IN RE: ZONING MAP CORRECTION **2 GERMAN HILL ROAD**	*	**BEFORE THE**
	*	**BOARD OF APPEALS**
BALTIMORE COUNTY, MARYLAND **a body corporate and politic**	*	**OF**
	*	**BALTIMORE COUNTY**
and	*	
HEUNG JU HWANG	*	**Case No.: M.C. 22-01**
Petitioners		

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OPINION

The above captioned matter came for hearing before this Board on July 12, 2022 on a Petition for Zoning Map Correction filed by James R. Benjamin, Jr., County Attorney, and Nancy C. West, Assistant County Attorney, on behalf of Baltimore County, Maryland, and by Timothy M. Kotroco, Esq., Matthew Kotroco, Esq., and Kotroco & Associates, LLC on behalf of Heung Ju Hwang. The requested correction involves a technical drafting error and seeks to reclassify the existing zoning on a 1.19 acre parcel of land at 2 German Hill Road situated on the west side of North Point Road in the Dundalk area of Baltimore County, Maryland, 21222 ("the Property").

The Property is currently zoned Density Residential 5.5 (D.R.5.5). Petitioners seek to reclassify the Property to Business, Local (B.L.) in accordance with the legislative intent of the County Council.

The Petition is cognizable under Baltimore County Code ("BCC") §§ 32-3-231 to 32-3-236, and, specifically, § 32-3-231(b)(1), which provides that a property owner may notify the Director of the Department of Planning ("Planning") if it discovers a technical drafting error made by Planning in the comprehensive zoning map.

At the Board's public hearing, Nancy C. West, Assistant County Attorney, represented Baltimore County, Maryland and Timothy M. Kotroco, Esq., represented the property owner, Heung Ju Hwang. Carole S. Demilio, Deputy People's Counsel for Baltimore County, also participated. There were no Protestants.

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

Decision

Heung Ju Hwang is the fee simple owner of the Property that is improved with the "Poor Boys" commercial garden center and a car wash. The deed for the Property is recorded in the Land Records of Baltimore County at Liber 40739, Folio 445. The Property has been used commercially for over 50 years. It is currently zoned Density Residential 5.5 (D.R.5.5).

On February 12, 2021, Timothy M. Kotroco, Esq., sent a letter to Stephen W. Lafferty ("Lafferty"), Director of Planning, advising that he believed the Property was erroneously zoned and requested that the department investigate the alleged error, and if verified, rezone the Property to Business, Local (B.L.) *See Exhibit D.*

Kristopher Weaver of the Department of Planning testified for the County. Mr. Weaver has been employed in that department for over 20 years as a Planner.

He testified that upon receipt of Mr. Kotroco's letter Planning staff investigated the zoning history of the Property. They searched the archives and reviewed all available zoning decisions from administrative cases and enactments of the County Council from prior years of the Comprehensive Zoning Map Process ("CZMP"). Mr. Weaver explained that the CZMP takes place every four years on an exact schedule specified in the BCC. Any citizen may request a

zoning change on any property in the County, although the usual participants in the process are individual landowners, contract purchasers, community organizations, County staff, the Planning Board and the County Council. The CZMP covers a period of approximately twelve months and results in zoning decisions that are reflected in a final Log of Issues. An "Issue" under the CZMP "means a tract or parcel of land proposed for a change in zone or district classification." See BCC § 32-3-211. Ultimately, the County Council decides whether to retain the existing zoning or to enact a different zone(s) or district(s) on each Issue. Generally, each Issue is a single property, but an Issue may cover many adjoining properties and might even cover many hundreds of acres. The zoning on all properties which were not Issues is re-enacted without change.

Mr. Weaver discovered that on February 23, 1967, the Zoning Commissioner approved a petition to rezone the Property from R-6 to Business, Local (B.L.) (Case No. R 1967-169) *See Exhibit B.* He emphasized that since the CZMP began in 1971, no CZMP Issues have been filed for the subject Property during any of the quadrennial CZMP cycles. In reviewing the Council-approved 1996 zoning map he found that the Property was correctly zoned B.L. Although no rezoning issues were filed for the subject Property, Mr. Weaver determined that it was erroneously zoned D.R. 5.5 in 2000 as shown on the official 2000 zoning map.

Mr. Weaver testified that between the 1996 CZMP and the 2000 CZMP, Baltimore County's official zoning maps were converted from paper maps to digital maps in the County's Geographic Information System ("GIS"). GIS is a system designed to capture, store, manipulate, analyze, manage, and present spatial or geographic data. He emphasized that because the initial 1996 paper maps were digitized at a 1,000-scale (1" represents 1,000'), rather than the current 200-scale standard (1" represents 200'), the 1996 map data did not correctly

align with the County's GIS parcel base map.

Mr. Weaver surmised that during the CZMP 1996, Issue 7-019 intended to rezone properties on the north side of North Point Road (opposite the subject property) from Density Residential 16 (D.R. 16) to D.R. 5.5. Due to the differences in map accuracy, CZMP Issue 7-019 overlapped a portion of the subject Property. Mr. Weaver opined that the Issue overlap could have resulted in the Property being erroneously rezoned to D.R. 5.5 once the digital conversion process completed. He believed that this was a likely cause of the erroneous mapping of the Property as D.R. 5.5.

Mr. Weaver averred that Planning staff conducted a thorough review of its archived CZMP files and zoning changes/polygons since 1967 and concluded that the Property was erroneously rezoned to D.R. 5.5 either during the digital conversion process or the 2000 CZMP. He attributed it to a technical drafting error that could be corrected pursuant to the process outlined in BCC §§ 32-3-231 et seq.

On January 27, 2022, Planning Director Lafferty wrote to the Honorable Todd K. Crandell of the 7th Council District, and to Timothy M. Kotroco, Esq., and advised that the Planning staff verified the technical zoning error on the Property and that the Department of Planning would pursue a zoning map correction with this Board.to correct it. See *Exhibits H and I.*

Finally, this Board finds that the notice provisions of the BCC § 32-3-234 have been met as Mr. Weaver testified that he posted two signs at the Property with the requisite particulars about the proposed rezoning at least 15 days before the scheduled hearing date. *See Exhibits K, L, and M.*

In considering the thorough testimony of Mr. Weaver, along with a review of the

extensive exhibits introduced by the County detailing the history of the Property since 1967, this Board is persuaded that a technical drafting error occurred either during the digital conversion process or in the 2000 CZMP when Planning transferred the legislatively approved zoning classification to the official zoning maps. For these reasons, it is clear that the Property was erroneously rezoned from B.L. to D.R. 5.5.

ORDER

IT IS, THERFORE, this 21st day of July, 2022 by the Board of Appeals of Baltimore County hereby

ORDERED that the Department of Planning reclassify the zoning on the Property known as 2 German Hill Road located in the Dundalk area of Baltimore County, Maryland, 21222 from Density Residential 5.5 (D.R. 5.5) to Business, Local (B.L.), and it is further

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

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*.

BOARD OF APPEALS
OF BALTIMORE COUNTY

Deborah Dopkin

Deborah Dopkin, Panel Chair

Adam T. Sampson

Adam T. Sampson

Fred M Lauer

Fred M. Lauer

Board of Appeals of Baltimore County

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July 21, 2022

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Re: In the matter of: Baltimore County, Maryland
Case No: MC-22-01

Dear Counsel:

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

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

Very truly yours,

Sunny Cannington

Krysundra "Sunny" Cannington
Administrator

Enclosure
Duplicate Original Cover Letter

c: Heung Ju Hwang
The Honorable Todd K. Crandall, 7th District, Baltimore County Council
Stacy L. Rodgers, Administrative Officer
C. Pete Gutwald, Director/PAI
Kristopher Weaver/Department of Planning
Stephen W. Lafferty, Director/Department of Planning