RECLASSIFICATION APPLICATION

Harford County Board of Appeals

Bel Air, Maryland 21014

JAN - 9

Case No. 129

Date Filed 12/15/06

Hearing Date

Pre-Conf.

Receipt

Fee $800

Shaded Area For Office Use Only

Note

1. It is required that the applicant have a pre-filing conference with the Department of Planning and Zoning to determine the necessary additional information that will be required.
2. The burden of proof in any rezoning case shall be upon the Petitioner.
3. Any application in a zoning case and any amendment thereto shall contain specific allegations setting forth the basis for granting of the request.
4. Petition must contain names and addresses of all persons having legal or equitable interest in the property, including shareholders owning more than five percent (5%) of the stock in a corporation having any interest in the property, except those corporations listed and traded on a recognized stock exchange.
5. Application will be reviewed for completeness within ten (10) working days of submittal. Applicant will be notified by mail of completeness of application.

Petitioner

Name William Wesley Pippin Phone Number Call Attorney

Address P. O. Box 362, Joppa, MD 21085-0362
Street Number *Street* *State* *Zip Code*

Property Owner Same as above. Phone Number

Address
Street Number *Street* *State* *Zip Code*

Contract Purchaser N/A Phone Number

Address
Street Number *Street* *State* *Zip Code*

Attorney/Representative Robert S. Lynch, Esquire Phone Number (410) 879-2222

Address Stark and Keenan, P.A., 30 Office Street, Bel Air, MD 21014
Street Number *Street* *State* *Zip Code*

Land Description

Address and Location of Property (with nearest intersecting road) 1003 Pine Road, Joppa, MD 21085

Property located south of Pulaski Hwy (MD Route 40) and east of Pine Road.

Subdivision N/A Lot Number N/A Acreage/Lot Size 0.517 acres Election District 1st

Existing Zoning R1 Proposed Zoning B3 Acreage to be Rezoned 0.517 acres

Tax Map No. 65 Grid No. 3B Parcel 235 Deed Reference 5283/663

Critical Area Designation N/A Land Use Plan Designation Low Intensity

Present Use and ALL improvements: Residential - Single-Family Dwelling.

Proposed Use (If for subdivision development, proposed number of lots, type of dwellings, and type of development. Example: Conventional, Conventional with Open Space, Planned Residential Development) Commercial.

Is the property designated a historic site, or does the property contain any designated or registered historic structures?

No. If yes, describe:

Estimated Time Requested to Present Case: 2 hours.

Required Information To Be Attached

(Submit three (3) copies of each):

(a) The names and addresses of all persons, organizations, corporations, or groups owning land, any part of which lies within five hundred (500) feet of the property proposed to be reclassified as shown on the current assessment records of the State Department of Assessments and Taxation.

(b) A statement of the grounds for the application including:

(1) A statement as to whether there is an allegation of mistake as to the existing zoning, and if so, the nature of the mistake and facts relied upon to support this allegation.

(2) A statement as to whether there is an allegation of substantial change in the character of the neighborhood, and if so, a precise description of such alleged substantial change.

(c) A statement as to whether, in the applicant's opinion, the proposed classification is in conformance with the Master Plan and the reasons for the opinion.

(d) A Concept Plan shall be submitted by the applicant at the time the application is filed. The Concept Plan shall illustrate the following:

(1) Location of site.

(2) Proposed nature and distribution of land uses, not including engineering drawings.

(3) Neighborhood (as defined by the Applicant).

CHESACO PROPERTIES, LLC
AND
WILLIAM WESLEY PIPPIN

Harford County Board of Appeals - Piecemeal Rezoning Application

Master Plan Statement

The Master Plan designates the Applicant's property as a mixed classification of Commercial and Low to Medium Intensity Residential. The Commercial designation is stripped along Route 40 to complement the existing B-3 zone that encompasses much of the land that has direct highway frontage. The Low to Medium Intensity Residential is situated behind the existing B-3 Commercial stripe. The Master Plan states that "the U.S. 40 and I-95 corridors are targeted to become the service and employment focal points for the community." The Master Plan further states that "[R]evitalization of the U.S. 40 Corridor is strongly encouraged."

Mistake Argument

During the comprehensive rezoning of 1997, the subject sites retained R1 zoning. At that time the county stated an intention to promote commercial and employment development along the US 40 Corridor as part of a comprehensive redevelopment process. Since that time the County has been working to renovate the US 40 Corridor and has developed a comprehensive redevelopment strategy for the US 40 Corridor and for the Edgewood area including the portion of US 40 through the neighborhood.

The subject sites are small and adjoin the commercial strip along US 40. Combining the properties requested for rezoning with the existing commercial sites immediately to the north is the type of land assembly necessary to permit reconfiguration and expansion of the existing business use, promoting exactly the commercial redevelopment envisioned for the Enterprise Zone.

The road configuration, the multiple land ownership and the existence of the commercial strip make a new low density single family an unlikely future land use. With the traffic concerns, proximity to the commercial zone, and surrounding land use, and the County's stated objective of redevelopment, neither property is an appropriate site for R1 zoning. The premise of the County in the late 1990s, that this site should be retained as low-density residential so it could be included in a residential redevelopment program, is unlikely to come to fruition.

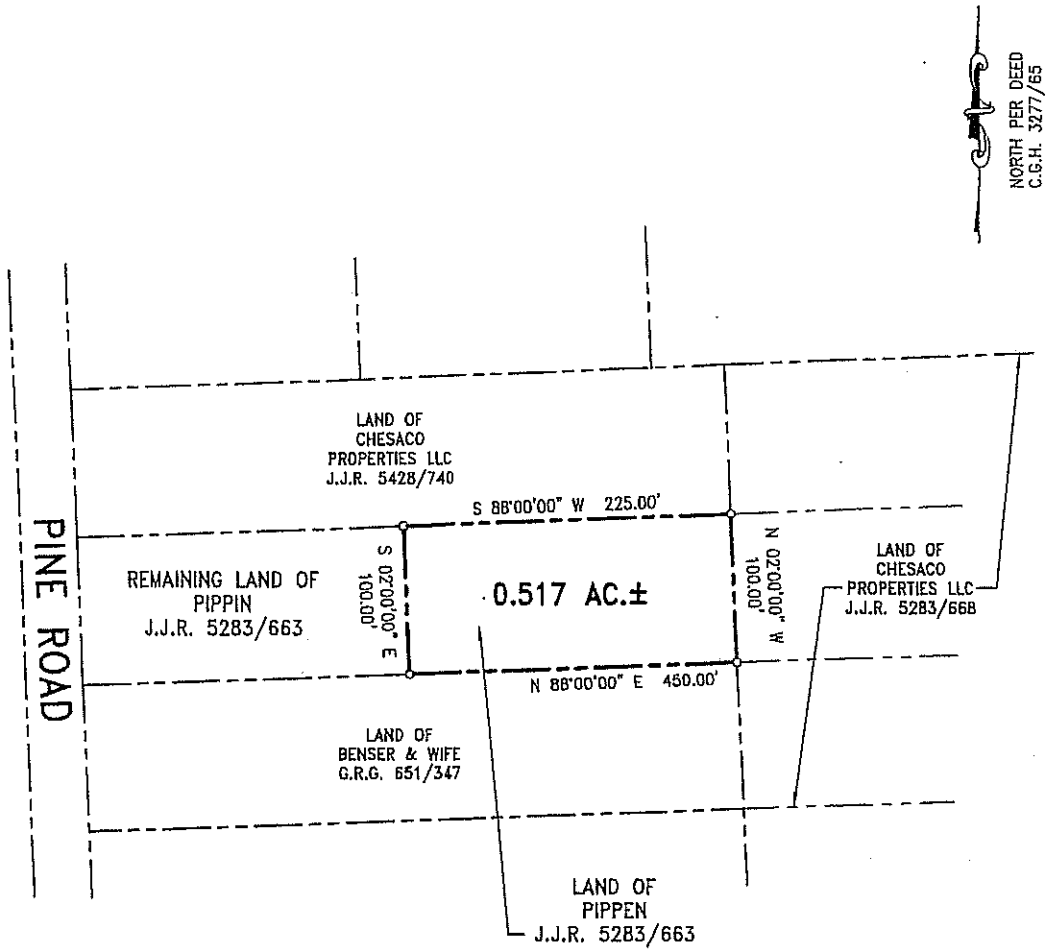
Change in Neighborhood

The overall character of the neighborhood has evolved from a rural residential community with a challenged, declining, highway commercial strip into an emerging suburban infill community with a revitalizing commercial area served by public utilities. In keeping with the Master Plan proposal, some new commercial activities are under construction/renovation along US 40 and new residential development to the north and south is obtaining access through a network of local serving roads.

In the established neighborhood for the site, numerous changes have occurred sine 1997. There are three new subdivisions in the area; one off of Clayton Road, one near the I-95 and MD 152 crossing, and one northwest of the site. There have been at least six sites throughout the neighborhood that have experienced either new or expanded commercial and institutional building/parking areas since 1998.

The County established Enterprise Zone along US 40 is cause for much of the new commercial development in the neighborhood. Clayton Station Business Park has added two parking lots. Crystal Auto, on U.S. 40, went before the Harford County Development Advisory Committee (DAC) last December, for a new car sales and service center. On May 17, 2006, the DAC heard a request on the Goss Property for the construction of three additional storage units. There has also been a new parking lot put in on the south side of U.S. 40, west of MD 152. Toward the end of Oak Avenue, a rubble fill is preparing to close. Off of Oak Avenue, Seven Hundred One Pulaski General Partnership applied and got approval to re-zone the property from R1 to B3.

Exhibit A



2/8/05

STATE OF MARYLAND
CHARLES DUDLEY CAMPBELL
REG. NO.

OWNER:

WESLEY WILLIAM PIPPIN
P.O. BOX 362
JOPPA, MARYLAND 21085-0362

THE PLAN WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH, AND WAS PREPARED FROM DEEDS AND PLATS OF RECORD. THIS PLAN DOES NOT CONSTITUTE A FIELD RUN BOUNDARY SURVEY BY BAY STATE LAND SERVICES, INC.

C:\04000\04053-U.S. ROUTE#40-CHESACO RV\TRANSFER.DWG

BAY STATE
LAND SERVICES
P.O. Box 853
Bel Air, Maryland 21014
Phone: 410-879-4747
Fax: 410-420-3949

PARTIAL LANDS OF

WESLEY WILLIAM PIPPIN

TAX MAP# 65-PARCEL #235

FIRST ELECTION DISTRICT — HARFORD COUNTY, MARYLAND

SCALE: 1"=100'	DATE: 2-8-05	DRAWN BY: JSC	JOB NO.: 04053

DAVID R. CRAIG
HARFORD COUNTY EXECUTIVE

LORRAINE COSTELLO
DIRECTOR OF ADMINISTRATION

C. PETE GUTWALD
DIRECTOR OF PLANNING & ZONING

HARFORD COUNTY GOVERNMENT

Department of Planning and Zoning

RECEIVED
APR 27 2007
HARFORD COUNTY

March 27, 2007

STAFF REPORT

BOARD OF APPEALS CASE NO. 129

APPLICANT/OWNER:	William Wesley Pippin P.O. Box 362, Joppa, Maryland 21085
REPRESENTATIVE:	Robert S. Lynch, Esquire Stark and Keenan, P.A., 30 Office Street, Bel Air, Maryland 21014
LOCATION:	East side of Pine Road approximately 400-feet south of Pulaski Highway (US Route 40) Tax Map: 65 / Grid: 3B / Parcel: 235 Election District: First (1)
ACREAGE:	0.517 acres
ACREAGE TO BE REZONED:	0.517 acres
EXISTING ZONING:	R1/Urban Residential District
PROPOSED ZONING:	B3/General Business District
DATE FILED:	December 15, 2006
HEARING DATE:	May 16, 2007

APPLICANT'S REQUEST and JUSTIFICATION:

Request:

The Applicants are requesting to rezone a 0.517 parcel from R1/Urban Residential District to B3/General Business District.

Justification:

See Attachment 1.

LAND USE and ZONING ANALYSIS:

Location and Description of Neighborhood:

The Applicant's property is located on the east side of Pine Road approximately 450-feet south of Pulaski Highway (US Route 40) and approximately 3,000-feet west of Magnolia Road (MD Route 152). A location map and a copy of the Applicant's site plan are enclosed with the report (Attachments 2 and 3).

The Applicant has submitted a map delineating their suggested neighborhood with the application (Attachment 4). The Department disagrees with the Applicant's suggested neighborhood and defines the neighborhood as all those properties south of the CSX Railroad, east of Joppa Road, west of Magnolia Road (MD Route 152) and north of the intersection of Joppa Road and Trimble Road. Enclosed with this report is a map showing the neighborhood as defined by the Department (Attachment 5).

Land Use – Master Plan:

The subject property is located within the Development Envelope on the east side of Pine Road south of US Route 40. The predominant land use designations in this area of the County are Low and High Intensity. The Natural Features Map reflects Stream Systems. The subject property is designated as Low Intensity which is defined by the 2004 Master Plan as:

> ***Low Intensity*** *– Areas within the Development Envelope where residential development is the primary land use. Density ranges from 1.0 to 3.5 dwelling units per acre. Neighborhood commercial uses such as convenience stores, doctors' offices, and banks are example of some of the nonresidential uses associated with this designation.*

Enclosed with the report are copies of portions of the 2004 Land Use Map and the Natural Features Map (Attachments 6 and 7).

Land Use – Existing:

The existing land uses generally conform to the intent of the Master Plan. The area contains a mix of uses including single-family dwellings and commercial/industrial uses. Some of the commercial uses in the area include small individual retail stores, used car dealers, motor vehicle repair shops and gas stations/convenience stores. A motel is located on the southwest corner of the intersection of US Route 40 and US Route 152. The Oak Avenue Rubble Fill is located approximately 2,000-feet to the southwest of the subject property. The future Oak Grove/Stancill's single-family residential development will be located on the east side of Rayner Lane. A total of 219 single-family residential lots have been approved and recorded in the Land Records. The owners of the subject property operate a recreational vehicle sales/storage facility on parcels with frontage on US Route 40.

The subject property is rectangular in shape, contains 0.517 acres and has approximately 100-feet of road frontage along Pine Road. The subject property is currently improved with a single-family dwelling. The topography within this area ranges from rolling to steep, especially near the stream valleys. The subject property is gently sloping from the north to the south. The soil survey map shows potentially hydric soils and highly erodible soils throughout the subject property. The potentially hydric soils may indicate the presence of non-tidal wetlands on the subject property. Enclosed with the report are a copy of the topography map and the aerial photograph (Attachments 8 and 9).

This rezoning request accompanies four other rezoning requests (Case Nos. 126, 127, 128 and 161) for four other parcels. As stated above, the Applicant currently operates a recreational vehicle sales/storage facility on parcels with frontage on US Route 40. The subject property is bordered to the north and east by two of the parcels that are the subject of the other rezoning requests. The parcels to the west on the opposite side of Pine Road are currently unimproved. Enclosed with the report are site photographs along with an enlargement of the aerial photograph (Attachments 10 and 11).

The Applicant has provided a chart showing three previous rezoning requests that were reviewed by the Board of Appeals in 1998. Case No. 081 and Case No. 083 were requests to rezone two parcels from R1/Urban Residential District to B3/General Business District that are located on the south side of US Route 40 (Pulaski Highway). The request under Case No. 81 was approved and the request under Case No. 83 was withdrawn by the applicant in those cases. The property that was the subject of Case No. 81 was at that time, and continues to be designated as Low Intensity. Although the rezoning was granted, the Department fails to see its relationship with the request to rezone the subject property from R1/Urban Residential District to B3/General Business District. Additionally, no commercial development has commenced on the property that was the subject of Case No. 81 since the rezoning was granted in 1998.

Case No. 82 was also a request to rezone a parcel from R1/Urban Residential District to B3/General Business District. This parcel was located on the west side of MD Route 152 north of the CSX Railroad and is not within the neighborhood defined by the Department in this report.

The requested rezoning in Case No. 82 was denied. Enclosed with the report is a copy of the Applicant's chart (Attachment 12).

Zoning and Zoning History:

Zoning:

The zoning classifications in the area are consistent with the 2004 Master Plan as well as the existing land uses. Residential zoning in the area is R1/Urban Residential District. Commercial zoning in the area includes B3/General Business District and CI/Commercial Industrial District. There are also several parcel zoned GI/General Industrial District on the north side of US Route 40. The subject property is zoned R1/Urban Residential District as shown on the enclosed copy of the zoning map (Attachment 13).

Zoning History:

1957 Comprehensive Zoning Review: In 1957 the subject property was zoned AG/Agricultural District. In 1959, the subject property was rezoned R2/Urban Residential District (Attachment 14).

1982 Comprehensive Zoning Review: During the 1982 Comprehensive Zoning Review the subject property was rezoned from R2/Urban Residential District to R1/Urban Residential District (Attachment 15).

1989 Comprehensive Zoning Review: In 1989 the subject property remained zoned R1/Urban Residential District (Attachment 16).

1997 Comprehensive Zoning Review: In 1997 the subject property remained zoned R1/Urban Residential District (Attachment 17).

2005 Comprehensive Zoning Review: The Applicant requested that the property be rezoned to B3/General Business District during the 2005 review. The Department and the Planning Advisory Board (PAB) recommended denial of the requested rezoning. The County Council voted to change the property to B3/General Business District. However, the County Executive vetoed the Legislation and the County Council did not override the veto. Therefore, the zoning assigned to the property in 1997 remains in effect. Attached is a copy of the 2005 zoning log (Attachment 18).

BASIS FOR INDIVIDUAL REZONING REQUEST:

Under Maryland case law, the burden of proof lies with the Applicant to provide information that there has been a substantial change in the overall character of the neighborhood or that the County made a mistake during the last comprehensive zoning review process. It should be noted

that the courts have stated that any argument for change cannot be based on existing changes that were anticipated during the last comprehensive review.

Substantial Change Argument:

The Applicant states that "The overall character of the neighborhood has evolved from a rural residential community with a challenged, declining, highway commercial strip into an emerging suburban infill community with a revitalizing commercial area served by public utilities. In keeping with the Master Plan proposal, some new commercial activities are under construction/renovation along US 40 and new residential development to the north and south is obtaining access through a network of local serving roads."

"In the established neighborhood for the site, numerous changes have occurred since 1997. There are three new subdivisions in the area; one off of Clayton Road, one near the 1-95 and MD 152 crossing, and one northwest of the site. There have been at least six sites throughout the neighborhood that have experienced either new or expanded commercial and institutional building/parking areas since 1998."

"The County established Enterprise Zone along US 40 is cause for much of the new commercial development in the neighborhood. Clayton Station Business Park has added two parking lots. Crystal Auto, on U.S. Route 40, went before the Harford County Development Advisory Committee (DAC) last December for a new car sales and service center. On May 17, 2006 the DAC heard a request on the Goss Property for construction of three additional storage units. There has also been a new parking lot put in on the south side of US Route 40, west of MD 152. Towards the end of Oak Avenue, a rubble fill is preparing to close. Off of Oak Avenue, Seven Hundred One Pulaski General Partnership applied and got approval to re-zone the property from R1 to B3."

The Department finds that there has not been a substantial change in the neighborhood. The Applicant has described various types of residential and commercial development that has occurred in the area since the last Comprehensive Rezoning. The development which has occurred in the area is consistent with the existing zoning. While there has been commercial development and redevelopment along US Route 40 since the 1997 Comprehensive Rezoning, these properties also have been developed in accordance with the existing zoning.

Mistake:

The Applicant states that "During the Comprehensive Rezoning of 1997, the subject sites retained R1 zoning. At that time the county stated an intention to promote commercial and employment development along the US 40 corridor as part of a comprehensive redevelopment process. Since that time the County has been working to renovate the US 40 Corridor and has developed a comprehensive redevelopment strategy for the US 40 corridor and for the Edgewood area including the portion of US 40 through the neighborhood."

"The subject sites are small and adjoin the commercial strip along US 40. Combining the properties requested for rezoning with the existing commercial sites immediately to the north is the type of land assembly necessary to permit reconfiguration and expansion of the existing business use, promoting exactly the commercial redevelopment envisioned for the Enterprise Zone."

"The road configuration, the multiple land ownership and the existence of the commercial strip make a new low density single family an unlikely future land use. With traffic concerns, proximity to commercial zone and surrounding land use, and the County's stated objective of redevelopment, neither property is an appropriate site for R1 zoning. The premise of the County in the late 1990s, that this site should be retained as low density residential so it could be included in a residential redevelopment program, is unlikely to come to fruition."

The Department disagrees with the Applicant's justification that the County made a mistake during the 1997 Comprehensive Rezoning review by allowing the subject property to retain its R1/Urban Residential District Zoning.

The subject property was designated as Low Intensity in the 1996 Land Use Plan and remained designated as Low Intensity in the 2004 Land Use Plan. An amendment to the 2004 Land Use Plan was put forth to expand the High Intensity land use designation in this area. However, the County Council voted to retain the Low Intensity land use designation as shown on the 2004 Land Use Map.

The Applicant states that Harford County has developed a comprehensive redevelopment strategy for the US Route 40 corridor and for the Edgewood area. It is true that the County has developed initiatives in these areas to promote revitalization and quality redevelopment. The US Route 40 Commercial Revitalization District (CRD) is generally defined as all those properties situated between the CSX Railroad and U.S. Route 40, and those parcels along the south side of US Route 40. Development within the CRD has included commercial as well as residential uses.

ANALYSIS OF INDIVIDUAL ZONING REQUEST:

Conformance with the Master Plan and Land Use Element Plan:

The existing R1/Urban Residential District zoning is in conformance with the existing Low Intensity designation shown on the 2004 Land Use Plan.

Impact of Requested Zoning:

The requested rezoning would be inconsistent with the 2004 Land Use Plan.

COMMENTS FROM ADVISORY GROUPS:

Historic Preservation Issues:

There are no historic sites on the property. No preservation easements impact the property.

Planning Advisory Board:

The Planning Advisory Board (PAB) reviewed the request at their meeting on April 11, 2007. The PAB voted 5-0 to recommend that the requested change in zoning be denied (Attachment 19).

RECOMMENDATION and or SUGGESTED CONDITIONS:

The Department of Planning and Zoning recommends that the request to rezone the subject property from R1/Urban Residential District to B3/General Business District be denied.

Shane Grimm, AICP
Chief, Site Plan & Building
Permits Review

Anthony S. McClune, AICP
Deputy Director, Planning and Zoning

SPG/ASM/jf