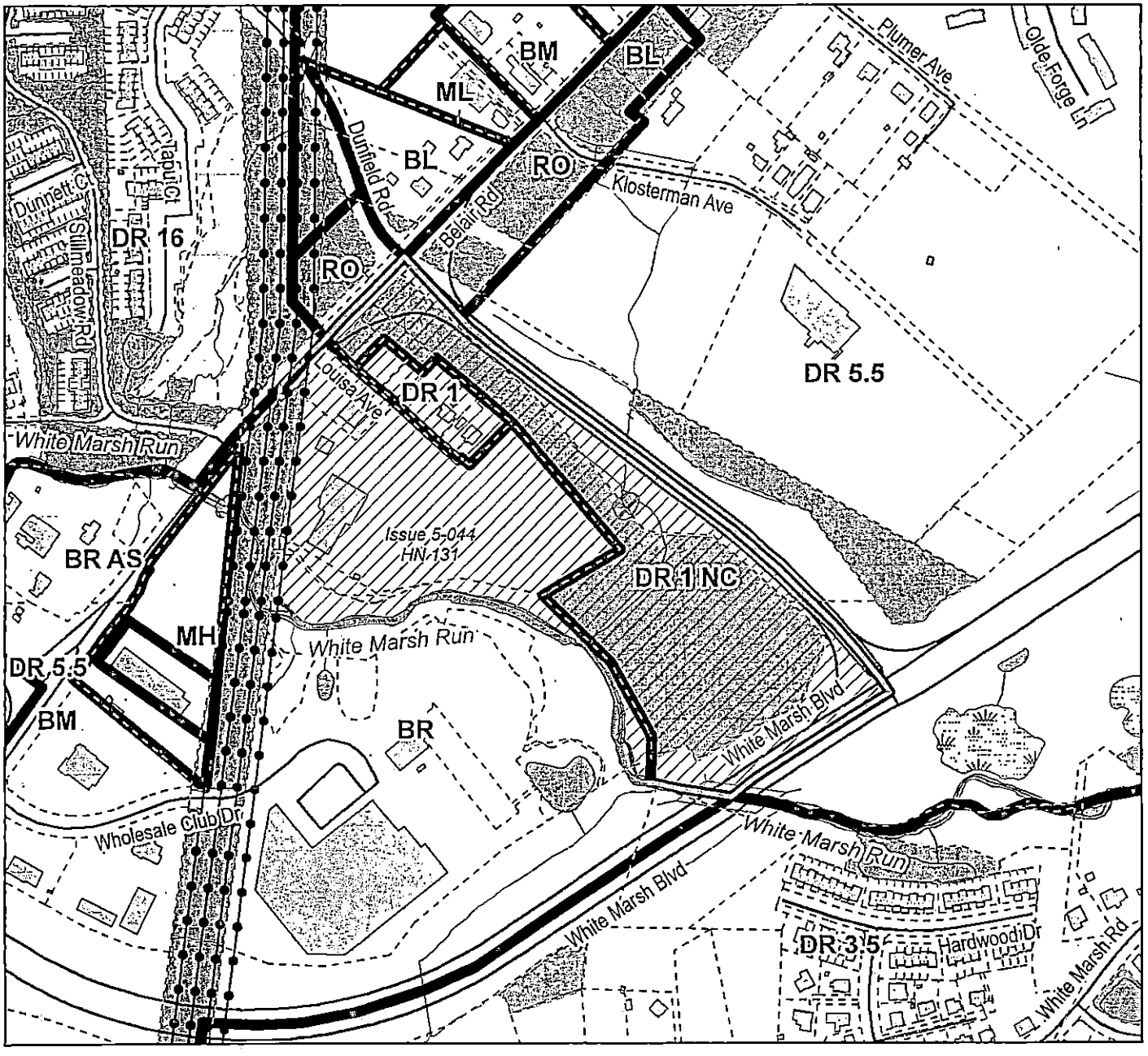
Comments See Issues 5-044, 5-123

Issue Number 5-044 **Petitioner** County Council **Location** West of Dunfield Rd, between Belair Rd and White Marsh Blvd

Existing Zoning and Acres		Requested Zoning and Acres		Final Staff Recommendations		Planning Board Recommendations		County Council Decision	
BR	9.91	BR	9.91	BR	9.91	BR	9.91	BR	9.80
DR 16	0.02	DR 16	0.02	DR 16	0.02	DR 16	0.02	DR 1	1.24
DR 5.5	11.68	DR 5.5	11.68	DR 5.5	11.68	DR 5.5	11.68	DR 1 NC	11.94
RO	1.39	RO	1.39	RO	1.39	RO	1.39	DR 16	0.02
	23.00		23.00		23.00		23.00		23.00

Comments See Issues 5-043, 5-123

CZMP 2016 - Issue Map
Issue Number: 5-044



Iteration: COUNTY COUNCIL/1

Tracking#: CZMP16-00131

Zone	District	Acreage
DR 1	NC	11.94
DR 1		1.24
BR		9.80
DR 16		0.02

Total Acreage: 23.00

Legend

- Zoning Boundary
- Issue Boundary
- NULL Tax Accounts
- HOA
- Public Property

Publication Date: June 27, 2016
Publication Agency: Department of Planning
Projection/Datum: Maryland State Plane,
FIPS 1900, NAD 1983/91 HARN, US Foot

400 0 400 Feet

1 inch = 400 feet

N W E S

GREENE TREE HOMEOWNERS ASSOCIATION, INC., et al.	*	IN THE
	*	CIRCUIT COURT
Plaintiffs		
v.	*	FOR
BALTIMORE COUNTY, MARYLAND	*	BALTIMORE COUNTY
and		
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Intervenor	*	CASE NO. 03-C-16-009301
Defendants		

FILED
2017 JUN 16 AM 11:10
CIRCUIT COURT
BALTIMORE COUNTY

6/23/17 DENIED

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

PLAINTIFFS' MOTION TO ALTER OR AMEND JUDGMENT AND TO ALLOW PLAINTIFFS TO FILE AN AMENDED COMPLAINT, AND REQUEST FOR HEARING

Now comes the Plaintiffs by Alan P zukerberg, their attorney, and in response to the ORDER in the above captioned matter, pursuant to Rule 2-534, moves this court to alter or amend its judgment, and to allow plaintiffs to file a fourth amended complaint, and request a hearing on this motion, and in support thereof, says:

1. The Court held a hearing on the defendant's motions to dismiss and for summary declaratory judgment on May 19, 2017.

2. That at the conclusion of the hearing the Court judged that the motion should be granted.

3. Thereafter, pursuant to instructions from Judge Sherrie R. Bailey, the defendant submitted, *via* an attachment to a May 23, 2017 email to Judge Bailey's judicial law clerk, a proposed order for the judge to sign.

True Copy Test
JULIE L. ENSOR, Clerk
By _____
Assistant Clerk
FILED AUG 29 2017

GREENE TREE HOMEOWNERS ASSOCIATION, ET. AL.	*	IN THE
	*	CIRCUIT COURT
Plaintiff,		
v.	*	FOR
BALTIMORE COUNTY, MARYLAND, ET. AL.	*	BALTIMORE COUNTY
	*	Case No.: 03-C-16-009301
Defendant.		

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

ORDER

After careful consideration of the Plaintiff's, GREENE TREE HOMEOWNERS ASSOCIATION, ET. AL., Motion to Alter or Amend Judgment and to Allow Plaintiffs to File an Amended Complaint, and Request for a Hearing (paper 29,000) and all the Responses thereto, it is this 23rd day of August, 2017 by the Circuit Court for Baltimore County hereby:

ORDERED that the Plaintiff's Motion to Alter or Amend Judgment and to Allow Plaintiffs to File an Amended Complaint, and Request for a Hearing is DENIED.

The Honorable Sherrie R. Bailey, Judge
Circuit Court for Baltimore County

Court clerks please copy: Alan Zukerburg, Esq.
7919 Long Meadow Road
Baltimore, MD 21208

Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
105 West Chesapeake Ave., Suite 204
Towson, MD 21204

Nancy West, Esq.
Assistant County Attorney
400 Washington Ave., 2nd Floor
Towson, MD 21204

True Copy Test
JULIE L. ENSOR, Clerk
By _____
Assistant Clerk
FILED AUG 29 2017

GREENE TREE HOMEOWNERS ASSOCIATION, INC., et al.	*	IN THE
	*	CIRCUIT COURT
Plaintiffs		
v.	*	FOR
BALTIMORE COUNTY, MARYLAND	*	BALTIMORE COUNTY
Defendant	*	
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	CASE NO. 03-C-16-009301
Intervenor	*	

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

MEMORANDUM OPINION

This matter came before the Court on a motion for Dismissal and/or Summary Declaratory Judgment. For the reasons set forth herein, the Defendant's Motion to Dismiss and motion for Summary Declaratory Judgment is GRANTED, the Defendant's Third Amended Complaint is DISMISSED for lack of standing, and, after careful consideration of the merits, a declaration of rights to sustain the constitutionality of Bill 55-16 shall be issued.

STANDING

For standing, a complainant must establish a concrete and particularized injury, a causal connection between the injury and the conduct complained of, and it must be likely that the injury will be redressed by the Court's decision.[1] This Court finds that the injuries alleged by the Plaintiffs do not establish a concrete and particularized injury and are too attenuated to create a causal connection between the alleged injury and the conduct. The Plaintiffs cannot offer more than mere conjecture that re-zoning the property will result in an increase in property taxes, traffic, or changes to school districting. This property is located a "stone's throw" from the intersection of the Baltimore Beltway (695) and Reisterstown Road, a heavily traveled intersection. Further, even if the Plaintiffs did establish a concrete injury, this Court finds that the harm that the Plaintiffs allege is not sufficiently foreseeable both generally and particularly as

[1] *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560-61 (1992).

to the Plaintiffs. As a result, they do not satisfy the requisite criteria for standing and a justiciable case or controversy. Accordingly, the Court orders dismissal of the Third Amended Complaint.

DECLARATION OF RIGHTS

The Court, having reviewed and considered the Plaintiff, Greene Tree Homeowners Association, et al's, Complaint and three Amended Complaints, Defendant Baltimore County, Maryland and Intervenor People's Counsel for Baltimore County's sequential Motions to Dismiss and for Summary Declaratory Judgment, and pursuant to the Maryland Declaratory Judgment Act, Courts and Judicial Proceedings Article Sections 3-401, et seq.; hereby grants summary declaratory judgment to Defendants, and issues the following declaration of rights:

1. The County Council enactment of Bill No. 55-16, the Second District comprehensive rezoning map, be, and hereby is declared to be constitutional and valid;

2. As to Counts 1 and 3, respectively, the Plaintiffs' allegations of failure by the Baltimore County Council to append maps to Bill No. 55-16 as introduced by the Council and to place such maps in the Baltimore County Public Library: this Court declares that Baltimore County substantially complied with the various statutory notice requirements in their entirety during the 2016 Comprehensive Zoning Map Process; also, there was constructive and actual notice to the public, including the Plaintiffs, of the issues, the geography, and recommended maps; and that the allegations do not otherwise state legally cognizable claims;

3. As to Count 2, the Plaintiffs' allegation of failure by the Baltimore County Council to append a map to the text of Bill No. 55-16 upon enactment: this Court declares that when the County Council enacted amendments to the proposed district zoning map at its legislative meeting on August 30, 2016, as reflected in the minutes, it was practical, necessary and appropriate that there be a reasonable period of time for the Department of Planning to prepare the digital maps in accordance with and to accompany the legislative action;

4. As to Count 4, the Plaintiffs' alleged failure of Baltimore County Council Bill No. 55-16 to comply with the correlative Maryland Constitution (Article III, Sec. 29) and Baltimore County Charter (Sec. 308(c)) requirements that every law embrace but one subject: this Court declares the legislation to be constitutional because the 37 Issues in the Second Council District during

the 2016 Comprehensive Zoning Map Process all relate to the single subject of comprehensive zoning and thus satisfy this requirement based on the plain constitutional and charter language, purpose, and judicial interpretation.

June 6th, 2017

Sherrie R. Bailey, Circuit Court Judge

Clerks Office shall copy all attorneys and parties

True Copy Test
JULIE L. ENSOR, Clerk
Per
Assistant Clerk

GREENE TREE HOMEOWNERS ASSOCIATION, INC., et al.	*	IN THE
	*	CIRCUIT COURT
Plaintiffs		
v.	*	FOR
BALTIMORE COUNTY, MARYLAND	*	BALTIMORE COUNTY
Defendant	*	
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY	*	CASE NO. 03-C-16-009301
Intervenor	*	

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

ORDER

Upon careful consideration of the Plaintiff, Greene Tree Homeowners Association, et al's, Complaint and three Amended Complaints, Defendant Baltimore County, Maryland and Intervenor People's Counsel for Baltimore County's sequential Motions to Dismiss and for Summary Declaratory Judgment, and having heard oral argument on May 19, 2017; it is this 6th day of June 2017, hereby

ORDERED that Defendants' Motions to Dismiss and for Summary Declaratory Judgment be, and hereby are, **GRANTED**; and it is further

ORDERED that the Third Amended Complaint be **DISMISSED** for lack of standing; and it is further

ORDERED that, after considering the merits of the cases, and hearing all argument of the parties, that there will be a declaration of rights to sustain the constitutionality of Bill No. 55-16, the Baltimore County Council legislative enactment of the comprehensive rezoning map for the Second Council District of Baltimore County to conclude the 2016 Comprehensive Zoning Map Process.

June 6th, 2017

Sherrie R. Bailey, Circuit Court Judge

Clerks Office shall copy all attorneys and parties

True Copy Test
JULIE L. ENSOR, Clerk
Per
Assistant Clerk

FILED JUN 7 2017

GREENE TREE HOMEOWNERS ASSOCIATION, Inc., et al.	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Plaintiffs	*	
	*	**CIVIL ACTION NO. 03-C-16-009301**
v.	*	
BALTIMORE COUNTY, MARYLAND, et al.	*	
Defendants	*	

* *

AFFIDAVIT OF PAULA MILLER

I, Paula Miller, do hereby state as follows:

1. I am over 18 years of age, am competent to testify and have knowledge of the facts and matters stated herein.

2. Since August 2014 I have been Director of the Baltimore County Public Library (BCPL) that is based in Towson, Maryland.

3. The BCPL system has 19 branches, almost a half million registered users, and over eleven million loans per year.

4. Except for holidays, all BCPL branches are open seven days a week year round during the following hours:

Sunday:	1 p.m. to 5 p.m.
Monday:	9 a.m. to 9 p.m.
Tuesday:	9 a.m. to 9 p.m.
Wednesday:	9 a.m. to 9 p.m.
Thursday:	9 a.m. to 9 p.m.
Friday:	9 a.m. to 5:30 p.m.
Saturday:	9 a.m. to 5:30 p.m.

5. The BCPL provides free computer access including Internet, Microsoft Word/Excel/PowerPoint, and wireless printing.

6. There are a total of 498 public computers in 19 BCPL branches throughout

EXHIBIT
A

Baltimore County (County) that are available for use by the public as follows:

Branch	Number of Computers on Public Floor
Arbutus Library	37
Catonsville Library	23
Cockeysville Library	33
Essex Library	31
Hereford Library	15
Lansdowne Library	14
Loch Raven Library	10
North Point Library	26
Owings Mills Library	69
Parkville-Carney Library	19
Perry Hall Library	35
Pikesville Library	25
Randallstown Library	35
Reisterstown Library	14
Rosedale Library	19
Sollers Point Library	11
Towson Library	32
White Marsh Library	17
Woodlawn Library	33
Total Public PCs	**498**

7. In addition to library patrons having access to the Internet via the public computers, all branches of the BCPL offer free wireless network and Internet access to library patrons with personal wireless-enabled devices such as laptop computers, tablets, e-readers, PDAs, and cell phones so that patrons can connect to the Internet or use the library's online resources -including the library's free premium databases- without having to wait for one of the library's computers to become available.

8. Information about the County's quadrennial Comprehensive Zoning Map Process (CZMP) has been available on-line on the County's website since the County Department of Planning transitioned from paper format to electronic format in 2004.

9. Beginning in August 2015 and continuing through November 2016 when the Department of Planning prepares the zoning maps as adopted by the County Council in August 2016, information about the 2016 CZMP - which includes a Web Application User Guide, the CZMP Timeline and Schedule of Fees, the Log of Issues update throughout the CZMP, a Map of all proposed zoning Issues Countywide, a schedule of the Planning Board Public Hearings and Work Sessions, the Sign Posting Procedures, a schedule of the County Council Public Hearings, and the final zoning maps adopted by the County Council - has been available online and accessible by the public at all branches of the BCPL through a direct link to CZMP on BCPL's website under "Find Information – Frequently Used Resources."

10. The BCPL public computers and most personal electronic devices using our Wi-Fi network can be used to print out application forms for the CZMP, or to submit a completed form online.

11. The BCPL also provides online reference through the website (bcpl.info) under the "Find Information" web page. Access points include "Ask Us Now" (live chat), "Ask a Question" (Question box, E-mail or text), "Live Help/Chat Reference," or "Government Documents," which includes a link to the Baltimore County Government website, and a direct link to the CZMP web page.

I solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

PAULA MILLER, Director
Baltimore County Public Library

Date: 11-21-2016

GREENE TREE HOMEOWNERS ASSOCIATION, Inc., et al.	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Plaintiffs	*	**CIVIL ACTION NO. 03-C-16-009301**
v.	*	
BALTIMORE COUNTY, MARYLAND, et al.	*	
Defendants	*	

* *

AFFIDAVIT OF MICHAEL JEFFREY MAYHEW

I, Michael Jeffrey Mayhew, do hereby state as follows:

1. I am over 18 years of age, am competent to testify and have personal knowledge of the facts and matters stated herein.

2. Since June 2011 I have been the Deputy Director of the Baltimore County Department of Planning (Department). My responsibilities include, *inter alia*, managing the quadrennial Comprehensive Zoning Map Process (CZMP) that takes place on an exact schedule specified in the Baltimore County Code (BCC). Any citizen may request a zoning change on any property in Baltimore County (County), although the usual participants in the process are individual landowners, contract purchasers, community organizations, County staff, the Planning Board and the County Council.

3. I have participated in all CZMP's since 1992, namely, 1996, 2000, 2004, 2008, 2012 and 2016.

4. I oversaw the 2016 CZMP from the beginning of the open filing period in September 1, 2015 through the final County Council vote on August 30, 2016 in which the County Council adopted the new zoning maps, and the subsequent production of the County zoning maps by the Department.

EXHIBIT
B

5. Before the formal 2016 CZMP started, planners began outreach efforts in February 2015 for all stakeholders – community groups, business groups, the legal community, engineers, and surveyors.

6. Before the filing period began for the 2016 CZMP, applicants could prefile an application for rezoning. During the filing period, planners were required to meet with each applicant or their representative to finalize the prefiled application.

7. After the application period, a Log of the Issues was prepared and all valid applications were posted on the County's web page. Pursuant to BCC Section 32-3-211, an "Issue" is a tract or parcel of land proposed for a change in zone or district classification. In addition to the Log of Issues, a mapping application was posted to the County's web page to allow the public to view the Issues geographically.

8. Planners attended stakeholder meetings after applications were filed to inform stakeholders of the Issues that were raised in their community and to solicit feedback to help the planners formulate the Department's recommendations.

9. The Department received over 200 pieces of correspondence from stakeholders who wrote letters, sent e-mails or signed petitions supporting or opposing rezoning requests within the Second Council District during the 2016 CZMP. Included in this correspondence was a three-page letter dated October 13, 2015 from Alan P. Zukerberg, Esq. (Zukerberg), as President of the Pikesville Communities Corp., relative to Issue No. 2-021 (600 Reisterstown Road) and Issue No. 2-020 (1777 Reisterstown Road).

10. The Department made recommendations on all zoning requests. The Log of Issues was then updated to reflect the Department's recommendations and posted on the County's website. This allowed the public to be prepared for the Planning Board's public hearings and

provide testimony regarding the requested zoning and the Department's recommendations.

11. Planners attended the Planning Board public hearings to prepare the public to testify before the Planning Board and offer professional advice on zoning and land use recommendations.

12. Planners attended the Planning Board work sessions to provide technical advice on the zoning map process and professional advice on zoning and land use recommendations. The work sessions, where the Planning Board deliberated, were open to the public.

13. After the Planning Board made its recommendations, the Log of Issues was updated to reflect its recommendations. The Log of Issues was posted on the County website to enable the public to be informed and present testimony to the County Council at their hearings.

14. I was present during the County Council's adoption of the 2016 zoning maps on August 30, 2016, and thereafter oversaw the production of the maps by the Department in accordance with the County Council's adopted zoning during the 2016 CZMP.

I solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

Michael J Mayhew

MICHAEL JEFFREY MAYHEW, AICP
Deputy Director, Department of Planning

Date: 11/28/16

GREENE TREE HOMEOWNERS ASSOCIATION, Inc., et al.	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Plaintiffs	*	**CIVIL ACTION NO. 03-C-16-009301**
v.	*	
BALTIMORE COUNTY, MARYLAND, et al.	*	
Defendants	*	

* *

AFFIDAVIT OF ROBERT STRADLING

I, Robert Stradling, do hereby state as follows:

1. I am over 18 years of age, am competent to testify and have personal knowledge of the facts and matters stated herein.

2. Since October 2005 I have been the Director of the Baltimore County Office of Information Technology (OIT), which works in partnership with other County agencies to provide business solutions that support the delivery of government services. The diverse skills of our developers, engineers and technicians allow us to support the County's needs in leading technology areas such as electronic commerce, wireless networking, geographical information systems and document imaging. My responsibilities include, *inter alia*, managing the official website for Baltimore County Government which features County news, a community calendar, job opportunities, and meetings.

3. In connection with the Comprehensive Zoning Map Process (CZMP) which takes place every four years as required by the Baltimore County Code, the County website includes information on the CZMP timeline of events. OIT publishes the CZMP web pages based on the content provided by the Department of Planning.

4. OIT tracks the number of users who access the CZMP web pages that include the

EXHIBIT C

following topics:

- CZMP 2016 County Council Public Hearings
- CZMP 2016 Fee Schedule
- Comprehensive Zoning Map Process
- CZMP 2016 Log of Issues
- CZMP 2016 Planning Board Public Hearings
- 2016 Comprehensive Zoning Map Process
- CZMP 2016 Request A Zoning Change
- Sign Posting Procedures
- CZMP 2016 Web Application User Guide
- Baltimore County CZMP 2016 map

For the web pages associated with the 2016 CZMP, there were 72,979 access points (hits) from February 2015 through and including September 2016. A copy of the 2016 CZMP web pages, along with a tally of the access points (hits), is attached hereto as **Exhibit A** and incorporated herein by reference.

5. Additionally, OIT has a Community Update Newsletter for each of the seven Council districts. It is produced twice a month and is available to anyone with an e-mail account who subscribes via the County web page.

6. The CZMP was a featured topic on the following editions of the Community Update Newsletter and was sent to subscribers as noted below:

Edition	Number of Subscribers
March 1, 2016	540
April 1, 2016	537
June 1, 2016	533
June 15, 2016	536

I solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

11/21/16

ROBERT STRADLING, Director Date
Baltimore County Office of Information Technology

GREENE TREE HOMEOWNERS ASSOCIATION, Inc., et al.	*	**IN THE CIRCUIT COURT FOR BALTIMORE COUNTY**
Plaintiffs	*	
	*	**CIVIL ACTION NO. 03-C-16-009301**
v.	*	
BALTIMORE COUNTY, MARYLAND, et al.	*	
Defendants	*	

* *

AFFIDAVIT OF THOMAS J. PEDDICORD, JR.

I, Thomas J. Peddicord, Jr., do hereby state as follows:

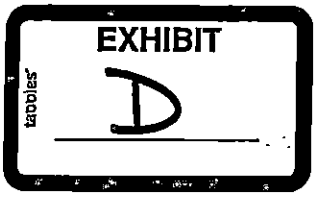
1. I am over 18 years of age, am competent to testify and have knowledge of the facts and matters stated herein.

2. Since 1991 I have been the Legislative Counsel and Secretary to the County Council. My responsibilities include, *inter alia*, providing legal advice and assistance to the County Council in connection with the quadrennial Comprehensive Zoning Map Process (CZMP) that takes place in accordance with the schedule outlined in the Baltimore County Code.

3. I have worked with the County Council in all CZMP's since 1991, namely, 1992, 1996, 2000, 2004, 2008, 2012 and 2016.

4. In May 2016, the Department of Planning sent to the County Council the Planning Board recommendations as to all 2016 CZMP Issues filed countywide. There were a total of 515 Issues filed countywide of which 37 were filed in the Second Council District.

5. The Log of Issues with the Planning Board's recommendation on each Issue was provided to the County Council in a paper format and was made available on the County website. Additionally, the Department of Planning provided a 3' x 4' map for each council district with the Planning Board recommendations depicted on each map. The maps were also posted on the County's website.



6. At each County Council public hearing, two 3' x 4' maps of the council district, depicting the Planning Board recommendation on each Issue, were posted in the lobby of each building where the respective hearings were held. A copy of the map for the public hearing on the Second Council District is attached hereto as **Exhibit A** and incorporated herein by reference. A copy of the map for all 2016 CZMP Issues is attached hereto as **Exhibit B** and incorporated herein by reference.

7. All introductory and enacted bills were available for inspection in the office of the County Council, and on the County website in each branch of the Baltimore County Public Library.

8. Each of the seven legislative bills adopted the final zoning map for the respective council district. At the beginning of the August 30, 2016 County Council meeting, the maps were not attached to the bills because the Department of Planning did not know, indeed could not know, the final outcome of the legislative action associated with each bill. The legislative process allows for changes by the County Council up to and including the time when a formal vote is taken by the County Council.

9. Since the August 30, 2016 County Council meeting, all bills and individual zoning maps for each of the seven Council Districts have been available for inspection by the public.

I solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

THOMAS J. PEDDICORD, JR.
Legislative Counsel and Secretary to the
Baltimore County Council

11/21/16
Date

GREENE TREE HOMEOWNERS ASSOCIATION, Inc., et al.	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Plaintiffs	*	**CIVIL ACTION NO. 03-C-16-009301**
v.	*	
BALTIMORE COUNTY, MARYLAND, et al.	*	
Defendants	*	

* *

AFFIDAVIT OF JONATHAN B. SCHWARTZ

I, Jonathan B. Schwartz, do hereby state as follows:

1. I am over 18 years of age, am competent to testify and have knowledge of the facts and matters stated herein.

2. Since December 2010 I have been the Senior Council Assistant to the Honorable Vicki Almond, representative of the Second Council District for the Baltimore County Council.

3. My responsibilities include, *inter alia*, handling constituent services, attending community meetings, and providing administrative support to Councilwoman Almond with regard to matters in the Second Council District including the quadrennial Comprehensive Zoning Map Process (CZMP).

4. With respect to the 2016 CZMP, I had access to all correspondence directed to Councilwoman Almond including letters and e-mails, and responded to telephone and in-person inquiries about the same. During the 2016 CZMP, Alan P. Zukerberg, Esq., attorney for Plaintiffs herein, sent at least six e-mails to Councilwoman Almond between February 29, 2016 and August 22, 2016 that outlined the position of the Pikesville Communities Corporation on various Issues, requested information on various Issues, and requested a meeting with Councilwoman Almond.

5. David Braitman, a Plaintiff herein, sent e-mails to Councilwoman Almond on June

EXHIBIT
E

15, 2016, August 1, 2016, and August 28, 2016 advocating his position on various CZMP Issues.

6. Loren Staples, a Plaintiff herein, sent an e-mail to Councilwoman Almond on September 1, 2016, advocating his position on various CZMP Issues.

7. During the 2016 CZMP, I attended the County Council public hearing for the Second District and was present during the final vote on the zoning maps by the County Council on August 30, 2016.

I solemnly declare and affirm under the penalties of perjury that the contents of the foregoing Affidavit are true and correct to the best of my knowledge, information and belief.

Jonatha Schwartz

JONATHAN B. SCHWARTZ
Senior Council Assistant to the Honorable Vicki Almond, Baltimore County Council, Second District

Date: 11/22/16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R 1
1950-1799-X
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1121056050
1968-0283-X
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ROAD
DR 1
ROAD
RAMP
DR 1 NC
R-1956-3998-X
2100008077
ROAD
1976-0198-X
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2000006923
11 ED
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Parcel 1
SITE
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NE 8-F
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PAI # 111147
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NE 8-F
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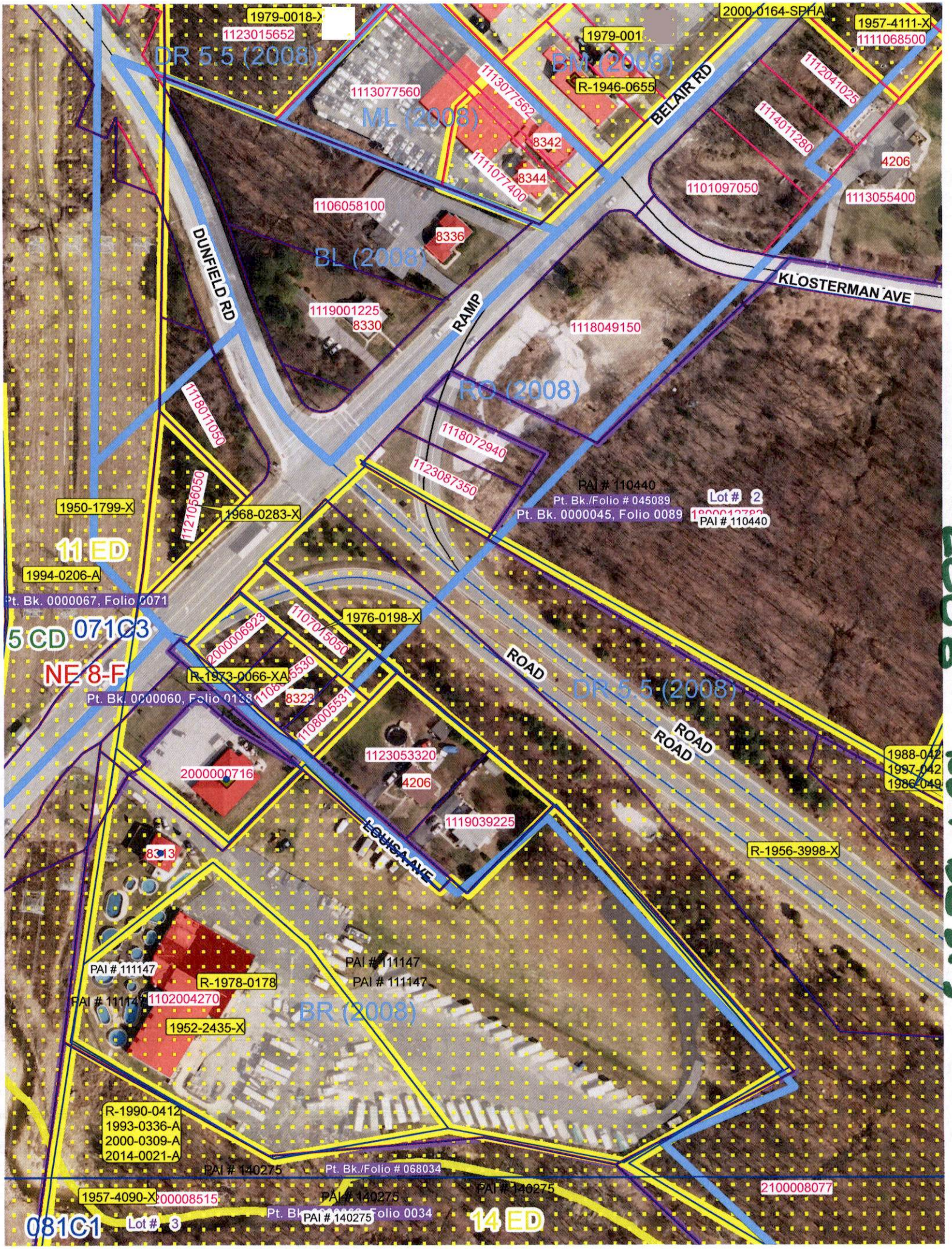
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DR 5.5 (2008)
ROAD
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LOUISA AVE
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Lot # 3
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DR 5.5


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R 1
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DR 1
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PAI # 111147
PAI # 111147
PAI # 111147
PAI # 111147
1119039225
4208
R-1978-0178
8313
1102004270
1952-2435-X

GENERAL NOTES:

1. OWNER: TYKA BUILDING GROUP L.L.C.
122 HEAPS RD
STREET, MD. 21154
PHONE 443-807-5475

2. SITE AREA:
GROSS: 9995 Sq.Ft.+- 0.229 Ac.+-
NET: 9070 Sq. Ft.+- 0.208 Ac+-

3. PROPOSED BUILDING AREA: 1500 SQ. FT.

4. UTILITIES:
PUBLIC SEWER
PUBLIC WATER *(BELAIR RD.)*

5. THE SITE LIES WITHIN ZONE "X" AS SHOWN ON F.I.R.M. 2400100290F DATED SEPTEMBER 26, 2008.

6. TOPO SHOWN HEREON PER BALTIMORE COUNTY "MY NEIGHBORHOOD" WEBSITE"

7.SETBACKS: MINIMUM LOT AREA: 40,000 SQ. FT.
MINIMUM LOT WIDTH: 150'
FRONT SETBACK: 50'
SIDE: 20' (TOTAL 50')
REAR: 50'

8. ELECTION DISTRICT: 11

9. DEED REF.: SM 37214-140 (P.1)

10. TAX ACCOUNT: #110800530

11. COUNCILMANIC DISTRICT: 5TH

12. CENSUS TRACT: 492101

13. WATERSHED: BIRD RIVER

14. ZONING: DR 1
(PER BALT. COUNTY "MY NEIGHBORHOOD" WEBSITE)

15. TAX MAP: #0071, PARCEL 0197, P.1

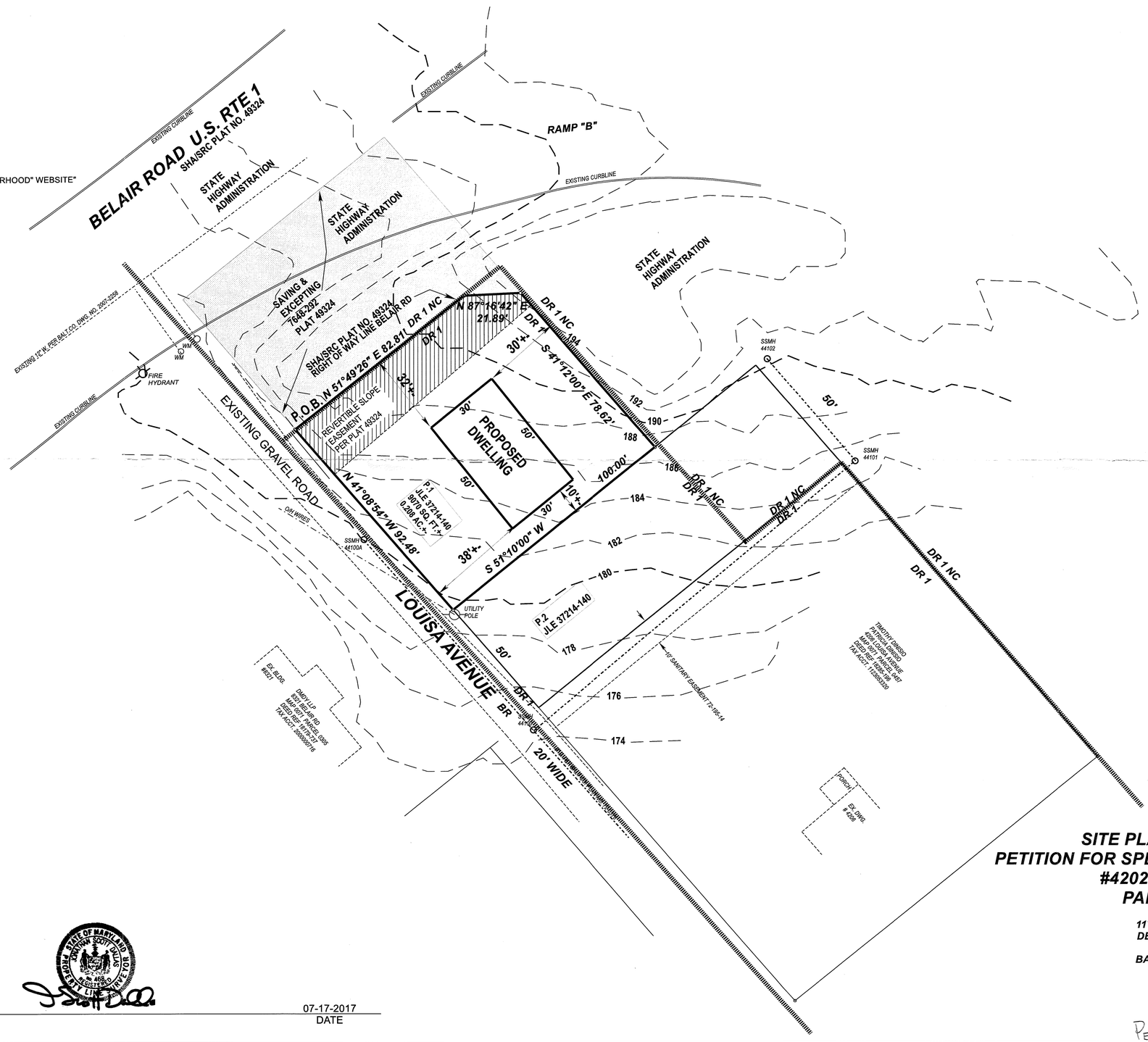
16. PREVIOUS ZONING CASE R-1973-066-XA.

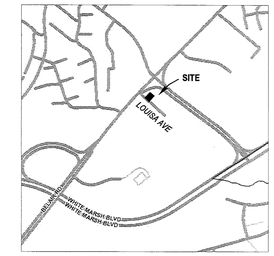
17. NO KNOWN PERMITS ON FILE.

18. THE SITE DOES NOT LIE WITHIN THE CHESAPEAKE BAY CRITICAL AREA.

19. THERE ARE NO HISTORIC FEATURES ON THE SITE NOR IS THE SITE ITSELF HISTORIC.

20. NO KNOWN PREVIOUS DRC MEETINGS





VICINITY MAP
1"=2000'

SITE PLAN TO ACCOMPANY
PETITION FOR SPECIAL HEARING & VARINACES
#4202 LOUISA AVENUE
PARCEL 0197 (P.1)

11TH ELECTION DISTRICT
DEED REF. JLE 37214-140
ZONE DR 1
BALTIMORE COUNTY, MD.

0 20'
SCALE: 1"=20'

J.S. DALLAS, INC.
SURVEYING & ENGINEERING
P.O. BOX 26
BALDWIN, MD.
(410)-817-4600

STATE OF MARYLAND — JOSHUA SCOTT DALLAS — No. 21068 — REGISTERED PROPERTY LINE SURVEYOR

07-17-2017
DATE

FILE NAME 16-1625X.trv		
SCALE 20 Ft/In	DATE 9-26-2017	DRAWN BY R.N.G. / J.S.D.
JOB LOUISA	REVISION 1/1	SHEET 1/1

This map drawn with TRAVERSE PC Software

PET. EX. 1

Traverse PC