

**IN RE: ZONING MAP CORRECTION
9750 Bird River Road**

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BEFORE THE

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BOARD OF APPEALS

BALTIMORE COUNTY, MARYLAND

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OF

*

BALTIMORE COUNTY

Petitioner

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Case No.: M.C. 19-02

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OPINION

The above-entitled matter came for hearing before this Board on May 30, 2019 on a Petition for Zoning Map Correction filed by Michael E. Field, County Attorney, and Nancy C. West, Assistant County Attorney, on behalf of Baltimore County, Maryland, Petitioner. The requested correction involves a technical drafting error and seeks to reclassify the existing zoning on a property located at 9750 Bird River Road in the Middle River area of Baltimore County, Maryland, 21220 from D.R.3.5. (Density Residential 3.5 units per acre) to CB (Community Business).

This corrected zoning would comport with the legislative intent of the County Council in reclassifying approximately 1.20 acres of land to CB during the 1996 Comprehensive Zoning Map Process (CZMP). The Petition is cognizable under Baltimore County Code (BCC) § 32-3-233 which provides that the Department of Planning (Planning) may initiate a petition to correct a technical error in the zoning map.

At the Board's hearing, Nancy C. West, Assistant County Attorney, represented Baltimore County, Maryland. Carole S. Demilio, Deputy People's Counsel for Baltimore County, also participated. The property owners, Patricia Y. Stumpf and her daughter, Kathy S. Stumpf, attended the hearing in support of the Petition. There were no Protestants.

At the conclusion of the May 30th hearing, this Board conducted a public deliberation and unanimously agreed to approve the requested map correction. This Opinion follows, consistent

therewith.

Background

There are three parcels of land involved in this case. Kathy S. Stumpf owns two parcels, namely, 0.13 acres with Tax ID number 1519710240 and 0.5 acres with Tax ID number 1519710241 (collectively, Property 1). Patricia Y. Stumpf, her mother, owns a third parcel that consists of 0.496 acres with Tax ID number 1700002389 (Property 2). The three parcels total 1.13 acres, which is consistent with and corresponds with the land area as reflected on the Baltimore County Geographic Information System (GIS) and the records of the Maryland State Department of Assessments and Taxation. Property 1 is improved with a commercial building. Property 2 is a vacant lot. Together, Property 1 and Property 2 are referred to herein as “the Stumpf Properties” and are located on the north side of Bird River Road with an address of 9750 Bird River Road. The Stumpf Properties are located in the Fifteenth Election District and the Sixth Council District. Deeds of the Stumpf Properties are recorded in the Land Records of Baltimore County at Liber 39784, Folio 00495 for Property 2, and Liber 08090, Folio 0027 for Property 1.

On December 27, 2017, Patricia Stumpf sent a letter to Jeff Mayhew, Deputy Director of Planning, about an alleged zoning error on the Stumpf Properties that she attributed to the implementation of a County Council decision made during Baltimore County’s 2004 CZMP. She requested that Planning review the zoning on the Property and correct it if necessary. *See County Exhibit 1.* On August 10, 2018, Mrs. Stumpf granted her daughter a power of attorney to act on her behalf in this matter and so advised Jeff Mayhew in an August 10, 2018 letter. *See County Exhibit 2.*

Andrea Van Arsdale, the Director of Planning, sent a letter to Kathy S. Stumpf on October 4, 2018, certifying that upon investigation her staff concluded that a technical drafting error

occurred while implementing the zoning on the Stumpf Properties. Further, she advised that the County would file a petition to correct the error as provided for in the BCC. *See County Exhibit 11.*

Decision

The County presented one witness, Josephine Selvakumar. Ms. Selvakumar testified that she has a B.A. in Architecture from India, and a M.A. in City and Regional Planning from Morgan State University. She is a Planner II in the Community Planning Division of Planning where she has worked for almost four years. Upon receipt of Mrs. Stumpf's letter, she investigated the zoning history of the Stumpf Properties. She examined Planning's archives of decisions made during the CZMP. The Stumpf Properties are currently zoned CB (Community Business) and DR 3.5 (Density Residential, 3.5 units per acre).

During the 1996 CZMP, the Windless Run/ Ballard Gardens Improvement Association initiated Issue No. 5-049 to rezone 175.540 acres on the northwest side of Bird River Road and Middle River Road. *See County Exhibit 4.* Ms. Selvakumar testified that portions of the Stumpf Properties were included within the 175.540 acres of Issue No. 5-049. The Issue file included a listing of all the properties within the Issue boundary. In her review, she noted that page 1 of the listings identified the Stumpf Properties. *See County Exhibit 5.* Ms. Selvakumar averred that it was clear that the County Council's decision was to reclassify the zoning on 1.20 acres of the Stumpf Properties to CB. *See County Exhibit 6.* She emphasized that the 1.20 acres of CB zoning includes part of the right-of-way for Bird River Road. *See County Exhibit 7.*

Hawkins Manor, LLC initiated Issue No. 6-038 during the 2004 CZMP to rezone 45.878 acres on the north side of Bird River Road west of Middle River Road. The County Council rezoned the entire 45.878 acres D.R. 3.5, as depicted in the 2004 Log of Issues. *See County Exhibit*

8. When the zoning on this property was implemented, it adversely affected the Stumpf Properties.

Ms. Selvakumar testified that in 2004 parcel lines were drawn in GIS based on Coordinate Geometry (COGO) Properties on the State tax map. She stated that COGO refers to a data conversion process in which a digital map is constructed from written descriptions, such as legal descriptions of land parcel boundaries. However, the GIS only depicted two of the Stumpf Properties, namely, Tax ID number 1700002389 and Tax ID number 1519710240. Tax ID number 1519710241 was not included on the tax map or in GIS. *See County Exhibit 9.* As a result, the Tax ID number 1700002389 was rezoned erroneously to D.R.3.5 from CB. The County Council's intent was to rezone only Hawkins Manor LLC. Thereafter, when Tax ID 1519710241 was added to the GIS parcel layer, the CB zone line was not aligned correctly to a portion of the Stumpf Properties. Ms. Selvakumar opined that this resulted in a portion of the Stumpf Properties being erroneously rezoned from CB to D.R.3.5. *See County Exhibit 10.*

When Kathy S. Stumpf notified Planning of a possible zoning error, she provided a survey. Ms. Selvakumar testified that the County Office of Information Technology reviewed the survey, confirmed a technical error and was able to map accurately the parcel lines of the Stumpf Properties.

This technical error has been perpetuated from the 2004 CZMP through the 2016 CZMP. Further, this error was independent of and not associated with any Issues raised by any party in any CZMP since 2004.

This Board finds that the requirements of BCC §32-3-233 have been satisfied. Planning sent a letter to Kathy S. Stumpf on October 4, 2018 advising her of its intention to correct the zoning error. *See County Exhibit 11.* Additionally, on February 12, 2019 Planning sent a letter to the Honorable Cathy Bevins of the Sixth Council District advising her of its intention to correct

the zoning on the Stumpf Properties as provided in the BCC. *See County Exhibit 12.*

Finally, this Board finds that the notice provisions of BCC §32-3-234 have been met, as Ms. Selvakumar testified that the Stumpf Properties were duly posted with the required information at least 15 days prior to the scheduled hearing date.

In considering the thorough and reasoned testimony of Ms. Selvakumar, along with a review of the County exhibits detailing the zoning history of the Stumpf Properties, this Board is persuaded that a technical drafting error occurred when Planning incorrectly transferred the legislatively approved zoning classification during the 2004 official zoning maps.

ORDER

IT IS, THEREFORE, THIS 20th day of June, 2019, by the Board of Appeals of Baltimore County hereby

ORDERED that the Department of Planning reclassify the zoning on the Stumpf Properties located in the 9750 Bird River Road, Middle River section of Baltimore County, Maryland, 21220 from D.R.3.5. (Density Residential 3.5 units per acre) to CB (Community Business) as depicted in *County Exhibit 13*; and further

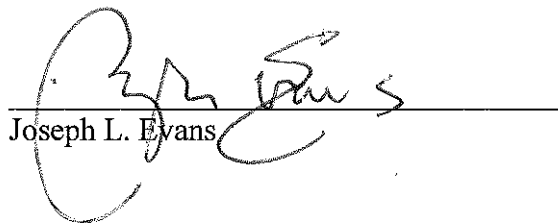
ORDERED that the Department of Planning make the necessary changes to the official zoning maps as reflected on *County Exhibit 13*.

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

BOARD O


Maureen E. Murphy, Chair




Joseph L. Evans

Approved as to Legal Form and Sufficiency:


Nancy C. West, Assistant County Attorney
Baltimore County Office of Law


Carole S. Demilio, Deputy People's Counsel
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Board of Appeals of Baltimore County

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June 20, 2019

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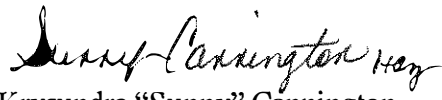
Re: In the Matter of: *Baltimore County, Maryland – Petitioner*
(9750 Bird River Road)
Case No.: MC-19-02

Dear Counsel:

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

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

Very truly yours,


Krysundra "Sunny" Cannington
Administrator

KLC/taz
Duplicate Original Cover Letter
Enclosure

c: Kathy S. Stumpf
Patricia Stumpf
The Honorable Cathy Bevins, 6th District, Baltimore County Council
Stacy L. Rodgers, Administrative Officer
Office of People's Counsel
Michael D. Mallinoff, Director/PAI
C. Pete Gutwald, Director/Department of Planning