

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County

I, or we, **C. ALBERT & THELMA D. PRICE**, local owner, of the property situate

that parcel of land in the Second District of Baltimore County, beginning on the northerly side of Liberty Road and westerly edge of Oyama Falls and which point is 335 feet more or less from the northeast corner of said Liberty Road and Campfield Road, and running thence in a westerly direction on the northerly side of said Liberty Road 1750 feet; thence at right angles to said Road and in a northerly direction 137 feet; thence parallel to said Liberty Road and in a westerly direction 125 feet; thence at right angles to said Road and in a southerly direction 13 1/2 feet; thence north 54 degrees 32 minutes 30 seconds west 200 feet; thence north 81 degrees 41 minutes 10 seconds east 78 1/2 feet and north 81 degrees 55 minutes 10 seconds east 280 feet to the westerly edge of Oyama Falls Road and thence along the westerly edge of said Oyama Falls to the place of beginning, containing 26 acres of land more or less.

Zoning Law of Baltimore County, from an **Residential** zone to an **B. L.** zone.

Reasons for Re-Classification:

Size and height of building: front.....feet; depth.....feet; height.....feet.
Front and side set backs of building from street lines: front.....feet; side.....feet.
Property to be posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

C. Albert Price
Thelma D. Price
Legal Owners.

Address: 3613 Croydon Road, Baltimore 7, Md.

ORDERED By The Zoning Commissioner of Baltimore County, this.....15th.....day of.....August.....1955, that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County," in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing herein be had in the office of the Zoning Commissioner of Baltimore County, in the Rockford Building, in Towson, Baltimore County, on the.....14th.....day of.....September.....1955, at 1:00 o'clock P.M.

Zoning Commissioner of Baltimore County

(over)

on the North side of Liberty Road, 335 feet, more or less, West of the Northwest corner of Liberty Road and Campfield Road (at West side of Gwynne Falls), and more particularly described on the attached sheet and plat.

herby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an **Residential** zone to an **B. L.** zone.

Reasons for Re-Classification:

Size and height of building: front.....feet; depth.....feet; height.....feet.
Front and side set backs of building from street lines: front.....feet; side.....feet.
Property to be posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.



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Zoning Commissioner of Baltimore County

(over)

MICROFILMED

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of.....

the above re-classification should be had.

It is Ordered by the Zoning Commissioner of Baltimore County this.....15th.....day of.....September.....1955, that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from a.....zone to a.....zone.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of.....
proposed center and being opposite an existing shopping center, a center as proposed would increase the traffic hazard on this very heavily travelled highway; also the the report opinion of the Comm. of Appeals that since this area is being studied by the Baltimore County Planning Board and an area as great as this should be studied by the Planning Board with recommendations made for the new Land Use Map.

the above re-classification should NOT be had.
It is Ordered by the Zoning Commissioner of Baltimore County, this.....15th.....day of.....September.....1955, that the above petition be and the same is hereby denied and that the above described property or area be and the same is hereby continued as and to remain in.....zone.

John H. Calver
Zoning Commissioner of Baltimore County

Approved.....
County Commissioners of Baltimore County

Date..... By..... President

ALAN M. CONN, JR.,
SARAH ELIZABETH FREEMAN,
and ANNA L. ARENDT,

Appellants,

VS.

CHARLES H. DOUGL,
DANIEL W. HUBBES, and
CARL F. VONDER, being and
constituting the Board of Zoning
Appeals of Baltimore County,

Appellees,

AND

THELMA D. PRICE,

Intervenor.

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

Case No. 1612

Misc. Docket #5

Folio 14

NOTICE OF APPEAL

MR. CLERK:

Please note an appeal in the above entitled case, on behalf of
Thelma D. Price, Intervenor, to the Court of Appeals of Maryland.

Kenneth C. Proctor

James D. C. Downes

Attorneys for Thelma D. Price, Intervenor

PROCTOR, PROCTOR
AND
WILSON
CANTON, ROSS
PROCTOR & WILSON
VA 1-1800

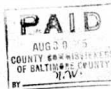
August 26, 1955

\$50.00

RECEIVED of Kenneth C. Proctor, Attorney for
C. Albert Price and Thelma D. Price, petitioners, the sum
of (\$50.00) Fifty Dollars, being cost of petition for
Reclassification, advertising and posting property, beginning
northerly side of Liberty Road and westerly edge of Oyama
Falls, 2nd District of Baltimore County.

Zoning Commissioner of Baltimore County

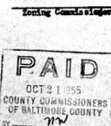
RECEIVED of
Wednesday, September 14, 1955
at 1:00 p.m.
Rockford Building
Towson, Maryland.



October 20, 1955

\$50.00

RECEIVED of Kenneth C. Proctor, Attorney for C. Albert
Price, petitioner, the sum of Fifty (\$50.00) Dollars, being
cost of appeal to the Board of Zoning Appeals from the decision
of the Zoning Commissioner rendered in the matter of reclassi-
fication of property on north side of Liberty Road, 335 feet west
of Campfield Road, 2nd District.



September 1, 1955

MEMORANDUM

TO: Wilma H. Adams
FROM: James J. Dinebeck
SUBJECT: Zoning Petition 3616

If this reclassification be granted it is recommended
that the flood plain be excluded and remain as presently zoned.
Also only the unstable portion, which consists of about 600 feet
of frontage, should be considered for reclassification.
Any approval granted in this case should be subject to
approval of the Planning Board and the Department of Engineering
of Baltimore County.

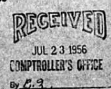
JJD
DFA

\$7.00

RECEIVED of Smith & Harrison, Attorneys, the sum of
Seven (\$7.00) Dollars, being cost of certified copy of papers
filed in the matter of reclassification of property of C. Albert
Price, and wife, north side of Liberty Road, 2nd District

Zoning Commissioner

01.632 Zoning Service Charges



JOINT ZONING COMMITTEE
REPORT ON PETITION # 3616

Location and District: North side of Liberty Road, westerly edge of
Gwynns Falls, 2nd District.

Present Zoning: R-6 Proposed Zoning: B-1
Date of Report: September 1, 1955
Present Status of Property: Vacant

Area: Approximately 26 acres.

Vicinity: The existing residential development of Villa Nova is to the north,
and the existing residential development of Lechman is to the east of this property.
The property to the south is vacant. On the west is the Woodmoor Shopping Center, a
bank building under construction, and a gasoline service station under construction.

Topography or Grade Problems: Extremely rough terrain here. Petitioner should submit
plans with topography indicating the flood plain.

Access and Road Widening: Plot plan as submitted does not indicate location and character
of proposed uses, off-street parking scheme, location of entrances and exits, and all
other pertinent data. Most important that the information be furnished as the terrain
is hilly and rough.

Traffic Implications:

School Factors:

Public Works Items:

Water -

Sewer -

Storm Drainage - See notation on preceding page as to necessity for plans.

Public Works Agreement to Include:

Effect on Master Plan Proposals:

Land Use Proposals: No Land Use survey completed for this area at this time.

James J. Donbeck, Executive Secretary
Joint Zoning Committee

IN THE MATTER OF THE PETITION
FOR RECLASSIFICATION OF PROPERTY
ON NORTH SIDE OF LIBERTY ROAD,
335 FEET W. CAMPFIELD ROAD,
SECOND DISTRICT - C. ALBERT PRICE,
ET AL, PETITIONERS

BEFORE THE
BOARD OF ZONING APPEALS
OF BALTIMORE COUNTY

OPINION

This Petition for a reclassification from "R-6" Residential to
"Business Local" was denied by the Zoning Commissioner on the ground that a pro-
posed shopping center at the location would increase the traffic hazard on Lib-
erty Road.

The Petition requests the reclassification of a tract of 26 Acres on
the northerly side of Liberty Road beginning 335 feet west of Campfield Road and
fronting 1750 feet on the Liberty Road.

Although there was a substantial protest from the residents of sur-
rounding residential development, an inspection of the property shows that it is
in fact a considerable distance from any concentrated residence area.

The stream known as Gwynns Falls acts as a natural barrier to the
east, there is a large tract of vacant land to the south on the opposite side of
Liberty Road, and there is existing commercial development to the west on both
sides of Liberty Road.

The fact is that although there is considerable residential develop-
ment in this area, the property in question happens to be so situated as to make
it possible for commercial activity to be conducted thereon without any appreci-
able direct effect on any residential section.

The need for additional shopping facilities is questioned. This is
always difficult to determine but there can be no doubt that the Liberty Road sec-
tion has grown and is continuing to grow at a terrific rate. We do not think that
existing commercial facilities are adequate for the present and foreseeable fu-
ture in view of this continuing growth. In our opinion the phenomenal increase
in population in this area constitutes a substantial change in conditions which
justifies additional commercial zoning.

The traffic situation does present a problem by reason of the fact
that the entrance to the property from Liberty Road will be at the brow of a hill.

There is no problem, however, which cannot be solved by proper engineering and
the possible erection of a traffic light. These are matters for consideration by
the State Roads Commission and the Police Department.

We are of the opinion that it would be arbitrary and unreasonable for
us to refuse to permit the owner of this property to develop it for commercial
purposes and we will sign an Order reclassifying the property as "Business Local."

ORDER

For the reasons set forth in the foregoing Opinion, it is this 7th
day of June, 1956, by the Board of Zoning Appeals of Baltimore County,

ORDERED that the property mentioned and described in the Petition
filed herein be and is hereby reclassified from "R-6" Residence to "Business Lo-
cal."

BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

Carl F. Miller
Chairman

EX PARTE
IN THE MATTER OF THE
APPLICATION OF C. ALBERT PRICE
and THELMA D. PRICE, his wife, for
reclassification of property situate on
the North side of Liberty Road, 335 feet
more or less West of the Northwest corner
of Liberty Road and Campfield Road (at
West side of Gwynns Falls), Second Elec-
tion District of Baltimore County, from a
Residential Zone to a B. L. Zone

BEFORE
WILSIE H. ADAMS,
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

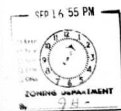
NOTICE OF APPEAL

MR. CLERK:
Please enter an appeal from the decision of the Zoning Com-
missioner of Baltimore County in the above entitled matter to the Board of
Zoning Appeals of Baltimore County.

James J. Donbeck
Attorneys for Applicants.

I HEREBY CERTIFY that a copy of the foregoing Notice of Ap-
peal was mailed by me this 15th day of September, 1955, to W. Lee Harrison,
Esq., 212 Washington Avenue, Towson 4, Maryland, Attorney for the Pro-
testants.

James J. Donbeck
Attorney for Applicants.



ALAN W. COHEN, JR.
SARA ALICIA FRIEDMAN
ANA L. ARNO
VERSUS
DANIEL H. WILCOX, DANIEL W.
HARRIS and CARL F. YONCK, being
and constituting the Board of
Zoning Appeals of Baltimore County

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY

A writ of certiorari was filed in this Court in the above entitled
cause from a decision of the Board of Zoning Appeals for Baltimore County
dated June 7, 1956, which decision reversed a prior Order of the Zoning
Commissioner of Baltimore County dated September 15, 1955, denying the Petition
for reclassification, and granted the property owners' Petition for reclassifi-
cation of certain property described in these proceedings from "R-6 Residence"
to "Business Local".

The law is well established that in order for a reclassification of
zoning to be valid, it must appear that either there was a mistake in the
original zoning or that the character of the neighborhood has substantially
changed as to justify such re-zoning. The petitioner does not maintain
there was a mistake in the original zoning.

As to whether the character of the neighborhood had changed to such an
extent that commercial reclassification could be made, the Board based its
findings principally on the tremendous residential growth of the area in recent
years.

In addition the record shows that a number of changes in Zoning and land

Cohen et al vs. Doing et al

use have occurred in the immediate area under consideration, subsequent to
January 2, 1945, the effective date of zoning in Baltimore County. These
changes include several filling stations, several miscellaneous stores, the
Woodmoor Shopping Center, which is across the Liberty Road from the area subject
to these proceedings, the Eastern boundary of Woodmoor being directly opposite
from the Western boundary of this area, and the Branch Bank which is located
directly across Liberty Road from the tract in question.

There is no doubt in the opinion of the Court that there has been
sufficient change in the character of the immediate neighborhood subsequent
to January 2, 1945, which certainly causes the discretion of the Board, in
granting the reclassification, to be a fairly debatable question.

However, the Protestants maintain that the adoption by the County
Commissioners of Baltimore County, of new zoning regulations for Baltimore
County on March 30, 1955, constituted the adoption of a comprehensive zoning
plan and constituted "interim zoning" and that it is incumbent upon the
Petitioner to show a substantial change in the character of the neighborhood
after the date of the adoption of the new zoning regulations in order for a
reclassification of zoning to be granted. As to this contention, as is argued
in the Memorandum of Counsel for the Petitioner, the resolution of the County
Commissioners, after receding their authority to amend, supplement and repeal
existing regulations for Baltimore County, merely repealed the existing regula-
tions and adopted in their place the new regulations, Section 100-6 of such

Cohen et al vs. Doing et al

new regulations provides as follows:

"The official zoning map of Baltimore County, hereby
adopted as part of these regulations, is the existing
map in the Office of the Zoning Commissioner of
Baltimore County on which are designated the zones
and zone boundaries adopted on January 2, 1945,
together with all amendments thereto of the changes
in zone designations set forth in Section 100-3 herein."
It seems, therefore, obvious to the Court that pending the adoption of
the new land use map for the district in which this property lies, the
official zoning map for Baltimore County is the existing map in the Office
of the Zoning Commissioner of Baltimore County on which are the designa-
tions, adopted on January 2, 1945, and that the change in the designations
of the various types of zoning as set forth in the new zoning regulations
for Baltimore County of March 30, 1955, does not actually cause a change in
existing zoning but merely changes the terminology of same.

The remaining and most important question before the Court is whether
the reclassification of the subject property from "R-6 Residence" to "Business
Local" will create a traffic hazard in the immediate area of the subject
property. In the case of Hartsley et al versus Board of Zoning Appeals of
Baltimore County, filed November 7, 1956, in which case the Court of Appeals
reversed the lower Court and the Board of Zoning Appeals of Baltimore County,
the Court held:

"Code of Public Local Laws of Baltimore County, 1963, Title 23, Section 365(a); Code of Baltimore County, 1955, Title 23, Section 32(a); Code of Public General Laws of Maryland, 1959, art. 669, Section 21(b), provide in part that zoning regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets." It was said by Judge Bell that in *St. Luke's Lane*, 327 Md. 178, 197, 604, 24 T31: "Zoning regulations must be designed to lessen congestion in the streets." art. 669, sec. 21. In making or changing such regulations, traffic problems may be material considerations. "The peculiar hazard to school children of a proposed filling station within 300 feet of the school grounds and 150 feet of the building may be one of the circumstances supporting the reasonableness of denial." a permit. *Mayor and City Council of Baltimore v. Blarney*, 157 Md. 54, 20 A. 2d 204, 205, 605, 509.

The subject property in this case is located on the north side of Liberty Road, 315 feet west of Campfield Road, in the Second Election District, containing 26 acres more or less. The tract is roughly triangular in shape, fronting approximately 1750 feet on the south of Liberty Road. Approximately the center of the frontage along Liberty Road is at the crest of a hill, the land falling away from that point in a westerly and easterly direction. The exit from the proposed shopping center is located at the brow of the hill. There are two entrances to the proposed shopping center, one located east of the exit and the other located west of the exit and each being approximately 550 feet from the brow of the hill. The development plan of the proposed

supermarket and is opposite the parking lot of the bank. That effect, if any, would this layout have upon the existing traffic conditions on Liberty Road, in your opinion? A. In my opinion, it would create an additional traffic hazard, I think. I must admit that the entrance and exit is planned the best that could be worked out there. But I do not believe that a shopping center at any other thing providing three entrances is best located at the crest of a hill.

In spite of the fact if it is suggested or proposed that a light be located at the crest of the hill, in my opinion again, when the light is green for Liberty Road a car feels more or less free to proceed across the crest of the hill at the posted speed of 40 miles per hour, and with an exit within, I would say, 100 to 150 feet away from the crest of the hill, there is a traffic hazard, particularly inasmuch as left turn movements into these entrances also might often cause a bottleneck and cause cars to be blocked up behind one another. I agree with Mr. Thompson that it is possible to pass but no means does one pass on these shoulders with great facility."

This testimony leaves no room for doubt that the utilization of the subject property as a shopping center will generate additional traffic on Liberty Road. It is clear to the Court, therefore, that the granting of the requested reclassification will cause congestion in the streets and will create a traffic hazard.

In the case of *Hardesty* versus Board of Zoning Appeals of Baltimore County, supra, the Court held:

shopping center under provision for 500 spaces for off-street parking, which increased the size of the development. On the south side of Liberty Road, against the westerly boundary of the subject property is located the Woodmore Shopping Center, which is sufficiently large to accommodate 300 to 500 autos. Directly opposite the eastern entrance to the subject property is located St. Luke's Lane, which intersects Liberty Road at this point. In addition, also directly across Liberty Road from the subject property is located a Branch Bank which also maintains a parking area.

Accordingly, it may be readily assumed that prior to the construction of the proposed shopping center in this case, which would accommodate 500 to 600 autos, there is now present at its immediate location various factors which contribute to a concentration of traffic.

As to whether the granting of the reclassification on this case will cause or tend to cause traffic congestion and a traffic hazard, the record in the case discloses the following testimony: Frank F. Eberly, Location Engineer of the State Roads Commission, produced on behalf of the Petitioner, testified at page 16 of the record as follows:

"Q. The point you are making is that the road is presently excessive traffic capacity today, is it not?

A. I would say if it is, on the present width of the road."

Joseph D. Thompson, an engineer, testifying on behalf of the Petitioner, at Page 61, testified as follows:

"Q. And one of the westernmost entrances to the subject property as shown on that plat, is directly opposite to the Bank property?

"The Board in its opinion apparently ignored all the testimony as to traffic hazards, which would result from the erection of the shopping center on Petitioner's land. To so reclassify the property would be a plain violation of the statutory requirements against congestion in the streets. From the testimony it appears that there is no way to remedy such a traffic hazard other than the widening of the public highway in the vicinity. There is no testimony that such widening is contemplated."

The expert planer argues that there was testimony in the record showing that plans exist for the widening of Liberty Road and the evidence established that the proposed use would not cast an undue burden upon the road so improved. This contention is more specious than true. The evidence shows that the proposed widening of Liberty Road by the State Roads Commission has progressed no further than the planning stage, and is a part of the State Roads Commission's twelve-year program. Mr. Eberly, of the State Roads Commission, testified at Page 6 of the record as follows:

"A. Well, in the State Roads Commission's twelve-year program, Liberty Road, from the city line to Randallstown, is planned as a dual highway. That is set up in their twelve-year construction and re-construction program. It is set up as a dual highway, and with the service lanes and acquisition of right-of-way, in the first four year period which terminates December, 1967, and the construction in the second year period, which is from January, 1968 to December, 1969."

A. As to the development you have given us that would be reasonably close, approximately directly opposite...."

Q.? Asking you about this condition, where there are two parking exits opposite each other at the crest of an eight or nine percent hill 500 feet away. Is that a hazardous condition or not, sir?

A. It is a reasonable hazardous condition, sir."

A plat introduced in evidence shows St. Luke's Lane to be opposite the westernmost entrance to the subject property. Concerning this point, Mr. Thompson at Page 53 testified as follows:

"Q. Do you feel that that would be no traffic hazard,

with the crest of the hill 500 feet away, Mr. Thompson?

A. There is certainly going to be some hazard, you can't get away from it. And if St. Luke's Lane comes out directly opposite, which I seriously question.... I question the location of St. Luke's Lane on that plat."

And on the same point, Mr. Thompson contends at Page 53:

"Q. And if it is in that position, it is definitely a hazardous and dangerous condition, is it not?

A. If it is in that position as outlined on this plat, it certainly is not going to improve traffic conditions at the entrance of this parking lot.

Q. Will it be hazardous if it is in that position?

A. It possibly will be a hazard, sir."

Mr. Charles Anderson, a witness, testified as follows, at Page 176:

"It is difficult to get to Liberty Road now, because at some hours of the day, because of the traffic going

east and west. We have tried a number of times to turn a traffic light, but they never can't turn one. And if I understand the side of this shopping center, that it is two ways, very large ones, and I believe that will be one of the largest in that part of the county, and it probably will draw from away from Liberty Road, and probably to the west up to the east and north of the county for a good many miles. And with the narrow streets as we have there, and automobiles parked on both sides of the streets, which they do. There are not too many people that have garages. You have got one line of traffic through it, so that amount of traffic coming through there, with the number of children that are in their communities out there, and they are all converging at one center, I think it is going to be a very bad traffic hazard."

Incidentally, Mr. Thompson testified that Liberty Road has a 22 foot pavement, with five foot stabilized shoulders on each side, making a total of 32 feet.

Mr. Worthington Bell, a traffic expert, produced by the pro-Testants, testified at Page 182:

"In my opinion, with this improvement on the road, on the nights of operation with the Woodmore Shopping Center working in connection with the Woodmore Shopping Center and including the traffic which ordinarily travels the road on these nights that the shopping centers aren't in operation, it would exceed the capacity of the road."

"Q. Now this proposal, of course, as you can see, and as you have heard the testimony, proposes two entrances, one at the west end of the tract and one at the east end of the tract; one is opposite St. Luke's Lane and the

This Court does not feel that the word "contemplated" as used by the Court of Appeals in the *Hardesty* case should be construed to authorize the creation of a condition of traffic congestion or a traffic hazard that may possibly well continue for a period of five years before correction. Zoning authorities should not be permitted to create such a situation upon the public highway to the detriment of the safety and welfare of the public and justify their action upon the hope that at some uncertain future time they may be found to control it. The words "There is no testimony that such widening is contemplated" must be construed to require that a proposed zoning reclassification and elimination of traffic hazard must coincide within a reasonable time and with reasonable certainty. The proposed reclassification of this property by the Board fails to meet this test.

Had the record in this case indicated that the widening of Liberty Road would take place within a reasonable time after the reclassification of the said property, this Court would probably have reached a different conclusion as to its decision. In addition, it may well be, although the matter is not before this Court at this time, that if and when Liberty Road is properly widened in the future, that this may be construed as a substantial change in the character of the neighborhood as to then justify such rezoning.

For the reasons above given, the Order of the Board in this case,

changing the reclassification of the subject property from "C-6 Residential" to "Business Local" is reversed.

December 27, 1959

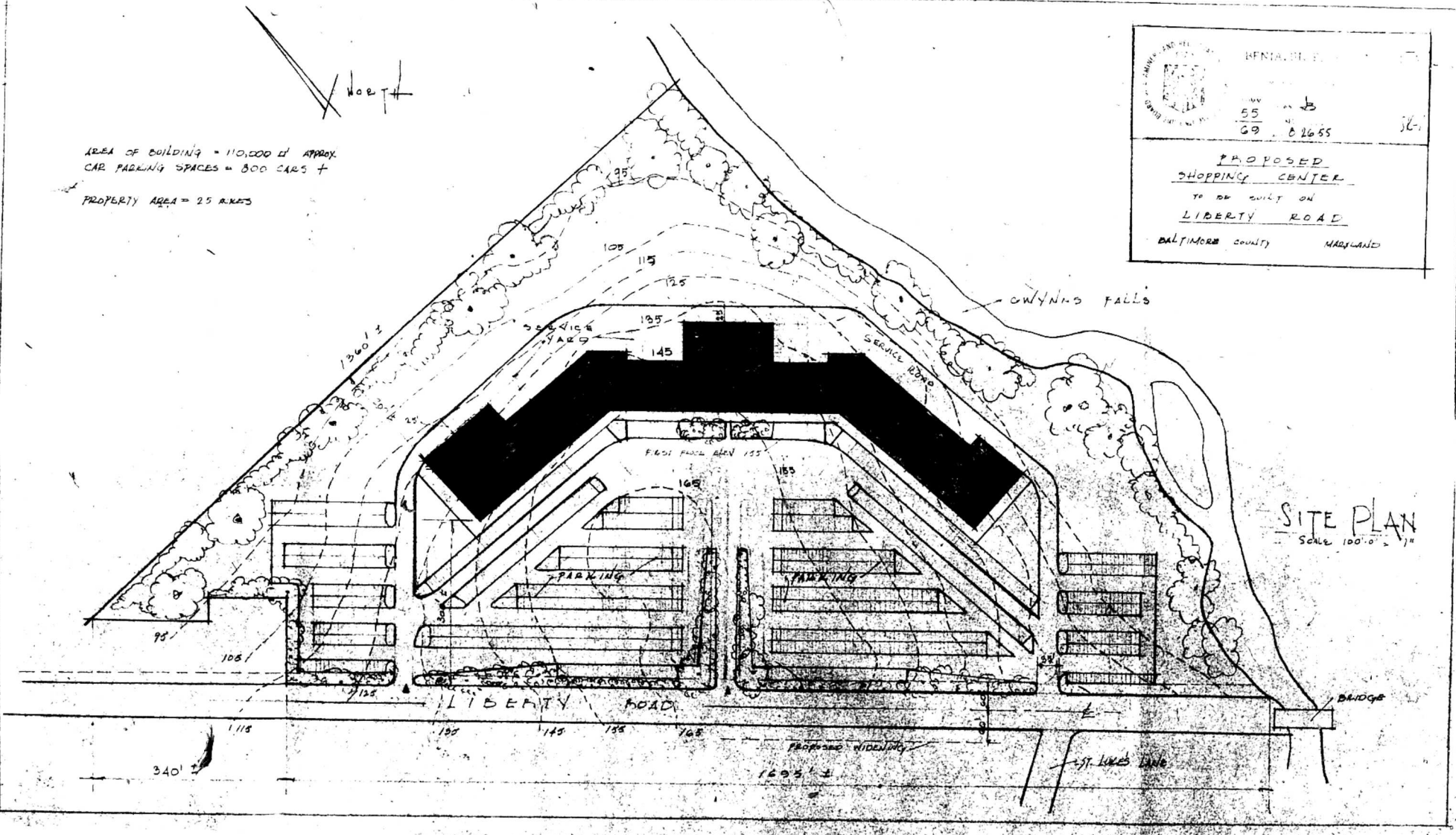
Lester L. Garrett, Judge

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 2nd Date of Posting 8-31-59
Filed for: Ans. vs. Doing et al. vs. Doing
Petitioner: C. J. Jones, Jr. & Spence, Jr.
Location of property: on Rte. 1, Liberty Rd. W. of J. Jones, Jr. & Spence, Jr.
Location of Sign: on Rte. 1, Liberty Rd. W. of J. Jones, Jr. & Spence, Jr.
Filed by: George P. Hunsicker Date of return: 8-31-59

AREA OF BUILDING = 110,000 sq. APPROX.
 CAR PARKING SPACES = 300 CARS +
 PROPERTY AREA = 25 ACRES

	BENTLEY, D. P.		56-1
	NOV 55 55 69	8 26 55	
	PROPOSED SHOPPING CENTER TO BE BUILT ON LIBERTY ROAD BALTIMORE COUNTY MARYLAND		



SITE PLAN
 Scale 100' = 1"