

Petition for Zoning Re-Classification 4490

To The Zoning Commissioner of Baltimore County—

We, William L. Bartels, Ida May Bartels, his wife, Margaret E. Bartels, widow, Janet L. Montgen and Raymond Montgen, her husband, legal owners of Parcel 1 and 2 as shown on the attached plat, and Anton W. Hubers and Anna W. Hubers, his wife, legal owners of Parcel 3 as shown on the attached plat, such three parcels being situate in the Fifteenth Election District of Baltimore County, Maryland, and described as follows:

(See description on attached sheet)

herby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an R-G 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 of Baltimore County.

Ordered by The Zoning Commissioner of Baltimore County, this 22nd day of August, 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 Bedford Bldg. in Towson, Baltimore County, on the 1st day of October, 1958, at 1 o'clock A.M.

Zoning Commissioner of Baltimore County

(over)

AUG 22 Recd

RE: PETITION FOR RECLASSIFICATION
from an "R-6" Zone to an "R-G" Zone - W. L. Bartels, et al.
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
No. 4490

A public hearing was held on the above petition for reclassification from an "R-6" Zone to an "R-G" Zone on September 24, 1958 at 10:00 a. m.

Mr. George Grawels, Deputy Director of the Office of Planning of Baltimore County, testified that to reclassify this property from an "R-6" Zone to an "R-G" Zone would again create an additional burden on what is now a very serious situation on the public schools in this area. The newest school, Glenmar Elementary School, having opened in the Fall of 1957 is now having problems housing 870 pupils. More than fifty children in this area in the Sixth Grade are being transported by bus over five and half miles to Leroy across U. S. Route 10, one of the busiest and most hazardous highways in the State.

It is the opinion of the Deputy Zoning Commissioner that the granting of this reclassification would be detrimental to the health, safety, morals and general welfare and also would constitute "spot zoning" of an "R-6" Zone in an "R-6" Zone.

It is this 10th day of October, 1958, by the Deputy Zoning Commissioner of Baltimore County, ORDERED 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 an "R-6" Zone.

Deputy Zoning Commissioner
of Baltimore County

Order D 9367 Reg H 9368

Certificate Of Publication

ESSEX, MD. September 4th, 1958.

THIS IS TO CERTIFY, That the annexed advertisement was published in THE EASTERN ENTERPRISE, a weekly newspaper published in Essex, Baltimore County, Md., once in each of 2 successive weeks before the 24th day of September, 1958, the first publication appearing on the 4th day of September 1958.

THE EASTERN ENTERPRISE, INC.
John S. Shuler, Jr.
Editor

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 15th
Posted for: Carl G. Proctor, Esq.
Petitioner: Bartels, Montgen & Hubers
Location of property: 15th & Middle River Road, and 15th & Jackson Ave.
Location of Signs: 15th & Middle River Road, and 15th & Jackson Ave.
Posted by: Carl G. Proctor, Esq.
Date of Posting: 9-18-58
Date of return: 9-18-58

lg (3)
10/15/58

PETITION FOR RECLASSIFICATION
from an "R-6" Zone to an "R-G" Zone -
W. L. Bartels, et al.
DEPUTY ZONING COMM.
OF BALTIMORE COUNTY
No. 4490

NOTICE OF APPEAL

MR. CLERK:

Please note an Appeal in the above entitled case, from the Order of the Deputy Zoning Commissioner dated October 10, 1958, to the County Board of Appeals.

Carl G. Proctor
Kenneth C. Proctor
Paul R. Koch
Attorneys for Petitioners

Dated October 16, 1958.



DESCRIPTION OF BARTELS AND HUBERS PROPERTY, LOCATED IN THE FIFTEENTH ELECTION DISTRICT OF BALTIMORE COUNTY, MD.

BEGINNING at a point on the West side of Middle River Road (which point is 933.25 feet, plus or minus, from the North side of Jackson Avenue); and running thence, along the West side of Middle River Road, South 6 degrees 11 minutes 54 seconds East 301.29 feet; and thence leaving said road and running the two following courses and distances: South 80 degrees 45 minutes 29 seconds East 195 feet to a point, and South 5 degrees 34 minutes 02 seconds East 631.96 feet to a point on the North side of Jackson Avenue; and running thence, along the North side of Jackson Avenue, South 80 degrees 45 minutes 28 seconds West 553.18 feet to a point; and running thence North 10 degrees 44 minutes 35 seconds East 175.39 feet to a point at or near the center of Jackson Avenue; and running thence, along Jackson Avenue, South 88 degrees 39 minutes 13 seconds West 500 feet to a point; and thence leaving Jackson Avenue and running the following courses and distances: North 10 degrees 58 minutes 12 seconds West 788.88 feet, South 86 degrees 07 minutes 05 seconds West 37° 52 feet, North 11 degrees 31 minutes 28 seconds East 484.63 feet, North 82 degrees 24 minutes 36 seconds East 934.32 feet, South 2 degrees 23 minutes 00 seconds West 206.25 feet, North 82 degrees 21 minutes 59 seconds East 229.35 feet, South 6 degrees 39 minutes 51 seconds East 329.21 feet, North 83 degrees 55 minutes 29 seconds East 368.33 feet to the point of beginning.

Kenneth C. Proctor, Esq.
Campbell Building
Towson 14, Maryland

Dear Mr. Proctor:

The recent resolution adopted by the Planning Board with respect to Windlass Expressway, previously reported in the newspaper, can be regarded as an unfortunate error of judgment at best. It could easily be said that such action represented an attempt to improperly influence the Appeals Board in a matter which it is holding under consideration prior to entering a decision.

The writer has discussed the situation with Mr. Hill, who indicated the action by the Planning Board, and was informed that the purpose of the resolution was merely to provide the Appeals Board with the most up-to-date information. The Board at all times desires to be as well informed as possible. However, in fairness to the parties, it may only consider evidence regularly in the case, where counsel for both sides have had an opportunity to cross-examine witnesses and produce rebuttal testimony in behalf of their interests. Internal action by another administrative body, brought to our attention by a newspaper account, is not the proper means of providing new evidence.

In order to remove any possibility of prejudice which might have been caused by the action of the Planning Board, the Appeals Board will re-open the Bartels matter for the purpose of receiving the latest information on the Windlass Expressway situation into the record and subject to the constitutional safeguards, will you please make known to the Appeals Board Secretary several dates within the next two weeks on which you could be available.

Very truly yours,

Chairman

ETA/as

cc Mr. Malcolm B. Hill, Planning Director
County Office Building
Towson 14, Maryland

FRANCIS HUBERTSON
AND
MILLER
CAMPBELL BUILDING
TOWSON 14, MD.
OCT 15 1958

FRANCIS HUBERTSON
AND
MILLER
CAMPBELL BUILDING
TOWSON 14, MD.
OCT 15 1958

RE: PETITION FOR RECLASSIFICATION
FROM AN "R-6" Zone to an "R-6-C"
Zone - W. S. Middle River Road
and N. S. Jackson Ave., 15th
District - Mrs. L. Bartels, Ma
Mrs. Bartels, Margaret E. Bartels,
Janet L. Wintony, Raymond Middle-
ton, Anton M. Hubers and Anna W.
Hubers, Petitioners

RECORD
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY
NO. 1490

OPINION

The owners of the subject tract, consisting of approximately 37 acres of land presently zoned "R-6", ask to have same reclassified to permit group house development. Roughly, the land involved is bounded by Compass Road to the north and east, by Middle River Road to the west, and by Jackson Avenue to the south. It is completely surrounded by other "R-6" land, except for a short distance along its southern boundary where it touches the rear portion of the "R-1" zoning along Martin Boulevard.

Mr. Joseph Meyerhoff, president of Ellis Realty Company, the prospective developer of the property should the Applicant be successful, testified that present plans call for about 300 group homes on the site, to sell for the equivalent of \$11,600.00 in fee, with the end houses to be slightly more expensive. He further stated that the existence of cheap, emergency housing the vicinity makes this practically a blighted area; that he couldn't see any chance of successfully developing here except with group houses or apartments; that he knows of no large developer who has been willing to build individual homes in the area within the past five years; that the location is a gamble, even

for row houses, that he has never built any individual houses in the eastern portion of the County; that he has, on the other hand, built about two thousand group houses in Dundalk; that there is a scarcity of row housing; that undeveloped land presently zoned "R-6" is not being developed fast enough because of the lack of utilities; that sewer and water are available to the subject tract; that the incomes of people in the area would not permit them to buy cottages.

Frederick W. Tummeler, a planning and zoning expert produced in behalf of the Petitioners, testified that two additional classrooms would take care of the increase in elementary school population which would result from the higher density zoning sought; that the area was not of a calibre to permit single family dwelling development; that three hundred and ten pupils would be the total additional yield in school children of all ages.

Nicola H. Dill, Director of the Baltimore County Office of Planning and Zoning, testified on three separate occasions; first, in behalf of the Protestants, then, at his own request, and, finally, at the request of the Board. Mr. Dill's second appearance was prompted when, having testified out of place originally, he requested permission to rebut Mr. Tummeler. The Board requested his third appearance after the Planning Board, weeks after the hearing had concluded, passed a resolution, which was published in the newspaper, urging that we consider certain additional evidence not then in the record as a reason to deny the Petition. Having been exposed to the information in the newspaper account, the Board felt it necessary to receive the evidence into the record, subject to cross-examination, rebuttal testimony, and the conventional safeguards. It is sincerely hoped that this unfortunate situation will not arise again.

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Suffice it to say for the purpose of the record, that the additional information received in no way was a factor in this decision.

Mr. Dill testified that his department was opposed to the reclassification because the resultant density of population would throw the school pattern out of gear. He also testified that a proposed major road, Windlass Expressway, would some day run right through the tract. It was about the proposed road that the additional appearance of Mr. Dill was required. The Board does not find the proposed road a sufficient reason to deny this petition. However, Mr. Dill's testimony concerning the overcrowded schools, coupled with similar evidence produced by Mr. Preston L. Criss, Administrative Assistant to the Baltimore County School Board, is cogent and worthy of most serious consideration. All of the three elementary schools in the area are crowded at the present time. The Stemmers Run Junior High School and the Kenwood Senior High School are even more seriously overloaded, the junior high to the extent that an emergency annex and split-sessions for over 600 students are necessitated. On top of this overcrowding lies the unalterable fact that Maple Crest, a burgeoning group house development already begun, and, according to Mr. Meyerhoff's own testimony, 700 to 800 houses under construction at the time of the hearing, so that the already over-taxed school facilities will face an additional problem in the fall.

There is a glut of testimony in the record concerning the flight patterns of the Martin Company and the Air National Guard. The apparent object of this evidence is to show that approach and take-off zones are dangerous and that, should a crash occur, the pilot would have a better chance of missing a semi-detached home or cottage than a group of homes. While this is probably statistically accurate, this Board finds

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absolutely untenable the proposition assigning this as a valid reason to deny rezoning. It would be equally sensible to deny higher density zoning on streets heavily travelled by automobiles because they sometimes go out of control and strike houses. Somewhere along the line, remote double contingencies must disappear for a sane near-sighted view of present realities.

We find much evidence to contravert that of the developer regarding the unfeasibility of single family unit development. Mr. John Alden, President of the Martin Local of the U.A.W., testified that this is not a low wage area; that the average wage at Martin's is \$110 per week; that his Union has 7,000 members living in the general Essex-Middle River area, and that there is a demand for cottages in the vicinity of the plant. The latter contention is supported by Mr. E. H. Wilson, a local realtor, who stated that he has many calls from people who are looking for single family dwellings of all price ranges. Moreover, in our opinion, the subject tract is of sufficient size to provide its own integrity so that the marginal war housing will not adversely affect the saleability of individual homes.

The Board finds that the requested reclassification is contrary to the comprehensive plan which will soon be presented to the Zoning Commissioner for study. There is little doubt that the general area has changed substantially since the existing map was adopted in 1955; yet, the immediate surrounding area of the subject tract remains "R-6", almost entirely, thus showing very little change.

We also find a need for individual homes in the area. These will not be built with the economies that multiple construction affords the purchaser, so long as developers can realize the higher profits present in group house construction.

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Finally, and most important, our schools must be given a chance to cope with the tremendous surge of population growth in Baltimore County.

In our opinion, the granting of the subject petition would represent a departure from the comprehensive plan for the area, would interfere with adequate provisions for schools and would be detrimental to the general welfare of the locality.

For these reasons the petition is denied.

Any appeal from this decision must be in accordance with Rule No. 1101 (b) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

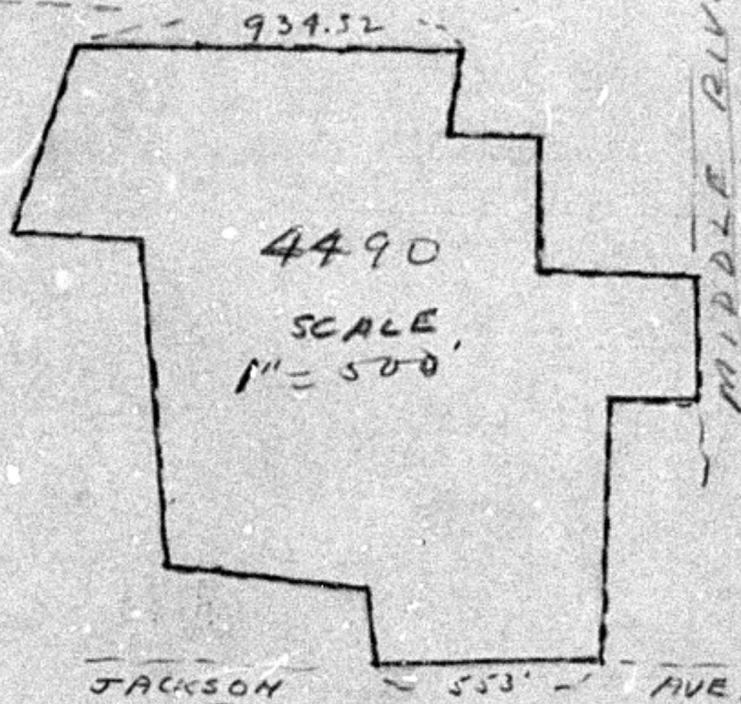
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

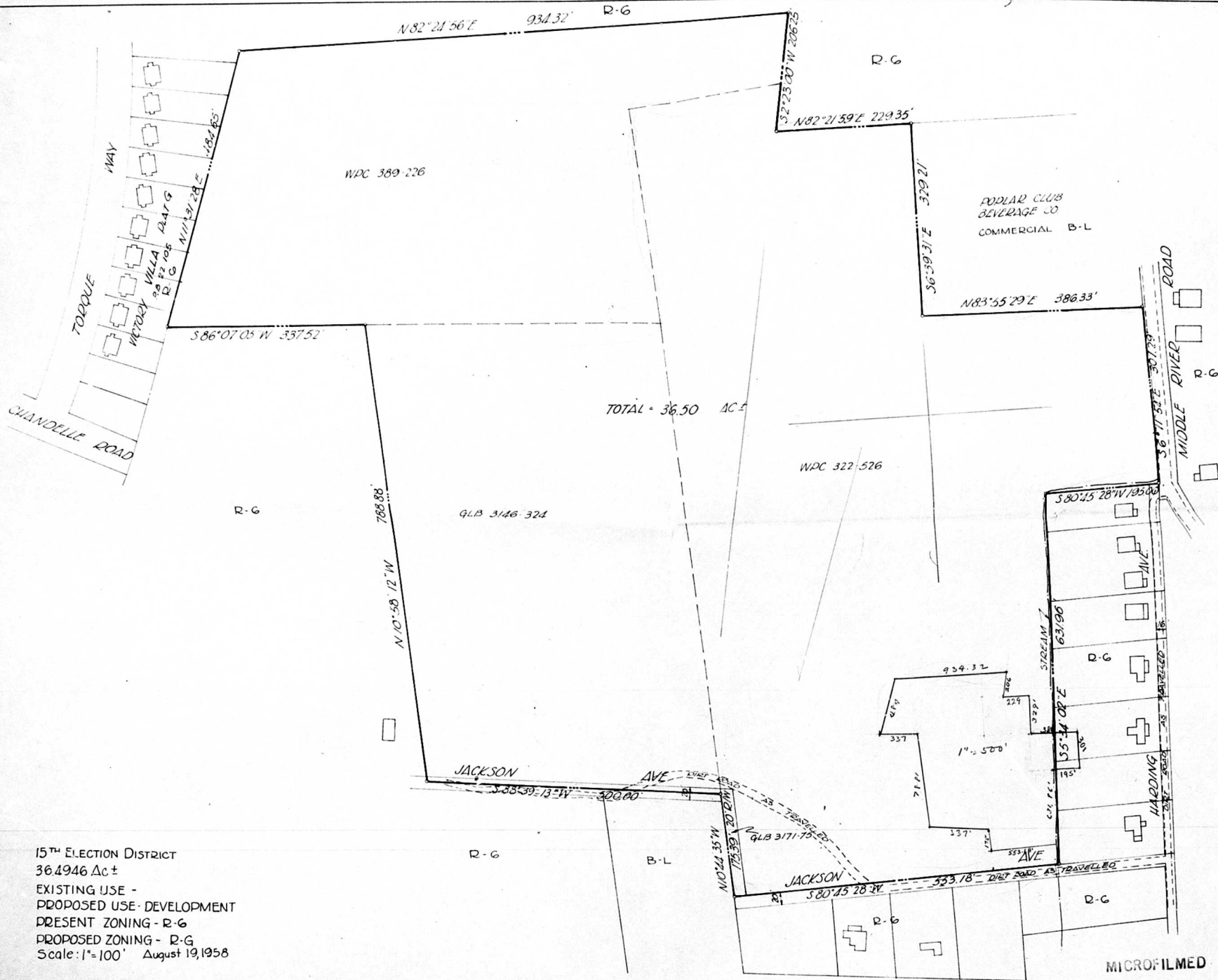
James J. Quinn
Charles H. Starnes, Jr.

Date: August 14, 1959

NOTE: Mr. Daniel W. Hubers did not sit in the above case.

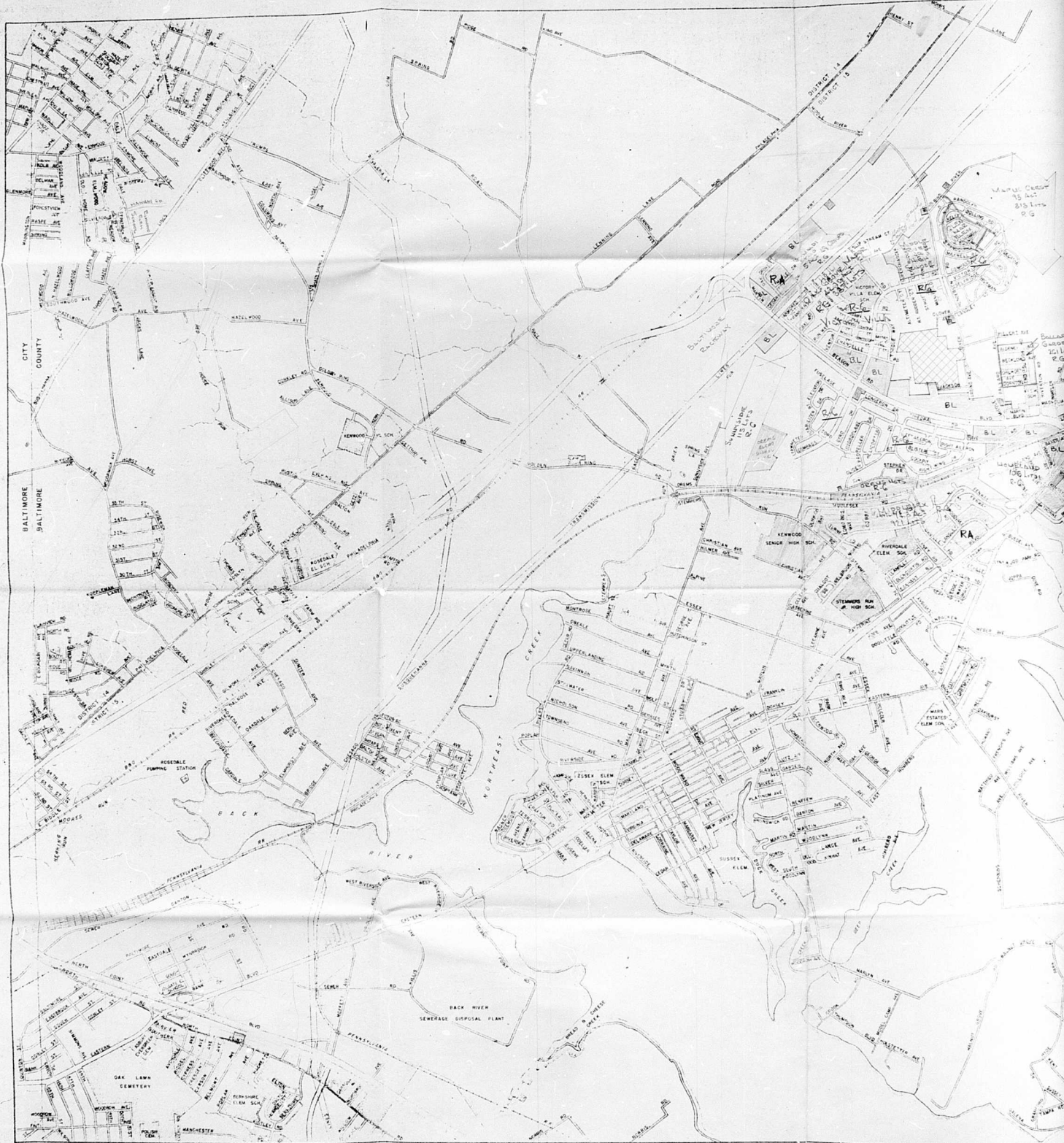
MAP 15-B





15TH ELECTION DISTRICT
 36.4946 Ac ±
 EXISTING USE -
 PROPOSED USE - DEVELOPMENT
 PRESENT ZONING - R-G
 PROPOSED ZONING - R-G
 Scale: 1"=100' August 19, 1958

MICROFILMED



0 1000 3000 5000 FEET

BALTIMORE COUNTY
OFFICE OF PLANNING