

**Petition for Zoning Re-Classification**

To The Zoning Commission of Baltimore County—

I, or we, The Bonfield Holding Co., legal owner(s) of the property situate

Beginning at the intersection of the northernmost boundary of the Bureau of Parks and the easternmost right-of-way line of Hillen Road; running thence on the northernmost boundary line of the Bureau of Parks in an easterly direction 1990 feet to the center of the east branch Herring Run interceptor sewer; running thence and binding on the centerline of the East Branch Herring Run sewer in a northerly direction 875 feet more or less; thence south 70 degrees 37 minutes 56 seconds west 183 feet; thence south 75 degrees 01 minutes 22 seconds west 1140 feet; thence south 325 feet to the place of beginning. 9th District of Baltimore County.

herely petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-10 zone.

Reasons for Re-Classification: This property is bounded on its north by Hillen Road, on the east by R-6 and a proposed school site, and is contiguous to the City Park on the South. The R-6 zoning is unreasonable.

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 reclassification, 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.

The Bonfield Holding Co.  
by Neilson H. Harrison, Jr.  
Legal Owner  
Address: 3100 American Building  
Baltimore 5, Maryland

ORDERED By The Zoning Commission of Baltimore County, this 31st day of January, 1958, 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 Beekton Bldg. in Towson, Baltimore County, on the 3rd day of March, 1958, at 11 o'clock, A. M.

Zoning Commission of Baltimore County  
JAN 31 1958

THE ZONING RELATIONSHIP OF A BUILDING TO THE ZONING REGULATIONS OF BALTIMORE COUNTY

4335

RE: PETITION FOR RECLASSIFICATION FROM AN "R-6" AND "R-1A" ZONES TO AN "R-10" ZONE - N. Boundary of Bureau of Parks & E. W of Hillen Rd. - 9th District, The Bonfield Holding Company, Petitioner

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY # 4335

**DISSENTING OPINION**

The minority member of the Board finds himself in disagreement with the majority opinion in the petition for reclassification of the above property. However, with regard to the preliminary objections that were raised relating to the form of this petition, he concurs with the opinion of the majority members. Beyond any reasonable doubt, it is the opinion of this member of the Board that there had to have been an error in the original zoning of this property.

As stated in the majority opinion, the comprehensive zoning plan of Baltimore County for this area did not call for any R-6, or R-1A zoning. However, when the map was adopted, it did grant R-1A zoning to the adjacent property to the northwest.

Certainly, the granting of multiple housing zoning to this adjacent property changes the highest and best use for the subject property and the question seems to be not whether the property should be re-zoned, but rather whether it should be re-zoned R-6, or R-10.

In describing the surrounding areas, the majority opinion calls attention that nowhere does the subject property abut on land zoned for R-6 use. It further calls attention to the property across Hillen Road, known as Mt. Pleasant Park, the flood plains of Herring Run to the east and the proposed elementary school site. It calls attention to the northeast and the

property directly adjacent to the subject property with a common boundary of at least 150 feet lying undeveloped, R-6 property owned by Mr. Simmers.

However, attention should also be called to the fact that the remainder of the northern boundary is zoned R-1A property for a distance of some 700 feet, which is now fully developed R-1A property.

The testimony of Mr. Gavrelis, the Deputy Director of Planning for Baltimore County, who, in answer to a question from this member of the Board, testified that he would favor a reclassification of this property to R-1A, bears great weight in the minority opinion.

This classification would allow for some 32½ families to occupy living quarters on the subject property.

Mr. William J. Killena, Director of Research and Planning for the Baltimore County Board of Education, testified as to the overcrowding of schools in this area, a situation which he stated exists in every area of Baltimore County. He further stated that the use of this property for an residential use would add to the burden and if reclassified to R-6, would add approximately 30 additional children over and above that which would come from this property being used as R-6 homes. This increase, however, would be far less than would come from a reclassification of this property to an R-1A classification. The addition of these 30 children seems a rather small increase against the overall burden that the Board of Education must cope with and seems hardly strong enough reason to turn down an application for reclassification.

Mr. Jerome Wolfe, Deputy Director of Public Works, also testified that any development in this general vicinity would cause additional burden to his department but he testified that his department does have ways and means to control overloading and is doing just that at the present time. He further stated that he felt that any property should be placed in its correct zoning classification, regardless of its effect on the Department of Public Works, that department being able to care for itself.

ERNEST C. TRIMBLE  
ATTORNEY AT LAW  
414 York Road  
TOWSON 4, MARYLAND  
TELEPHONE VALLEY 8-816  
March 11, 1958

Mr. Wilsie H. Adams, Zoning Commissioner  
Zoning Department of Baltimore County  
111 W. Chesapeake Avenue  
Towson 4, Maryland

RE: Petition for Reclassification from an "R-6" Zone and an "R-1A" Zone to an "R-10" Zone - N. Boundary of Bureau of Parks and E. R/W of Hillen Road, 9th Dist., The Bonfield Holding Company, Petitioner

On behalf of Howard Quillen, Bernard C. Rees, et al, by Ernest C. Trimble and John Wesley Smith, their attorneys, please enter an appeal from your Order granting the reclassification, in the above matter, from an R-6 zone and an R-1A zone to an R-10 zone to the County Board of Appeal of Baltimore County and forward all papers in the proceedings. Enclosed is check in the amount of \$50 payable to the Treasurer of Baltimore County to cover the costs of said appeal.

Yours very truly,  
Ernest C. Trimble  
John Wesley Smith  
Attorneys for Protestants

ECT:jsb  
Enclosure

November 28, 1958

15.00  
RECEIVED OF Messrs. Smith & Harrison, attorneys for The Bonfield Holding Company, petitioners, the sum of Fifteen (\$15.00) Dollars, being cost of certified copy of petition and other papers filed in the matter of reclassification of property on the northern boundary of Bureau of Parks and east of Hillen Road, 9th District.

Zoning Commission

PAID - Baltimore County, Md. - Office of Finance

12-196 4211 • • • TIL • 1500  
12-196 4211 • • • TIL • 1500

01-122

exist. had the recommendations of the Department of Planning been recognized and all the property in the area had been left in R-6 or higher restrictive zoning classification, then the present zoning of R-6 would certainly be proper. However, the granting of existing R-1A zone places this petition in an entirely different light. To reclassify this property R-1A would allow for 32½ families and cause an undue concentration of R-1A development in the area. On the other hand, R-10 would allow for only approximately half of this amount of people, causing little burden on schools and traffic facilities when considered against the overall picture, and, certainly, less of a burden than additional R-1A zoning would create.

If R-10 zoning is suitable, as testified by Mr. Gavrelis of the Department of Planning, certainly the objection to the increased burden on the public facilities of Baltimore County seems ridiculous and unfounded when you consider that the zoning asked for will increase the burden less than half than the R-1A zoning, which Mr. Gavrelis testified he would be in favor of.

Neilson H. Harrison, Jr.  
Neilson H. Harrison, Jr.

Board of Appeals  
County Office Building  
Towson 4, Maryland

Re: Petition for reclassification from "R-6" and "R-1A" zones to an "R-10" zone - N. Boundary of Bureau of Parks and E. R/W of Hillen Road, 9th Dist. The Bonfield Holding Co., Petitioner

Gentlemen:  
Please enter my appearance as attorney for the within Petitioner and notify me of any hearings on this petition.

Very truly yours,  
W. Lee Harrison  
W. Lee Harrison

d

March 27, 1958

W. LEE HARRISON  
ATTORNEY AT LAW  
217 WASHINGTON AVENUE  
TOWSON 4, MD.

RE: PETITION FOR RECLASSIFICATION  
FROM AN "B-6" and "B-8" Zones  
to an "B-3" Zone - N. Boundary of Bureau  
of Parks and 9th St. of Hillen Road,  
9th District - The Benfield  
Holding Co., Petitioner:  
ZONING COMMISSIONER OF  
BALTIMORE COUNTY  
No. 4355

Pursuant to the advertisement, posting of property for reclassification of property, described in the within petition, from an "B-6" Zone and an "B-8" Zone to an "B-3" Zone, a hearing was held on March 3, 1958. The property in question consists of 18 acres and is located on the east side of Hillen Road contiguous to the Mt. Pleasant City Park. The property is practically triangular in shape having a frontage of only 315 feet on Hillen Road. The property is bounded on the north by an apartment some wherein apartments are now being constructed. It is bordered on the south by the aforementioned Mt. Pleasant Park and on the east by a proposed County elementary school site. The property lies directly east of the elementary school site is zoned "B-3". The portion of the property fronting on Hillen Road with an average depth of 150 feet is not a part of this petition and is zoned "B-6".

The petitioner stated that when he acquired the property in November of 1957, that he did not know of the existence of the apartment some and was only aware of this multiple type housing when construction was started. The petitioner further stated that if this reclassification is granted that he will construct a substantial group house in the \$12,000. to \$14,000. class with a ground rent. The plan calls for the construction of 165 houses.

Expert testimony was presented by the petition to the effect that when the Land Use Map and the Zoning Map were adopted in 1955 for the Ninth District that the "B-6" zoning of this parcel of property was in error. The existence of the "B-8" zoning to the north and the "B-3" zoning to the east certainly indicated that the "B-3" zoning petitioned was reasonable.

Expert testimony also showed that with the development of the frontage of Hillen Road with cottages and the fact that the land falls off sharply to the east the group houses would not be discernible from Loch Raven Boulevard and the properties to the west.

Expert testimony also was to the effect that with the open area provided by the school site and the property of Mt. Pleasant Park that there would be no overcrowding of the land and that the use as proposed was reasonable.

The protestants to the reclassification resided to the west of Loch Raven Boulevard in Glendale and to the north of the apartment project in Hillendale. The people who resided in Glendale appeared not to be concerned with the use of this land for group housing but rather it would set a precedent which might be used in the reclassification of the property of the Country Club of Maryland on Stevenson Lane and the property at the southwest corner of Loch Raven Boulevard and Taylor Avenue. The people in Hillendale also appeared not to be concerned about the reclassification of this property but rather that the group housing might spread to the north of the apartment project.

It is the opinion of the Zoning Commissioner of Baltimore County that the original zoning map adopted in 1955 was in error as to the zoning of the subject property, being bounded in as it is on the north by the apartments and on the east by the group house zoning lying east of the school site, that it would be unreasonable not to grant

this petition. Open space is supplied to this development by the school site and the Park so that no overcrowding of the land will result.

It is further the opinion of the Zoning Commissioner that this reclassification will not be a precedent to the rezoning of the property on Stevenson Lane or the property at the southwest corner of Loch Raven Boulevard and Taylor Avenue, and that no further extension of the group house zoning should be made in the area.

It is this 5th day of March, 1958, by the Zoning Commissioner of Baltimore County, ORDERED that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from an "B-6" Zone and an "B-8" Zone to an "B-3" Zone.

*William J. Gordon*  
Zoning Commissioner  
of Baltimore County

March 13, 1958

\$50.00

RECEIVED OF Ernest C. Trumble and John W. Smith, Attorneys for Howard Miller, et al, protestants, the sum of Fifty (\$50.00) Dollars, balance cost of appeal to the County Board of Appeals from the decision of the Zoning Commissioner reclassifying property at the North Boundary of Bureau of Parks and 9th St. of Hillen Road, 9th District, The Benfield Holding Company, petitioner.

Zoning Commissioner

RECEIVED  
MAR 13 1958  
COMPTROLLER'S OFFICE

01.622

February 28, 1958

\$1.50

RECEIVED of David F. Gordon, Esquire, for petitioner, The Benfield Holding Co., the sum of One Dollar and fifty cents (\$1.50) to cover cost of advertising the property situate on the Boundary of Bureau of Parks and Hillen Road, Ninth District of Baltimore County.

Thank you.

Zoning Commissioner  
of Baltimore County

01.622-\$1.50

RECEIVED  
MAR 3 1958  
COMPTROLLER'S OFFICE

February 13, 1958

\$40.00

RECEIVED of David F. Gordon, attorney for petitioner, The Benfield Holding Co., the sum of Forty Dollars (\$40.00) to cover cost of petition, advertising and posting property situate on the Boundary of Bureau of Parks and Hillen Road - 9th District of Baltimore County.

Thank you.

Zoning Commissioner  
of Baltimore County

01.622-\$40.00

RECEIVED  
FEB 13 1958  
COMPTROLLER'S OFFICE

CERTIFICATE OF POSTING  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District 9th Date of Posting 2-21-58 #4355  
Posted for Mr. R. G. Gordon, by R. H. Jones  
Petitioner: The Benfield Holding Company  
Location of property: North Boundary of Bureau of Parks and Hillen Road, 9th District of Baltimore County  
Location of Signs: 9th Street corner of Hillen Road and Benfield Holding Co. property 300 ft. south of Loch Raven Blvd. on the N.E. of Hillen Road  
Posted by George R. Neumann Date of return: 2-21-58

#4355

Judge John B. Guntrum (sub-judicial) July 21, 1959 order of the court ~~reversed~~ the action of the Board and the relief prayed in the petition will be granted. August 17, 1959 order for the appeal to the Court of Appeals of Maryland, Sept. 30, 1959 - Protestants notice to dismiss motion.

Court of Appeals reversed the Circuit Court of Baltimore County 232 MD. PAGE 59

*Neumann*

RE: PETITION FOR RECLASSIFICATION : BEFORE  
FROM AN "R.6" and "R.1A" ZONE : COUNTY BOARD OF APPEALS  
TO AN "R.3" ZONE - N. Boundary : OF BALTIMORE COUNTY  
OF Bureau of Parks & L. D. :  
of Hillen Rd. - 7th District, :  
The Benfield Holding Company, :  
Petitioner : # 1355

OPINION

The petitioner requests to have reclassified a roughly triangular parcel of approximately 18 acres from an "R.6" to an "R.3" category. This property is bounded on the south by Hillen Road and Mount Pleasant Park, and on the east by the Herring Run Flood plain and a County school site. The long side of the triangle, running generally in a northeasterly direction, abuts "R.1A" property at its southeastern end and "R.6" property at its northeastern end. The contiguous "R.6" property is presently undeveloped.

Preliminary objections relating to the form of the petition were raised by counsel for the protestants, who contended that The Benfield Holding Company was not, in fact, the legal owner of the property, and that Section 500.2 of the Zoning Regulations requires the petition to be filed by the legal owner. In support of this position, the protestants introduced as their Exhibit No. 1, a recorded Option Agreement dated November 20, 1957, from Ernest V. de Moss, Jr. and wife to Thomas J. Guidera and Son, Inc., which Option was assigned on the same date to The Benfield Holding Company. The further objection was raised that Michael V. Lardner, who signed the petition for The Benfield Holding Company, was neither an officer nor a stockholder of said Company and was, therefore, without authority to act for the corporation.

As to the first objection, testimony produced by the petitioner shows that the Option was exercised by The Benfield Holding Company prior to the hearing before the Zoning Commissioner, thereby making "Benfield" the legal owner at the time the case was heard. In accordance with the principle that changes which do not go to substance are generally valid if made prior to hearing, we unanimously believe the requirement as to legal ownership has been met.

As to the second objection, Mr. Lardner testified that he has a financial interest in the subject property. He also produced (Petitioner's Exhibit No. 7) a certified copy of a "Benfield" resolution, adopted on February 11, 1958, authorizing him to represent the petitioner in this transaction. For these reasons, the protestants' preliminary arguments are rejected, and the Board unanimously rules that the subject petition is correct in form and entitled to be heard on its merits.

The petitioner mainly contends that the current Zoning Map, effective in June of 1955, is in error in that the subject property should have been zoned "R.3" rather than "R.6"; also that there have been substantial changes in the neighborhood. In addition to Mr. Lardner, the petitioner produces as an expert witness Mr. Augustine J. Muller, former Zoning Commissioner and County Commissioner of Baltimore County. Mr. Muller points to the "R.1A" property adjacent to the northeast and to other "R.3" property some distance away to the northeast and south, maintaining that the subject property is "blended in" by multiple housing. He contends that this makes "R.3" the only logical zoning for this property.

The petitioner also produces as its expert Mr. Milne Adams, the current Zoning Commissioner, who testifies that the granting of the petition would not result in over-crowding the land.

A careful examination of the surrounding area reveals that neither does the subject property abut on land zoned for "R.3" use. Acres Hillen

Road to the south line Mt. Pleasant Park, a cleared, well maintained wood-land area most pleasant to contemplate. To the east lies the flood plain of Herring Run, averaging approximately 300 feet in width, and the proposed elementary school site. To the northeast and directly adjacent to the subject property with a common boundary of at least 350 feet lies undeveloped "R.6" property owned by Silmers. The remainder of the northern boundary is adjacent to the Hillendale Apartments.

While it is true that there are group homes on the other side of the flood plain and in Baltimore City to the south, the majority members of this Board find wholly untenable the petitioner's contention that he is "blended in" by group housing. Certainly, the existing City Park to the south and flood plain to the east give assurance that amenities will continue to exist in those directions for many years to come. However, the apartment property is high-grade and, according to the testimony of Mr. Gaverlis of the Department of Planning, is compatible with the "R.6" and "R.10" property adjacent to it, although Mr. Gaverlis goes on to say that the Planning Department feels group housing would not be compatible.

It is significant to note that the testimony shows that the comprehensive zoning plan for his area contemplated neither group nor apartment housing; further, that the "R.1A" property resulted from a change of the tentative map approved by the Planning Board, which change was made at the very end of the zoning procedure by the County Commissioners.

The Silmers property as yet undeveloped, which bounds on the subject property to the north, is part of a large parcel of approximately 70 acres. Twenty-two acres have already been developed with homes ranging in the twenty to thirty thousand dollar bracket. Mr. Silmers has testified that he sought higher density zoning for his tract and was refused. It is not difficult to imagine that the granting of this petition would generate

a request for higher density for the undeveloped portion of Silmers' property. However, it is difficult to see, once this petition were granted, on what equitable grounds such a request could be refused. The net result would depreciate the fine raw residences already present on the Silmers property.

Mr. William J. Ellens, Director of Research and Planning of the Baltimore County Board of Education, testified that the schools in the vicinity are already seriously overcrowded, and that the school authorities are opposed to any higher density re-zoning in the area.

Mr. Jerome Wolfe, Deputy Director of Public Works, testified that existing sewer facilities are already overburdened. He feels, however, that his department can protect itself, through the control of building permits.

Mr. Walter J. Addison, the County Traffic Engineer, testified that traffic is quite heavy on Loch Haven Boulevard and that the traffic light at Taylor Avenue causes rush-hour traffic to back up all the way to Glendale Road, a distance of about yards; also, that Hillen Road is presently hazardous and that any additional traffic load at the present time is undesirable, the more the worse.

Clearly, in the opinion of the majority members of the Board, no error in original zoning has been proven, nor has a substantial change in the neighborhood been shown. However, the existing high density in the area, resulting from a phenomenal rate of recent growth, has placed a severe burden upon school, sewer and traffic facilities, making this reclassification detrimental to the public health, safety and general welfare.

ORDER

For the reasons contained in the foregoing opinion, it is this day of August, 1958, by the County Board of Appeals of Baltimore County, ORDERED that this petition be and the same is hereby denied.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

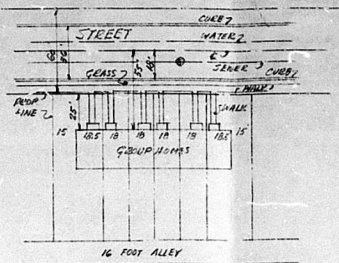
*Charles H. ...*  
*Agnes J. ...*

PLAT TO ACCOMPANY  
**ZONING PETITION**  
 9<sup>TH</sup> ELECT DIST. BALTO. CO. MD.

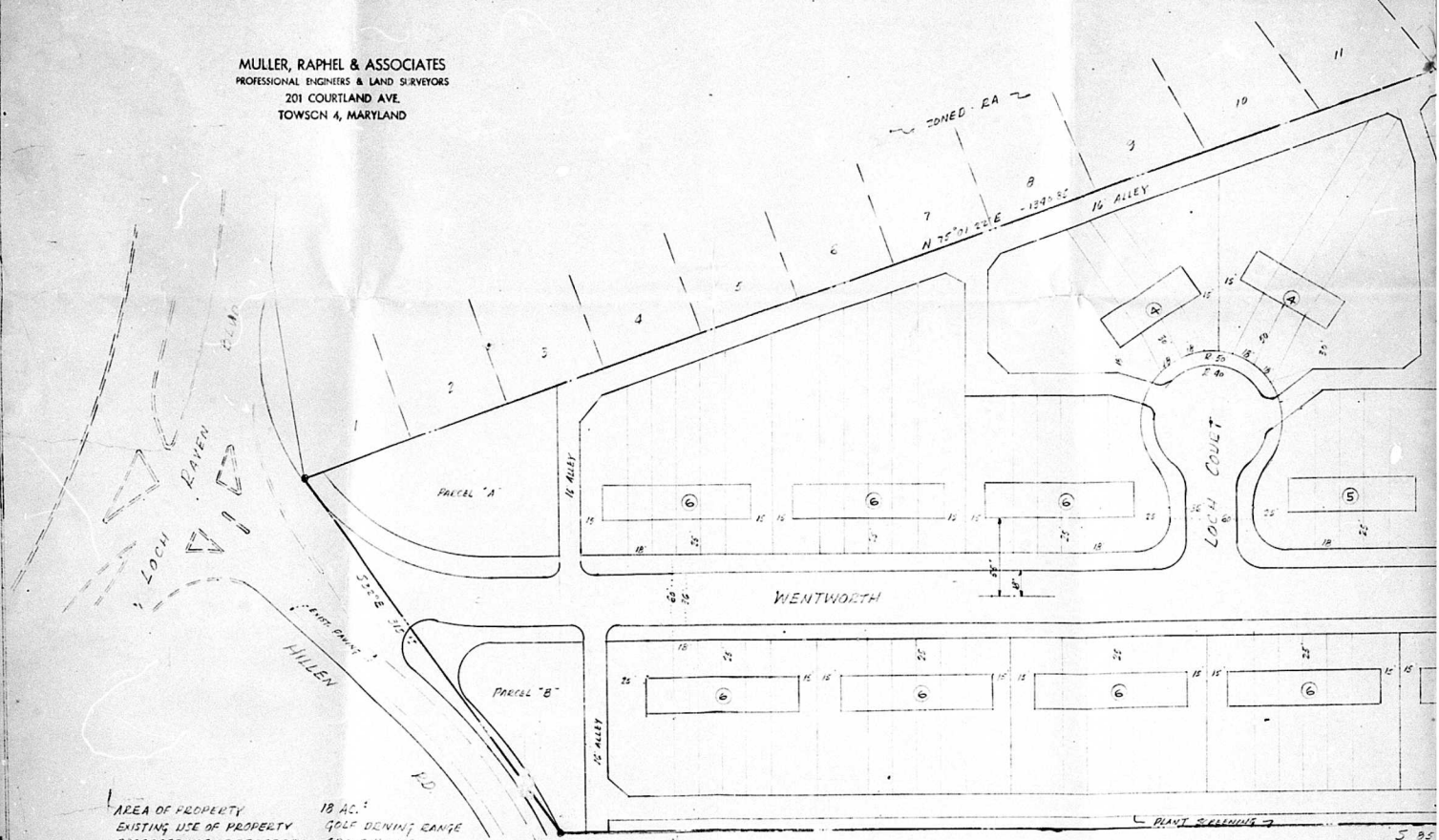
SCALE: 1" = 50'

FEB. 4, 1958

MULLER, RAPHEL & ASSOCIATES  
 PROFESSIONAL ENGINEERS & LAND SURVEYORS  
 201 COURTLAND AVE.  
 TOWSON 4, MARYLAND



TYPICAL PLOT PLAN  
 SCALE 1" = 50'



AREA OF PROPERTY	18 AC.
EXISTING USE OF PROPERTY	GOLF DRIVING RANGE
PROPOSED USE OF PROPERTY	GROUP HOMES
PRESENT ZONING	R-3
PROPOSED ZONING	E-9
165 HOUSES	
GROSS RESIDENTIAL DENSITY	9.2

MT. PLEASANT VAL

