



Carroll County Planning Commission Report and Recommendation to the Board of County Commissioners

Rezoning Case No. 222 –Dickenson Road Property (Tract Z1)

Summary:

Petitioner/Owner:	Tract Z-1 Properties, Petitioner 9405 Parsley Drive Ellicott City, MD 21042
	M & I Properties, LLC., Owner 9405 Parsley Drive Ellicott City, MD 21042
Petitioner’s Attorney:	David K. Bowersox 24 North Court Street Westminster, MD 21157
Current Zoning:	“R-20,000”
Requested Zoning:	“B-NR” Business Neighborhood Retail
Total Acreage:	2.2025 acres
Existing Use of Land:	Vacant
Comprehensive Plan:	<i>2001 Freedom Community Comprehensive Plan</i>
Land Use Designation:	Medium Density Residential
Public Water Service Area:	Final/Existing Water Service Area (W-1)
Public Sewer Service Area:	Final/Existing Sewer Service Area (S-1)
PC recommendation:	Recommend that the Board of County Commissioners approve the requested rezoning from R-20,000 to B-NR for the subject property

Request Description:

The request is to reclassify 2.2025 acres from Residential R-20,000 to Business Neighborhood Retail (B-NR). The property is located along the north side of Dickenson Road approximately 225 feet east of West Hemlock Avenue. The property has a land use designation of Medium Density Residential in the *2001 Freedom Community Comprehensive Plan*.

Request in Detail:

The property comprises 2.2025 acres located on the north side of Dickenson Road approximately

225 feet east of West Hemlock Avenue. (see Exhibit A – Rezoning Plat).

The property has a land use designation of Medium Density Residential in *2001 Freedom Community Comprehensive Plan* (see Exhibit B- Designated Land Use).

The rezoning petition is based on both an argument of mistake in the current zoning designation and change in the neighborhood (see Exhibit C – Rezoning Petition).

Background of Request:

The neighborhood delineation was finalized at a joint meeting between the applicant and the Department of Land Use, Planning & Development on January 28, 2014.

The Carroll County Bureau of Comprehensive Planning accepted the subject petition on February 4, 2014 in accordance with the Carroll County procedures for zoning map amendments.

Findings:

1. Property Use and Development History

M & I Properties, LLC., bought the property October 10, 1985 from Herman and Aaron Reznick and the subject area was part of a 4.265 acre parcel. Carroll Station was built on the front part of the parcel and developed with an entrance on both MD 26 and Dickenson Road. In April 2005, M & I Properties, LLC., bought the 0.8809 acre parcel on the west side of the Carroll Station property from James and Linda Tony. There was an existing house on the newly acquired property that was used for both residential and commercial purposes in the past but when the property was purchased in April 2005 it was vacant. In November 2005, the Board of County Commissioners rezoned the .8809 acre parcel from R-20,000 to Business Local “B-L.” In 2009, the remaining portion of Dickenson Road was conveyed to the County Commissioners of Carroll County. This connection separated the original 4.265 acre parcel into two different parcels. The northern parcel which only fronts Dickenson Road is 2.2025 acres. This property includes the portion of the former Tony property that exists on the northern side of Dickenson Road.

2. Soils

The property lies within two soil series as identified and defined by USDA’s Natural Resources Conservation Service (NRCS) as the following: Glenelg- Urban Land Complex (GfB-This soil type is on hillslopes, piedmonts. The parent material consists of loamy residuum weathered from phyllites. This soil type is not flooded or ponded. Classification is well drained. This soil type represents approximately 1.70 acres with 0 to 8 percent slopes) and Urban Land- Udorthents Complex (UrB- This soil type is on ridges and uplands. The parent material consists of graded areas of schist and/or gneiss. Classification is well drained. This soil type represents approximately 0.50 acres with 0 to 8 percent slopes).

3. Watersheds

The property is located in the Liberty Reservoir MDE 8-digit watershed. The Carroll County Water Resource Management Area Guidance Map designates the site as surface watershed area.

4. Agency Comments

On February 4, 2014, the Bureau of Comprehensive Planning referred the rezoning petition to several agencies and bureaus for any comments that the Planning and Zoning Commission should consider prior to making a recommendation to the County Commissioners.

The following agencies and bureaus were given the opportunity to provide comments:

- Carroll County Bureau of Engineering
- Carroll County Bureau of Resource Management
- Carroll County Bureau of Utilities
- Carroll County Roads Operations
- Carroll County Health Department
- Carroll County Office of the County Attorney
- Carroll County Department of Economic Development
- Carroll County Zoning Administrator
- Carroll County Bureau of Development Review
- Carroll County Planning Computer Mapping (GIS)
- Maryland Department of Transportation – State Highway Administration
- Maryland Department of Planning
- Baltimore Metropolitan Council
- Supervisor of Assessment

Written comments were received from the following Bureau and agency:

Clayton Black, Carroll County Development Review (Memorandum dated February 20, 2014):

“A site plan, with approval by the Carroll County Planning and Zoning Commission, will be required for development of the property. Recording an amended plat to remove the term “non-buildable” as shown on P.B. 51 P 120 will be required. Process of both of these plans occurs through the Bureau of Development Review.

5. Immediate Neighborhood

The immediate neighborhood is 162.3 acres and is generally along MD 26 from approximately Long Meadow Road to Monroe Road with parts of the neighborhood on both the north and south sides of MD 26. The neighborhood extends 4,465.59 feet on the north side of MD 26 and 4,471.04 feet on the south side of MD 26.

The primary use within the neighborhood is commercial. There are also residential uses scattered throughout the neighborhood as well.

6. Public Facilities

- Transportation- This portion of the property has approximately 403 feet of frontage on Dickenson Road. Vehicular access to this property would be from Dickenson Road.
- Dickenson Road is a planned collector street which was constructed by the petitioner and their predecessor owners in connection with the development of the portions of their adjacent property.
- Water and Sewer Service Area- This property is in the Final/Existing Water Service Area (W-1) Final/Existing Sewer Service Area (S-1) in the 2007 *Carroll County Master Plan for Water and Sewerage*.
- Telephone, Electric and Cable- Telephone service is provided to the area by Verizon. Electric service is available through Baltimore Gas and Electric. Cable is provided by Comcast.

7. Zoning

Zoning within the Neighborhood

The zoning districts found within the neighborhood are: “C” Conservation, “R-10,000”, “R-20,000”, “B-NR” Neighborhood Retail Business and “B-G” General Business. The properties on the north side of MD 26 are zoned either “B-NR” or “B-G”, while the properties on the south side of MD 26 are a mix of the business and residential zoning.

- Conservation (1.46% of the neighborhood)- the purpose of this district is to prescribe a zoning category for areas that because of natural geographic factors and land use it would be feasible and desirable to conserve open space & other natural resources.
- R-10,000 (14.07% of the neighborhood)- the purpose of this district is to provide for smaller lot sizes [10,000 square feet minimum] for single- and 2-family dwellings, based on the presence of public water and sewerage facilities. This would essentially mean more dwellings per acre [approximately 3 to 4 families] and less open area than in the R-20,000 Residence District.
- R-20,000 (21.92% of the neighborhood) - the purpose of this district is to provide a location for single-family residential development, the individual lots of which contain a minimum of 20,000 square feet (or approximately 2 families per acre). The area may or may not be served with public water and/or public sewerage facilities.
- Neighborhood Retail Business (11.23% of the neighborhood) - the purpose of this district is to provide for logical locations where the retail services needed by a neighborhood population can be made available. The areas are in communities and at locations of expected population concentrations which might be termed a neighborhood or small

community.

- General Business (51.37% of the neighborhood) - the purpose of this district is to provide logical locations of all businesses of a more general nature than might be expected to be found in a neighborhood. The businesses proposed include retail, wholesale, and some light processing operations.

Zoning of the Petition Area

The property was originally zoned “R-10,000” in 1965 when this parcel was part of a larger property. The zoning was changed to “R-20,000” as an implementation of the *1977 Freedom Mini Plan*.

8. Relationship of Proposed Zoning to Comprehensive Plan

The subject property was designated as Medium Density Residential in the *2001 Freedom Community Comprehensive Plan*. The zoning classification for the petition property, which is “R-20,000”, is consistent with the *2001 Freedom Community Comprehensive Plan*’s Land Use Designation of Medium Density Residential. The petitioner states in that this request is “consistent with the County Master Plan because it contemplates significant commercial development in and around that section of the Liberty Road corridor.”

This property is located within the area delineated as the Boulevard District in the *2001 Freedom Community Comprehensive Plan*. The Boulevard district encompassed a portion of the MD 26 and MD 32 corridors which included business, residential, and industrial land use designations. Although the main purpose of this district was to address land use, design guidelines, and traffic control, the Boulevard district never came to fruition as an implementation instrument of the *2001 Freedom Community Comprehensive Plan*. According to the applicant, this property is the only residential property in this part of the delineated Boulevard District.

9. Mistake in the Current Zoning

This property is located on a planned collector street, Dickenson Road, constructed by the Petitioners and their predecessor owners in connection with the development of a portion of their adjacent property. The final 150 feet of Dickenson Road was redesigned and constructed by Carroll County in 2011. Dickenson Road was originally conceived as part of the *1977 Freedom Mini Plan* as a planned service road running roughly parallel to MD 26 to provide a service to commercial areas and avoid additional entrances onto MD 26. The portion of Dickenson Road in the “neighborhood” has been designed with a view to serve neighborhood commercial uses in this portion of the Freedom area.

The lack of residential development north of Dickenson Road since the completion of the road demonstrates a basic mistake of fact regarding the propriety of a R-20,000 zoning designation for this property. The experience of the owners has been that despite their ownership of the property for almost thirty years, there has been no interest by any prospective purchaser or builder of the property for residential uses consistent with the R-20,000 zoning district. All nearby residential

construction is at least forty years old and oriented away from the petition property.

The petition suggests that the same reasoning and analysis for Rezoning Case Nos. 208 and 218 to be rezoned using “Mistake in Current Zoning” applies to this property as well.

“In 2002, by Ordinance 02-17, the County Comprehensively rezoned several properties [as part of the County Phase 2 rezoning process]. Four of those properties are located within the immediate neighborhood of the petition area and were rezoned from “R-20,000” Residential District to “B-G” General Business and “B-L” Business Local. One result of this comprehensive rezoning was the elimination of all residential zoning on the north side of Liberty Road.”

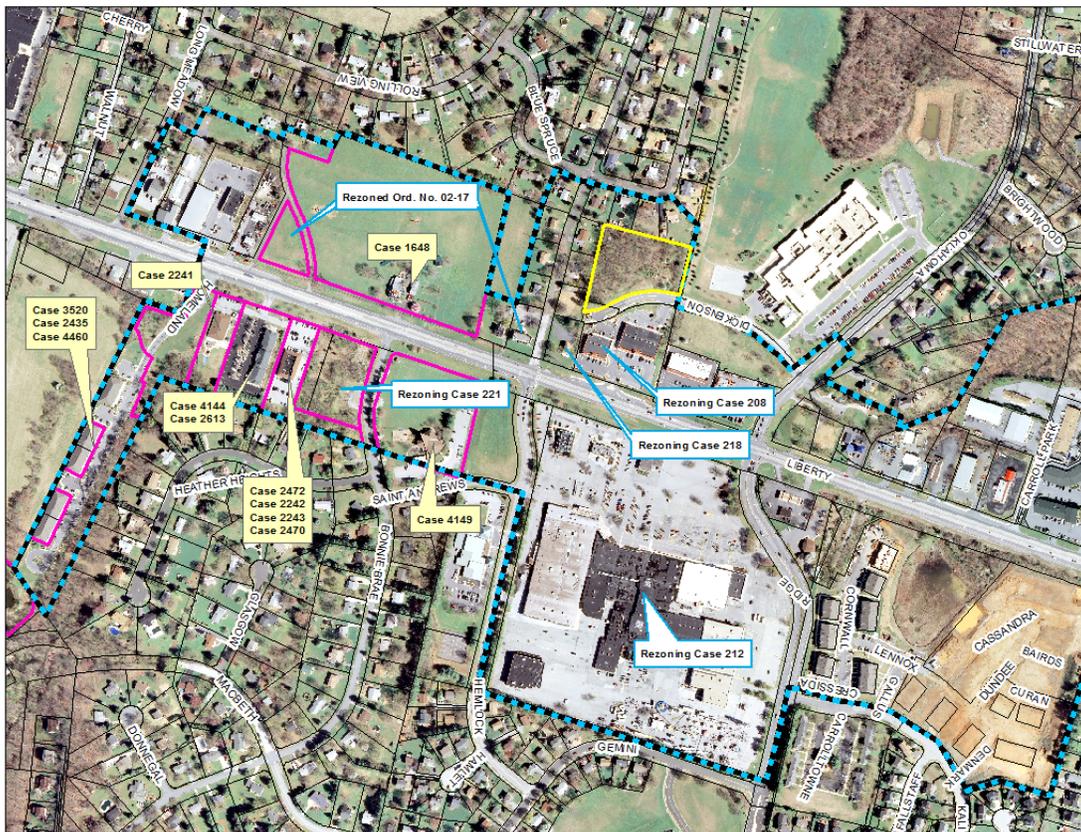
10. Change in the Character of the Neighborhood

The Planning Commissioner Report to the Board of Carroll County Commissioners for Rezoning Case No. 208 said that “[Through the County Phase 2 rezoning process] four properties were rezoned within the immediate neighborhood that increased business zoning by 14.5 acres and the business zoning district was extended 1,200 linear feet further east along the north side of Liberty Road”

Many of the neighboring residentially zoned properties have developed commercially by means of conditional use application. Even though the properties neighboring the petition area are zoning “R-20,000” none of them are being utilized for a residential use. The following Board of Zoning Appeal cases have helped to change the character of the neighborhood. These changes were not intended by the *2001 Freedom Community Comprehensive Plan*:

- BZA Cases 2435/3520/4460: 1533 Liberty Road- A conditional use request (Case 2435) for the establishment of a residential apartment complex for the elderly, or retirement home development on about 6.7 acres. A conditional use request (Case 3520) for a retirement home apartment complex, and a variance reducing minimum required side yard from 40 feet to 25 feet. A conditional use request (Case 4460) for a retirement home community. The most recent case was granted conditional approval in January 2000.
- BZA Case 1648: 1640 Liberty Road - A conditional use for a retirement home apartment complex, and a variance reducing the minimum required side yard from 40 feet to 25 feet. Conditional approval was granted in November 1980.
- BZA Case 4144: 1643 Liberty Road- An amendment to the previous approval in Case 2470 to allow all of the building to be used for professional offices. Conditional approval was granted in November 1996.
- BZE Cases 2613: 1645 Liberty Road- Conditional authorization (Case 2242) was given for a nursing home with professional offices of various medical practitioners. The request was amended again (Case 2613) to allow substitution of medical or dental clinic or offices in lieu of the forty percent space approved for the construction and operation a nursing home. Conditional approval was granted in November 1986.

- BZA 2242/2243/2470/2472: Property located on the south side of Liberty Road approximately three hundred and fifty feet west from Bonnie Brae Road intersection- This original request (Case 2242) was amended (Case 2470) to allow for some unrelated professional offices, and to confirm authorization of the variance to the maximum density provisions of nursing homes. A request to amend the Board's conditional approval (Case 2243) of a one story medical clinic, sixty feet in width by one hundred and forty feet in depth to allow a two story building with the first story sixty feet in width by one hundred feet in depth and the second story seventy feet in width by one hundred ten feet in depth and increase the parking facilities (Case 2472). The most recent case was granted conditional approval in April 1986.
- BZA Case 2241: Property located on the south side of Liberty Road about six hundred feet west from Bonnie Brae Road intersection- A conditional use request for the establishment of a nursery school or child care center. Conditional approval was granted in March 1985.
- BZA Case 4149: 1700 St. Andrews Way- A conditional use request for a day care center in lower level of the Faith Lutheran Church. Conditional approval was granted in November 1996.



In addition to the various Board of Zoning Appeal Cases the petitioner also mentions the following as examples of change in the character of the neighborhood:

- “The large property immediately across Liberty Road from the subject property was rezoned in November 2002 from “R-20,000” Residence Suburban to “B-G” Business General by Ordinance No. 02-17.” This property is currently being used for residential purposes.
- “The nearby property known as the Carrolltown Mall has changed from a thriving commercial enterprise to a struggling commercial enterprise in need of redevelopment and was individually rezoned to “B-G” General Business.”
- “Highway improvements to Liberty Road have been made in the area.”
- The Carroll County Board of Commissioners deliberated and decided to grant the request of Rezoning Case No. 221 at their February 6, 2014 meeting.

Staff Recommendation:

With regards to the argument of “Change in the Character of the Neighborhood”, the applicant has failed to demonstrate the requisite change that was not envisioned by the *2001 Freedom Community Comprehensive Plan*. The change that has occurred in the vicinity since 2001 falls into three categories: (1) it was envisioned by the Plan or (2) it has occurred as a zoning map amendment (3) or as a result of a Board of Zoning Appeal action. None of these categories satisfy the legal burden associated with “Change.”

The matter of “Mistake”, however, warrants further evaluation. The fact that numerous Board of Zoning Appeals cases that served to substantially alter the landscape, as well as the character of the neighborhood. The fact that they occurred prior to 2001 when the Freedom Community Comprehensive Plan was Adopted; the fact that the outcome of those decisions led directly to the development of properties in a manner other than residential; and the fact that this development occurred prior to 2001, support the contention of “Mistake”

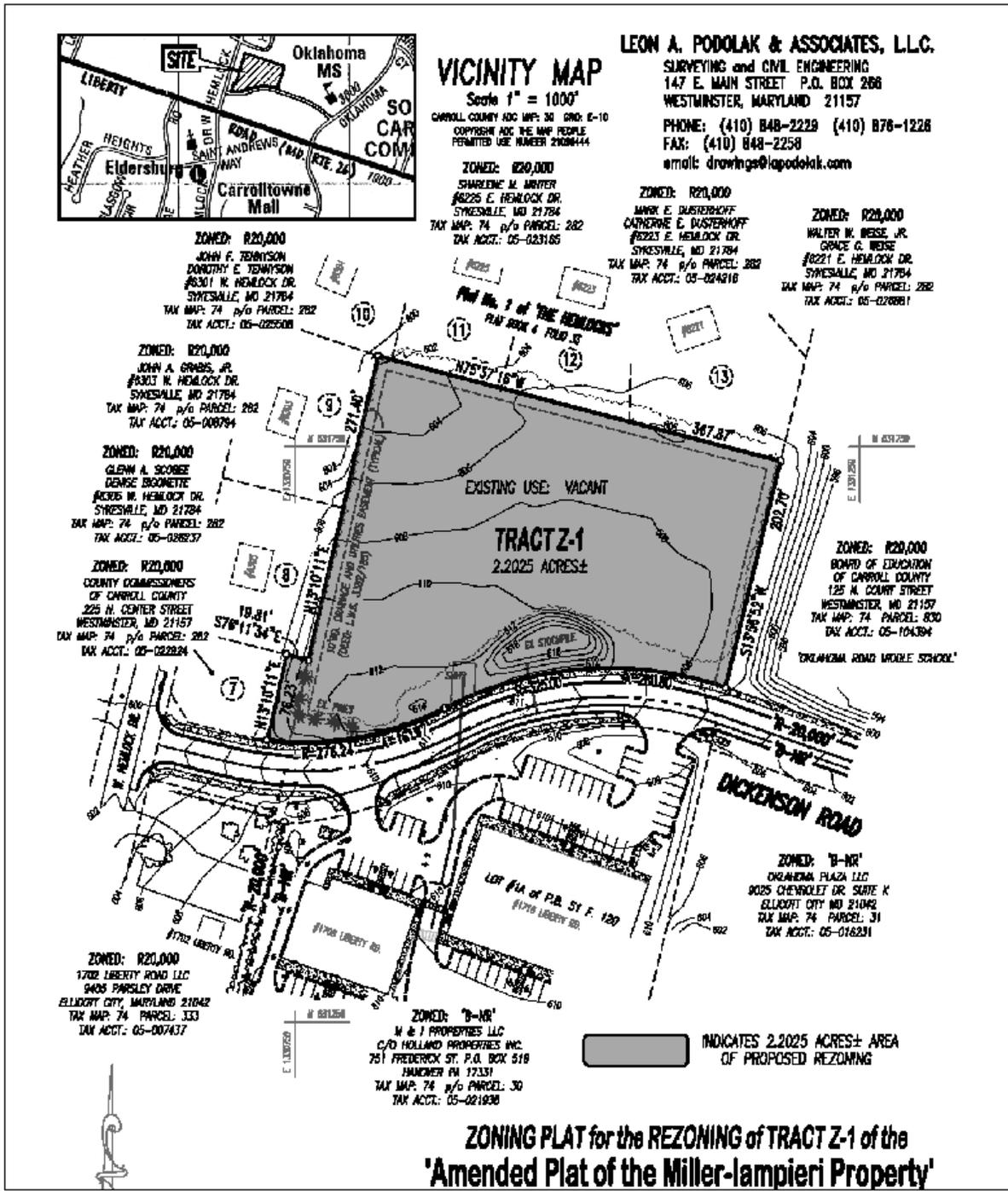
Commercial development was present on the properties adjoining the subject parcel when staff was developing the *2001 Freedom Community Comprehensive Plan*. It seems inescapable the existing land use could have been designated as anything other than Commercial. Therefore, the future land use designation should have been Commercial as well. The fact that neither designation was incorporated in the 2001 Plan suggests that the Plan was in error and thus supports the argument for Mistake. In addition, Dickenson Road has been constructed to be used as a service road to facilitate access to commercial areas and avoid additional entrances onto MD 26. This road was included in the *2001 Freedom Community Comprehensive Plan* as a Major Planned Street. Consequently, staff recommends that the zoning of the subject parcel be changed to “B-NR”, Business Neighborhood Retail.

Planning Commission Recommendation:

Based on the above findings, and in consideration of Article XXX (Section 223.197) of the Code

of Public Local Laws and Ordinances of Carroll County, and Section 4.05 of the Land Use Article of the Annotated Code of Maryland, the Planning and Zoning Commission unanimously recommended that this property be rezoned from “R-20,000” to “B-NR” based on a “mistake” in the current zoning.

Exhibit A



Rezoning Case #222
Dickenson Road Property (Tract Z-1)

Prepared by the Carroll Co. Dept. of Land Use, Planning, & Development, 01/30/14 (rs)

Exhibit C

LAW OFFICES
HOFFMAN, COMFORT, OFFUTT, SCOTT & HALSTAD, LLP

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*ADMITTED IN MD AND PA

December 16, 2013

Bureau of Comprehensive Planning
225 North Center Street
Westminster, MD 21157

RE: My Client: Tract Z1 Property, LLC; Petition for Rezoning

Dear Sir or Madam:

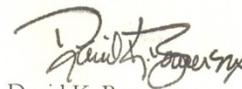
Pursuant to the Carroll County Guide for the Preparation of Rezoning Petitions and Procedure for Rezoning, I am providing a Petition for Zoning Map Amendment signed in triplicate by my client, two mylar boundary plats of the property and 15 paper copies of property boundary plats. I am also providing a digital version of the property boundary plats prepared in accordance with the current digital data policy.

Attached to the narrative portion of the Petition (Exhibit A) is a map depicting the proposed neighborhood which is submitted by the applicant.

Please note that although the name of the owner and the name of the Petitioner are two different limited liability companies, the constituent members of each of those limited liability companies are identical. Although the interest of the Petitioner on the application form is indicated as "purchaser," the principals are currently in the process of changing title to the property subject of this application from one limited liability company's name to the other. However, the Deed has not yet been recorded and therefore we wanted to note the correct names of the Owner and the Petitioner as of the date of this filing.

Thank you very much for your attention. Please contact me at this office once you've had an opportunity to review the Petition and to discuss further if you have any questions or comments. Otherwise, contact me and I will make certain that the check for the \$125.00 filing fee is provided.

Very truly yours,

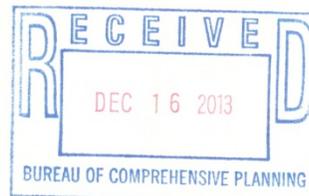


David K. Bowersox

DKB/kat
Enclosures

cc: Mr. Scott O. Miller
Mr. William J. Iampieri
Mr. Peter L. Podolak

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PETITION FOR ZONING MAP AMENDMENT
M & I PROPERTIES, LLC/SCOTT O. MILLER
EXHIBIT A

Tract Z1 Property, LLC (hereafter referred to as "Petitioner"), by its attorney, David K. Bowersox, files this accompanying Petition for Zoning Map Amendment and in support thereof states the following:

1. Petitioner requests a change in zoning classification from R-20,000 to BG-General Business, or, in the alternative, B-NR.

2. The current use of the property is vacant and unimproved.

3. The property is located in a neighborhood along and dominated by Maryland Route 26 (Liberty Road) in the Eldersburg area of Carroll County, Maryland, which is predominantly commercial with only very limited, 1960's-70's era residential development as one proceeds further from Liberty Road. These residential improvements are oriented unto themselves and are not oriented in such a way as to contemplate or anticipate an enlargement of that existing residential neighborhood through the inclusion of the subject property. The property is located north of Dickenson Road, a County public road and is located approximately 225 feet east of West Hemlock Avenue. The neighborhood itself is bounded generally as follows:

The neighborhood for purposes of this application extends generally along Maryland Route 26 from approximately Georgetown Boulevard on the west to Sunset Drive on the east. The neighborhood encompasses property on both the north and south sides of Maryland Route 26. The primary and predominant use within the neighborhood is commercial. The neighborhood also corresponds to these portions of the "Boulevard District" designations

located between Georgetown Boulevard and Sunset Drive as part of the 2001 Freedom District Comprehensive Plan.

The property is one of the very few properties in this neighborhood setting which is not used or improved in either a commercial, residential or mixed residential or commercial use.

4. Petitioner alleges that there is a basic and material mistake with respect to current R-20,000 zoning as this property is dominated by neighboring commercial uses and, in fact, is the remnant of a parcel which has been previously rezoned and upon which thriving commercial uses are established. The property is located on a planned collector street, Dickenson Road, constructed by the Petitioner and their predecessor owners in connection with the development of the portions of their adjacent property. The final 150 feet of Dickenson Road was redesigned and constructed by Carroll County in December, 2011. Dickenson Road was originally conceived as part of the 1977 Freedom Mini-Plan as a planned service road running roughly parallel to Maryland Route 26 to provide service to commercial areas and avoid additional entrances onto Liberty Road. The completion of Maryland Route 26 parallel service roads, including the rest of proposed Dickenson Road appeared as a top road infrastructure priority in the 2001 Freedom Community Comprehensive Plan. The portion of Dickenson Road in the “neighborhood” has been designed with a view to serving neighborhood commercial uses in this portion of the Freedom planning area.

Since the most comprehensive rezoning in the 2001 Freedom Community Comprehensive Plan, there have been a number of reclassifications or rezonings of property as part of the “Phase 2” rezonings which are more particularly referenced in Ordinance No. 02-17. These include rezonings in the general vicinity of the subject property and the neighborhood delineated as part of this Petition. In addition, there have been further piecemeal or Euclidean

rezonings granted on adjacent properties in rezoning Case Nos. 208 and 218 further indicating the impropriety of R-20,000 zoning at this location and the propriety of a commercial zoning classification requested by this Petition. The propriety of commercial zoning for the surrounding land is amplified by these rezoning cases, and demonstrates the impropriety of the continued R-20,000 designation. These circumstances are evidence of a basic and actual mistake or misapprehension of facts pertinent to the subject site and its classification within the R-20,000 district.

Intensification of vehicular traffic, principally on Maryland Route 26, and the widening of that road throughout the Eldersburg area indicates a mistake as to the subject property and environs and the mistake as to the nature of the subject property and its classification within the R-20,000 zone.

The lack of residential development north of Dickenson Road since the construction of Dickenson Road demonstrates a basic mistake or misapprehension of fact regarding the propriety of an R-20,000 zoning designation for the subject site. The experience of the owners has been that despite their ownership of the property for almost thirty (30) years, there has been no interest by any prospective purchaser or builder of the property for residential uses consistent with the R-20,000 zoning district. All nearby residential construction is at least forty (40) years old and oriented away from the subject site. The parcel is otherwise not suitable for residential use.

The property is also the only residential property in this part of the neighborhood included within the Boulevard District designation area on the 2001 Freedom Community Comprehensive Plan Land Use Designation Map. This inclusion of the site within the proposed Boulevard District is an acknowledgment that the most recent comprehensive planning

document recognizes that the property is not suitable for traditional or conventional development as an R-20,000 site.

This is additional evidence that the current R-20,000 zoning for the subject site is a basic and material mistake. The inclusion of the property within that land use designation is recognition that the property was neither contemplated for, nor suitable for, conventional R-20,000 development unlike other R-20,000 zoned properties in the medium density residential district which were not included within the Boulevard District Designation Area. Although the Boulevard District was proposed and incorporated as part of the adopted 2001 Freedom Community Comprehensive Plan, legislation was not adopted in order to implement the proposed Boulevard District component of that Plan.

There have also been amendments to zoning ordinance provisions and maps affecting the neighborhood since the 2001 Freedom Plan. What had been the "B-L" Local Business district at that time has been changed to the "B-NR" Business Neighborhood Retail district with significant modification to uses available to those properties than under prior zoning. Subsequent amendments to the B-NR Code provisions incorporating uses and features reminiscent of the Boulevard District purposes demonstrate the propriety of either the B-G or B-NR district for the subject site and a mistake in the current R-20,000 zoning.

While these amendments are evidence of a substantial change since the 2001 Freedom Community Comprehensive Plan, it is also evidence of the basic and material mistake of this property's inclusion within a conventional R-20,000 zoning district. Inclusion of this subject property within the Boulevard District recognizes that this property was envisioned by the Plan for a land use pattern of a mix of commercial, retail, professional office, and other uses that

were to be governed by development guidelines much more akin to what is provided in the current B-NR zoning district regulations.

The Petitioner also incorporates by reference the reasoning and analysis of the County Commissioners for Carroll County regarding findings of mistake in R-20,000 zoning in the immediate neighborhood expressed in rezoning Case Nos. 208 (involving the property adjacent to the subject site) and 218 (involving the property adjacent to that involved in Case No. 208) as being applicable to the property subject of the within Petition.

5. In the alternative, Petitioner alleges that there has been a substantial change in the character of the neighborhood subsequent to the most recent comprehensive plan or comprehensive rezoning. Petitioner's property may not have been considered as part of the comprehensive plan or comprehensive rezoning involving land use changes for as far back as 1985. Nevertheless, the neighborhood (see attached map) has substantially changed in at least the following respects (Petitioner also submits these items in support of his mistake allegation):

A. Many neighboring properties have been developed with commercial type uses by means of conditional use applications. For example, see the Decisions of the Carroll County Board of Zoning Appeals in Case Nos. 1648, 2241, 2243/2472, 2470, 4144, and 4149. Petitioner respectfully requests that staff consider these zoning actions (as well as numerous other zoning actions in the neighborhood) as evidence of mistake in zoning.

B. The large property to the west across Hemlock Drive was rezoned in November, 2002 from R-20,000 Residence Suburban to BG-Business General by Ordinance No. 02-17.

C. The zoning of the nearby property known as the Carrolltown Mall has changed to BG-General Business in Rezoning Case No. 212.

D. Highway improvements to Liberty Road have been made in the area.

6. The property cannot be reasonably utilized under the purposes of the R-20,000 residence district. The purpose of the R-20,000 residence district is to provide a location for single family residential development with lots containing a minimum of 20,000 sq. ft. As evidenced by the lack of any interest in residential uses for the property and other matters referred to above, the location of the property is such that it is not appropriate for any such use, nor are any of the other principle permitted uses appropriate for the property given its size and situation. Although certain conditional uses may be appropriate for the Property, its highest, best and most appropriate use is for uses permitted in the B-G or B-NR zone and any further investment in the property would likely occur only with that zoning in place. Furthermore, neighboring properties have already developed with conditional uses meaning that the market is already saturated.

7. The proposed rezoning would be consistent with the County Master Plan, which contemplates significant commercial development in and around that section of the Liberty Road corridor.

8. The property is served by public water, public sewer, and public roads.

9. And for such other and further reasons as may be brought forth at the hearing on this matter.

Respectfully submitted,



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*ADMITTED IN MD AND PA

January 15, 2014

Ms. Lynda D. Eisenberg
Chief, Bureau of Comprehensive Planning
225 North Center Street
Westminster, MD 21157

RE: Tract Z1 Property, LLC Petition for Rezoning

Dear Ms. Eisenberg:

During recent telephone conversations I've been made aware of two concerns raised by staff with regard to the Tract Z1 Property Petition for Rezoning which was filed in your office under my cover letter of December 16, 2013.

First, Ms. Gerhart of your office pointed out that the plats submitted in support of the Petition for Rezoning did not indicate the current use of the property subject of the Petition. As you know, that property is vacant and undeveloped. I am hereby providing two mylar boundary plats of the property and 15 paper copies and the digital file of that plat indicating the current use of the subject property as "vacant."

The second matter is that our Petition requests BG and B-NR zoning in the alternative. I understand that it is your office's policy to move these applications forward with a singular request for a particular zoning district as opposed to prior practice of an alternative district designation request.

After some discussion with my client, and without prejudice to their position that there is nothing inappropriate nor unlawful about the alternative request in the original Petition, my client has authorized me to indicate that we seek a change from the current R-20,000 zoning district designation to a B-NR Neighborhood Business Retail designation for the property subject of the Petition.

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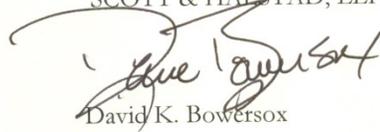
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Ms. Lynda D. Eisenberg
January 15, 2014
Page 2

Thank you very much for your attention. In the event you need something more formal than this supplementation of the pending application, please contact me and advise me what, if anything further, you need in order to complete these modifications.

Very truly yours,

HOFFMAN, COMFORT, OFFUTT,
SCOTT & HALSTAD, LLP



David K. Bowersox

DKB/kat
Enclosures

cc: Mr. William J. Iampieri
Mr. Scott O. Miller
Mr. Peter L. Podolak





January 31, 2014

Carroll County Department of Planning
225 N. Center Street
Westminster, Maryland 21157
Attn: Andrea Gerhard

Re: Tract Z-1 Neighborhood Map to accompany Rezoning Petition

Dear Andrea,

The Neighborhood Map prepared by your office will suffice for our needs during the upcoming rezoning hearing for Tract Z-1 located on Dickenson Road in Eldersburg. Thank you, and your staff, for your help with this.

If you need additional information from us please do not hesitate to contact our office.

Very truly yours,

Peter L. Podolak
Professional Engineer
State of Maryland
Reg. no. 19561

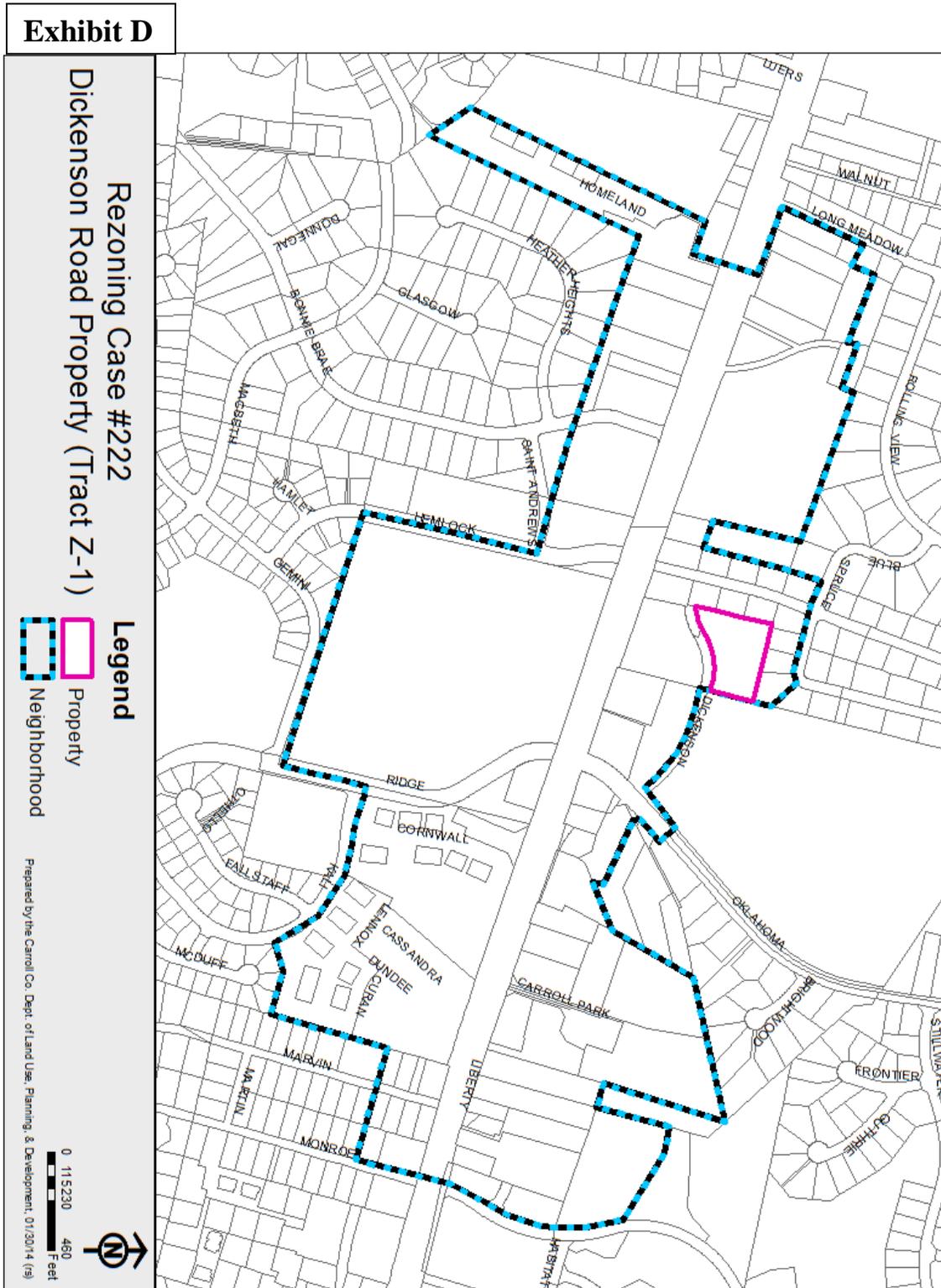


Exhibit E

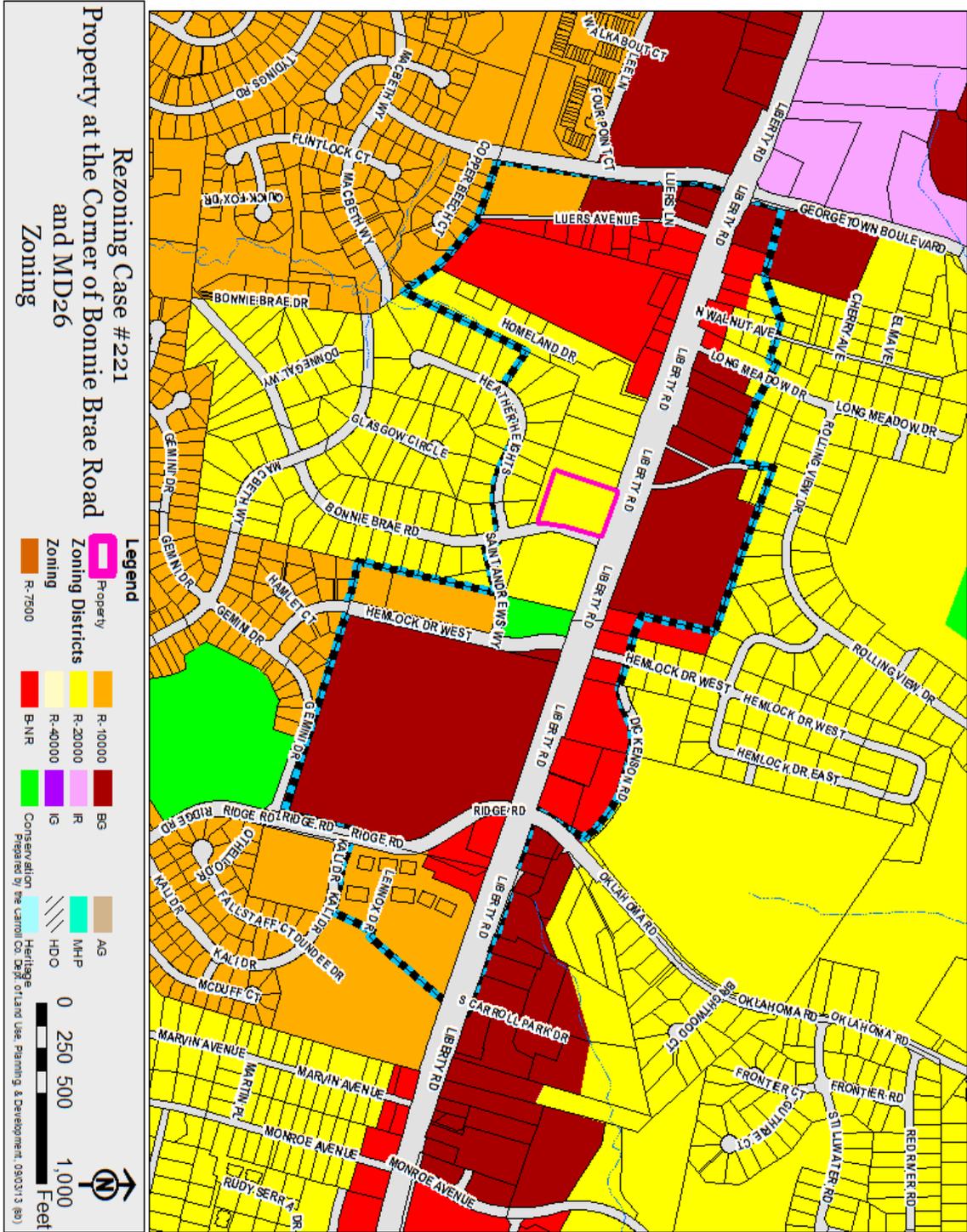


Exhibit F

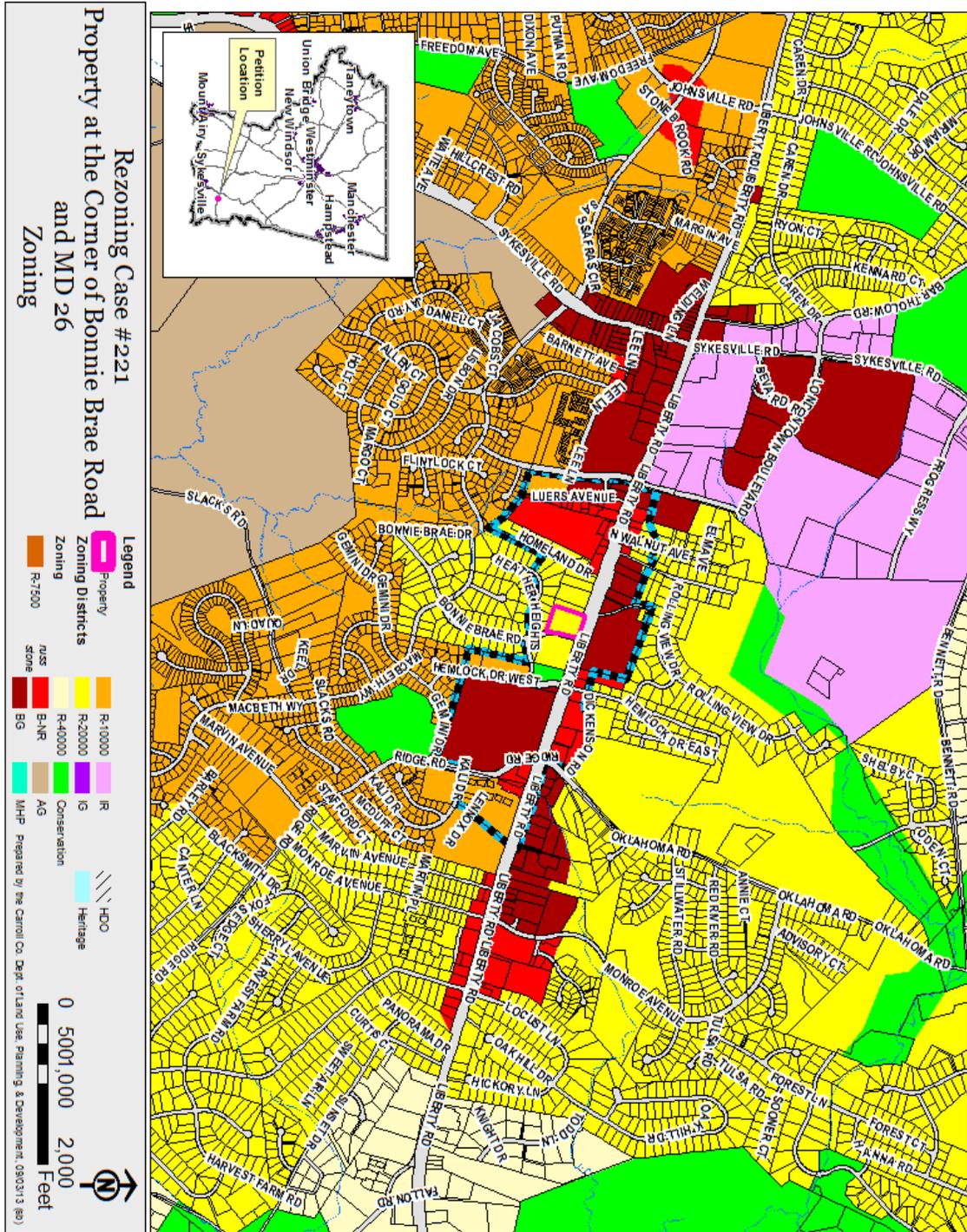


Exhibit G

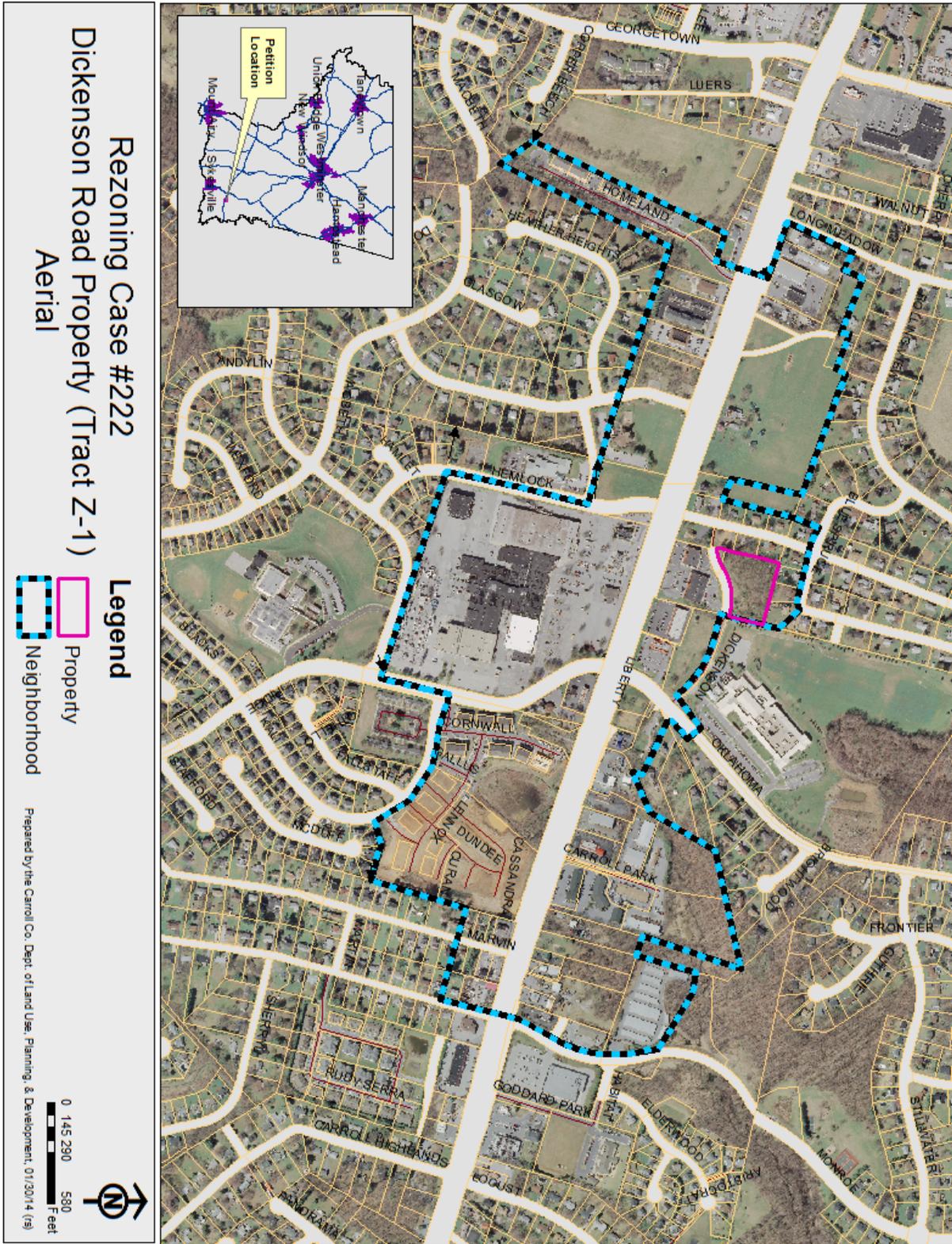


Exhibit I

