63-100-RX

MILTON HALLE
W/S Park Heights Ave. and North side of Balto. Co. Beltway 3rd
#63-100-RX

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

#63-100RX

MAP #3 SEC 2-C RA-X 9/25/63

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, MILTON L. HALLE and RACHEL N. HALLE legal owners of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-20 & R-40 zone to an R-A zone; for the following reasons:

Error in original zoning and changed conditions.

See Attached Descriptions

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for Elevator Apartment Buildings

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception 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.

METROPOLITAN-SUBURBAN, INC.
[signature]
Contract purchaser
Address 8201 Pumpkin Seed Court
Balto. 8, Md.

[signature]
Milton L. Halle
[signature] Rachel N. Halle
Rachel N. Halle Legal Owners
Address Greenspring Avenue
Baltimore 8, Maryland

J. Mayer Willen atty
111 N. Charles St.
Protestant's Attorney

J. Elmer Weisheit Jr. Jefferson Bldg Towson 4 Md.

W. Lee Harrison Petitioner's Attorney
Address 104 Jefferson Building
Towson 4, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 30th day of August, 1963 that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10th day of October, 1963, at 10:00 o'clock A.M.

AUG 30 '63

OFFICE OF PLANNING & ZONING

[signature]
Zoning Commissioner of Baltimore County.

(over)

3

Lester Matz
John C. Childs
Associates
George W. Buckley
Robert W. Coulter
Leonard M. Glass
Norman F. Hermann
Paul Lee
Paul S. Sexton

MATZ, CHILDS & ASSOCIATES, INC.
Engineers - Surveyors - Site Planners
2129 N. Charles St. - Baltimore 18, Maryland
HOpkins 7-5700

Water Supply
Sewerage
Drainage
Highways
Structures
Developments
Investigations
Reports

#63-100RX

MAP #3 SEC. 2-C RA-X 9/25/63

DESCRIPTION

PORTION OF HALLE PROPERTY, PARK HEIGHTS AVENUE AND THE BALTIMORE BELTWAY, THIRD ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND (PRESENT ZONING R20 - FUTURE ZONING R A)

Beginning for the same at the north end of the gusset line formed by the intersection of the westernmost right of way line of Park Heights Avenue and the northernmost right of way line of the Baltimore Beltway as shown on the State Roads Commission of Maryland Plat No. 17791, Baltimore Beltway, Contract No. B 635-16-420, revised October 26, 1960, said point of beginning being located 447 feet, more or less, northerly and 90 feet, more or less, westerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue, thence binding on said gusset line S. 19° 14' 10" W., 84.85 feet to the end thereof, thence binding on the northernmost right of way lines of the Baltimore Beltway as shown on said Plat No. 17791 and on Plats No. 17790, No. 17782, and No. 17781 of said Baltimore Beltway the eight following courses and distances, (1) S. 64° 14 08" W., 50.00 feet, (2) by a curve to the left with a radius of 1974.86 feet, the distance of 148.42 feet, said arc being subtended by a chord bearing S. 62° 04' 57" W., 148.39 feet, (3) S. 59° 55' 46" W., 506.47 feet, (4) S. 64° 05' 55" W., 335.34 feet, (5) S. 68° 25' 55" W., 412.27 feet, (6) S. 75° 11' 35" W., 207.23 feet, (7) S. 59° 29' 05" W., 511.59 feet and (8) S. 49° 38' 25" W., 190.90 feet to

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MATZ, CHILDS & ASSOCIATES, INC.
2129 N. Charles St. - Baltimore 18, Maryland

Page Two

#63-100RX

a point on the third line of the deed from William A. Tuerke to Milton L. Halle, dated August 14, 1945, and recorded among the Land Records of Baltimore County in Liber R.J.S. 1401, Folio 123, thence binding reversely on part of said third line and on the second and first lines of said deed, the three following courses and distances, (1) N. 40° 03' 20" W., 853.79 feet to the center line of Hooks Lane, twenty feet wide, binding thence on said center line of Hooks Lane, (2) N. 50° 25' 10" E., 84.15 feet and (3) N. 56° 46' 00" E., 419.69 feet to the beginning of said deed and to the beginning of a deed from Louise T. Goldman and husband to Tobias Weinberg and wife, dated March 6, 1956 and recorded among the above mentioned Land Records in Liber G.L.B. 2886, Folio 563, thence binding reversely on a part of the last line of the deed first herein mentioned, on the first line of the last mentioned deed, and along the center line of a road, thirty feet wide, S. 33° 14' 00" E., 263.41 feet, thence leaving said thirty foot road and binding on the second line and part of the third line of the last mentioned deed the two following courses and distances, (1) N. 56° 46' 00" E., 461.00 feet, and (2) N. 33° 11' 00" W., 137.7 feet, more or less, to a point on the second line of Baltimore County Zoning Description No. 3 R 20-6, thence binding on a part of said second line N. 72° 01' 30" E., 1684.6 feet, more or less, to a point on the westernmost right of way line of Park Heights Avenue as shown on Plat No. 23616 of said Baltimore Beltway, thence binding on said westernmost right of way line of

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5

2129 N. Charles St. - Ba...

Page Three

#63-100RX

MAP #3 SEC. 2-C RA-X 9/25/63

Park Heights Avenue the three following courses and distances, (1) S. 23° 34' 12" E., 159.4 feet, more or less, (2) by a curve to the left with a radius of 7719.44 feet, the distance of 223.65 feet, said arc being subtended by a chord bearing S. 24° 24' 03" E., 223.64 feet, and (3) S. 19° 54' 30" E., 101.28 feet to the place of beginning.

RS:sbr J. O. #60152 8/22/63

STATE OF MARYLAND LESTER MATZ No. 3061 REGISTERED PROFESSIONAL ENGINEER

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. John G. Rose, Zoning Commissioner Date September 27, 1963

FROM Mr. George E. Gavrelis, Deputy Director

SUBJECT #63-100-RX. R-20 and R-40 to R-A, and Special Exception for Elevator Apartment Buildings. West side of Park Heights Avenue 1244 feet northerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue. Being property of Milton Halle.

3rd District

HEARING: Thursday, October 10, 1963 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for Reclassification from R-20 and R-40 to R-A zoning together with a Special Exception for elevator apartment buildings. It has the following advisory comments to make with respect to pertinent planning factors:

1. The subject property is situated at the northwesterly quadrant of the Interchange of the Beltway and Park Heights Avenue. Park Heights Avenue is a radial route emanating from Baltimore City. Portions of Park Heights Avenue have been developed for elevator apartments in Baltimore City. The character of land usage in the area immediately north of the Beltway appears to be institutional. A cemetery and a reservoir exists on the south side of the Beltway.

2. The subject property comes closer to meeting the locational criteria established and used by the Planning Board in locating apartment zoning than have other recent requests for apartment zoning elsewhere in this area. The Planning staff sees a definite difference between the locational factors affecting apartment zoning on the subject property and those other properties in the area which also had requested apartment zoning. In many ways the location of the subject property is similar to the Strickland property at the southwest quadrant of Charles Street and the Beltway.

3. The Planning staff, however, does not concede that an error was made in the 3rd District Zoning Map or that the physical character of the neighborhood has changed to an extent that necessarily justifies apartment zoning here.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE 823-3000

No. 24731
DATE 7/15/64

TO: J. Elmer Weisheit, Jr., Esq.
The Jefferson Building
Towson, Md. 21204

BILLED BY: County Board of Appeals (Zoning)

DEPOSIT TO ACCOUNT NO. 01.712 — TOTAL AMOUNT $10.00

DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE

QUANTITY		COST
—	Cost of Certified Documents - No. 63-100-RX Milton L. Halle, etal W/S E Park Heights Avenue & N/S Balto. Co. Beltway 3rd District	$10.00

PAID — Baltimore County, Md. — Office of Finance

7-1564 6134 • 24731 TXP— 10.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE VALLEY 3-3000

No. 19950
DATE 10/21/63

TO: Messrs. Smith & Harrison,
Att. W. Lee Harrison, Esq.,
Jefferson Building
Towson 4, Md.

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.,
Towson 4, Maryland

DEPOSIT TO ACCOUNT NO. 01.622 — TOTAL AMOUNT

DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE

QUANTITY		COST
—	Cost of appeal - Milton Halle -- No. 63-100-RX	$70.00

PAID — Baltimore County, Md. — Office of Finance

10-2163 5409 • • • TIL— 70.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

#63-100RX

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 3rd Date of Posting Sept. 21, 1963

Posted for: Petition for Reclassification from R-20 & R-40 to R.A. Petition for Special Exception for Elevator Apt.

Petitioner: Milton Halle

Location of property: W/S Park Heights Ave. 1244', more or less, N from the intersection of the centerline of the Baltimore Beltway with the center line of Park Heights Avenue

Location of Signs: {Reclass: Spec. Except.: (1) 195' E of Resevoir Ave. behind #5 Resevoir Ave. (2) 528' E of Resevoir Ave on S/S Hooks Lane. (3) 1st private road N of Beltway on W/S Park Heights in driveway to property.

Remarks:

Posted by [signature: J. Bosse] Signature Date of return: Sept. 26, 1963

6 signs

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE VALLEY 3-3000

No. 20172
DATE 10/8/63

TO: Metropolitan-Suburban, Inc.
8201 Pumpkin Seed Court
Baltimore 8, Md.

BILLED BY: Zoning Department of Baltimore County

DEPOSIT TO ACCOUNT NO. C1622 — TOTAL AMOUNT $137.00

DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE

QUANTITY		COST
—	Advertising and posting of property for Milton R. Halle	137.00

PAID — Baltimore County, Md. — Office of Finance

10-863 4771 • • • TIL— 137.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

TELEPHONE VALLEY 3-3000

No. 19284
DATE 8/30/63

TO: Messrs. Smith & Harrison
Jefferson Building
Towson 4, Md.

BILLED BY: Zoning Department of Baltimore County

DEPOSIT TO ACCOUNT NO. 01622 — TOTAL AMOUNT $50.00

DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE

QUANTITY		COST
—	Petition for Reclassification for Milton L. Halle, and Special Exception	50.00

PAID — Baltimore County, Md. — Office of Finance

9--563 3367 • • • TIL— 50.00

3

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

#63-100-RX

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 3rd Date of Posting Dec. 29, 1963

Posted for: Appeal

Petitioner: Milton L. Halle, et al

Location of property: W/S Park Heights Avenue & N/S Baltimore County Beltway

Location of Signs: 200' N/ Balto. County Beltway on W/S Park Heights Avenue

Remarks:

Posted by [signature: J. Bosse] Signature Date of return: Jan. 2, 1964

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: September 27, 1963

FROM: Mr. George E. Gavrelis, Deputy Director

SUBJECT: #63-100-RX. R-20 and R-40 to R-A, and Special Exception for Elevator Apartment Buildings. West side of Park Heights Avenue 1244 feet northerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue. Being property of Milton Halle.

3rd District

HEARING: Thursday, October 10, 1963 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for Reclassification from R-20 and R-40 to R-A zoning together with a Special Exception for elevator apartment buildings. It has the following advisory comments to make with respect to pertinent planning factors:

1. The subject property is situated at the northwesterly quadrant of the Interchange of the Beltway and Park Heights Avenue. Park Heights Avenue is a radial route emanating from Baltimore City. Portions of Park Heights Avenue have been developed for elevator apartments in Baltimore City. The character of land usage in the area immediately north of the Beltway appears to be institutional. A cemetery and a reservoir exists on the south side of the Beltway.

2. The subject property comes closer to meeting the locational criteria established and used by the Planning Board in locating apartment zoning than have other recent requests for apartment zoning elsewhere in this area. The Planning staff sees a definite difference between the locational factors affecting apartment zoning on the subject property and those other properties in the area which also had requested apartment zoning. In many ways the location of the subject property is similar to the Strickland property at the southeast quadrant of Charles Street and the Beltway.

3. The Planning staff, however, does not concede that an error was made in the 3rd District Zoning Map or that the physical character of the neighborhood has changed to an extent that necessarily justifies apartment zoning here.

OE:bms

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

#63-100RV

TO: James Dyer Date: September 16, 1963

FROM: Gilbert Benson

SUBJECT: Highrise Apartments North of the Beltway between Park Heights Avenue and Reservoir Road

Water is available, there is a 36 inch line in Cooks Lane to Reservoir Road. Sanitary sewer line is located under the Beltway but has to be extended to Old Court Road. Cooks Lane alignment and paving section should be studied by the Office of Planning.

Gilbert S. Benson For

GILBERT S. BENSON, Chief
Developers Design Approval

GSB:RCP:mbn

CC: File

SEP 18 1963

OFFICE OF PLANNING & ZONING

LAW OFFICES
J. ELMER WEISHEIT, JR.
JEFFERSON BUILDING
TOWSON, MARYLAND 21204

ASSOCIATE
EDWARD C. COVAHEY, JR.

AREA CODE 301
823-1011

July 16, 1964

Mrs. Edith T. Eisenhart, Secretary
County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Halle Appeal
Our file No. 2006-B

Dear Mrs. Eisenhart:

Enclosed please find a check in the amount of $10.00 covering the cost of certified copies of the Order and Petition for Appeal.

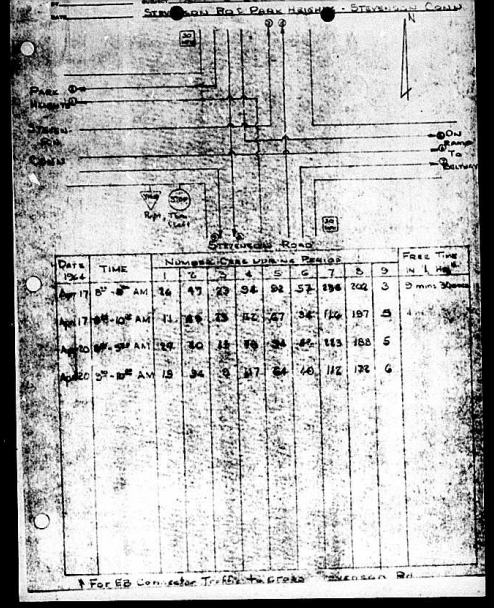
Very truly yours,

Edward C. Covahey, Jr.

ECCjr/cs

encls.

Rec'd 7-15-64
8:30 am



RE: PETITION FOR RE-CLASSIFICATION from an R-20 and R-40 Zone to an R-A Zone, W/S Park Heights Avenue and N/S of Baltimore Co. Beltway. 3rd District - Milton Halle-Petitioner

BEFORE
DEPUTY ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 63-100-RX

Upon hearing on the above petition for re-classification from an R-20 and R-40 Zone to an R-A Zone for Elevator Apartment Buildings, the land lying on the West side of Park Heights Avenue, 1244 feet, more or less, northerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue, in the Third Election District of Baltimore County, the testimony produced at the hearing did not indicate that the Official Zoning Map of Baltimore County was in error when adopted by the County Council.

For the reason stated above the re-classification should NOT BE HAD.

IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 10 day of October, 1963, that the above re-classification be and the same is hereby DENIED and that the above property or area be and the same is hereby continued as and to remain an R-A Zone.

Edward D. Hardesty
Deputy Zoning Commissioner

RE: PETITION FOR RE-CLASSIFICATION from an R-20 and R-40 Zone to an R-A Zone, W/S Park Heights Avenue and N/S of Baltimore Co. Beltway. 3rd District - Milton Halle-Petitioner

BEFORE
DEPUTY ZONING COMMISSIONER
OF
BALTIMORE COUNTY
Case No. 63-100-RX

AMENDED ORDER

It was inadvertently stated in the Order passed by me on October 10, 1963, that the subject property is hereby continued as an R-A Zone. The Order should have read "the above property or area be and the same is hereby continued as and to remain an R-20 and R-40 Zone."

Edward D. Hardesty
Deputy Zoning Commissioner

Date: Oct. 11, 1963

LAW OFFICES
SMITH AND HARRISON
THE JEFFERSON BLDG
TOWSON 4, MARYLAND

MICHAEL PAUL SMITH
W. LEE HARRISON
RICHARD E. HUMBERT
GEORGE BARRETT JOHNS
EUGENE G. RICKS
DONALD J. GUNDRE

OCT 11 1963
ZONING DEPARTMENT

October 11, 1963

John G. Rose, Esq.
Zoning Commissioner for Baltimore County
County Office Building
Towson 4, Maryland

Re: Petition for Re-Classification from an R-20 and R-40 Zone to an R-A Zone, W/S Park Heights Avenue and N/S of Baltimore County Beltway - 3rd District - Milton Halle, Petitioner - Case No. 63-100-RX

Dear Mr. Rose:

Please enter an appeal to the County Board of Appeals from your decision in the above entitled case dated October 10, 1963.

I enlcose herewith check in the amount of $70.00 to cover cost of this appeal.

Very truly yours,

W. Lee Harrison
Attorney for Petitioner

WLH:b
CC: J. Elmer Weisheit, Jr., Esq.
Carl A. Durkee, Esq.
J. Nicholas Shriver, Jr., Esq.
J. Mayer Willen, Esq.

LAW OFFICES
SMITH AND HARRISON
THE JEFFERSON BLDG
TOWSON 4, MARYLAND

MICHAEL PAUL SMITH
W. LEE HARRISON
RICHARD E. HUMBERT
GEORGE BARRETT JOHNS
EUGENE G. RICKS
DONALD J. GUNDRE

OCT 11 1963
ZONING DEPARTMENT

October 11, 1963

John G. Rose, Esq.
Zoning Commissioner for Baltimore County
County Office Building
Towson 4, Maryland

Re: Petition for Re-Classification from an R-20 and R-40 Zone to an R-A Zone, W/S Park Heights Avenue and N/S of Baltimore County Beltway - 3rd District - Milton Halle, Petitioner - Case No. 63-100-RX

Dear Mr. Rose:

Please enter an appeal to the County Board of Appeals from your decision in the above entitled case dated October 10, 1963.

I enlcose herewith check in the amount of $70.00 to cover cost of this appeal.

Very truly yours,

W. Lee Harrison
Attorney for Petitioner

WLH:b
CC: J. Elmer Weisheit, Jr., Esq.
Carl A. Durkee, Esq.
J. Nicholas Shriver, Jr., Esq.
J. Mayer Willen, Esq.

RE: PETITION FOR RECLASSIFICATION from "R-20" and "R-40" Zones to an "R-A" Zone, SPECIAL EXCEPTION for elevator apartment buildings, W/S Park Heights Avenue and N/S Baltimore County Beltway Third District Milton L. Halle, et al, Petitioners : BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY No. 63-100-RX

: : : : : : : : : : : : :

OPINION

This is an application for a special exception and reclassification of 49.672 acres of land, located on the west side of Park Heights Avenue and the north side of the Baltimore County Beltway and the south side of Hooks Lane in the Third Election District of Baltimore County, Maryland.

The property is presently zoned "R-40" and "R-20" and has a useable frontage on the west side of Park Heights Avenue of 297.38 feet. There is additional frontage along Park Heights Avenue and extensive frontage along the Baltimore County Beltway but neither is usable at present because of denial of access, a ramp to the Baltimore County Beltway existing at that location. Directly across the Baltimore County Beltway, in the southwest quadrant of the intersection formed by Park Heights Avenue and the Beltway, is the Druid Ridge Cemetery which adjoins a reservoir at its western end. Southeast of the intersection are the radio towers and studio for WCAO, which has extensive frontage along the east side of Park Heights Avenue in a southerly direction from the Beltway. The northeast quadrant is occupied by the Synagogue and other facilities of the Beth El Congregation.

The staff of the Office of Planning and Zoning reviewed the subject petition for reclassification from "R-40" and "R-20" zones to an "R-A" zone, together with a special exception for elevator apartment buildings. In its comments, it stated "The character of land usage in the area immediately north of the Beltway appears to be institutional" and "the subject property comes closer to meeting the locational criteria established and used by the Planning Board in locating apartment zoning than have other recent requests for apartmen zoning in this area."

At the time of the adoption of the Third District Zoning Map on January 15, 1957, the subject property had no access to Park Heights Avenue other than by Hooks Lane which was, and still is, a thirty (30) foot wide paper street which was paved from Reisterstown Road easterly to a property formerly owned by the herein applicants but now owned by a Dr. Weinberg. From that point easterly to Park Heights Avenue, a distance of 2200 or 2300 feet, there were and are no improvements to Hooks Lane. In addition, a rectangular parcel, including all of the Park Heights Avenue frontage, comprising 13.156 acres was, at the time of the adoption of the map, owned by Overbrook Development Company, a subsidiary or connected corporation with the Druid Ridge Cemetery Company.

Moreover, the applicant's property was, in 1957, a sixty-five acre farm estate which the herein applicant had owned for a number of years. At that time the Beth El Congregation had not been constructed on the northeast corner, the zoning map showing it as the Baltimore County Humane Society. Similarly, the Baltimore County Beltway had not yet been constructed and as a matter of fact, the rights-of-ways for the ramp and the Beltway were not taken from the herein petitioners until several years later, in December of 1960.

Since the adoption of the map a 27 inch water main was constructed in Hooks Lane and Reservoir Road within 200 feet of the property via a publicly owned right-of-way. The main will provide an adequate water supply for the proposed project.

When the Beltway was constructed, a sleeve for sanitary sewer was placed under the Baltimore County Beltway obviously for the sole purpose of providing sanitary sewer facilities for this tract of land, the testimony revealing that the land to the north of Hooks Lane falls in a different drainage area as does the land to the west of the subject property. Within the past year the applicants acquired the 13.156 acres parcel of land from the Overbrook Development Company, together with a sanitary sewer right-of-way from the southerly extremity of the sleeve under the Beltway near Park Heights Avenue.

There was also testimony of a number of changes in classification of properties at the southeast corner of the Beltway and Reisterstown Road which included two motels, a bowling alley and a parcel of approximately nine acres on the south side of the Beltway contiguous to the Pikesville reservoir for apartments.

We feel that there is little question but that there have been substantial changes in the area which justify the reclassification of the tract in question. Additions to public water and sewer facilities are of major importance as is the effect of the Beltway construction. In addition, we concur with the comments of the Department of Planning that the character of the land usage at this intersection is largely institutional or non-residential in nature and it appears to be an ideal site for elevator apartment buildings in view of the local criteria established and used by the Planning Board. This criteria was not developed or in being at the time of the adoption of this map but came into being within the last two years. Moreover, there was testimony that there is a need for apartment zoning in the area none having been established on the map when it was adopted in 1957, with the exception of two acres which were also fully improved for office building purposes.

We have carefully weighed the testimony of the real estate experts and the traffic engineers who testified in the case. We do not believe that the creation of apartment zoning and special exception for elevator apartment buildings at this site would have any detrimental effect on any surrounding properties which view is supported by the fact that Dr. Weinberg, the owner of the two acre parcel which was carved out of the original Halle tract, did not appear nor voice any objection. Similarly, we do not believe that there would be any traffic hazard or congestion created by the proposed project. The testimony indicated that it would be constructed in three stages which unquestionably would

require a number of years before full development was reached. There appears to be little question that any possible problems would arise which could not be corrected by the installation of traffic lights if there was any necessity whatsoever to do so. However, in this regard, we are convinced that any traffic generated by this project would be adequately and safely handled by the existing facilities.

In addition to the foregoing, we are convinced that the general welfare of the entire neighborhood would be enhanced by the provision of an elevator apartment zone in this area of sufficient size to adequately satisfy the need for sometime to come. We cannot ignore the fact that a number of applications have been filed and considered by us in the same area. Unquestionably, this is the best location for high rise apartments and the creation of such a zone at this location would undoubtedly tend to satisfy demands for high rise apartment zoning in the area and to stabilize zoning conditions generally. It appears fundamental that the pressures for apartment zoning, and particularly high rise or elevator apartment zoning, will continue until the demand is satisfied. We do not wish to give the impression that our decision is based upon such a consideration. However, it is a factual condition which must be given some recognition and consideration.

There was also testimony that sanitary sewers in the area have been reinforced and supplemented since the adoption of the zoning map in this case by the construction of the Moores Run Interceptor. The applicants here have acquired all necessary off site rights-of-way, and there is no problem with either capacity or rights-of-way for off site sewer and reinforcement. All rights-of-way either are owned by the applicants or are located in state highways or county roads for which none will be required. The testimony in the case was uncontradicted that the costs of providing sanitary sewer for the proposed project, now that the Beltway has been constructed, will be $130,000. If the property were developed under its present zoning the costs of providing sanitary sewer would be $110,000. The possibility of serving the majority of the property by septic tank is extremely doubtful because of percolation problems indicated by tests and by difficulty experienced in other developments in the area. It would hardly appear economically feasible to attempt to develop the subject tract under the "R-40" and "R-20" zones in view of these costs.

For the above reasons the reclassification of the above described property from "R-40" and "R-20" zones to an "R-A" zone, and special exception for elevator apartment buildings is hereby granted.

ORDER

For the reasons set forth in the aforegoing Opinion, it is this 11Th day of June, 1964 by the County Board of Appeals, ORDERED that the reclassification and special exception petitioned for, be and the same is hereby granted.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

G. Mitchell Austin
CHAIRMAN

W. Giles Parker

63-100

PETITION FOR RECLASS[illegible] AND A SPECIAL EXCEP[illegible] 3RD DISTRICT

ZONING: From R-20 and R-40 to R-A Zone. Petition for Special Exception for Elevator Apartment Buildings
LOCATION: West side of Park Heights Avenue, 1244, feet, more or less, northerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue
DATE & TIME: Thursday, October 10, 1963 at 10:00 A.M.
PUBLIC HEARING: Room 108 County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing concerning all that parcel of land in the Third District of Baltimore County:

R-40 to R-A

Beginning for the same at the point of intersection of the center line of Park Heights Avenue, 30 feet wide with the center line of Hooks Lane, 30 feet wide, said beginning being located 1244 feet, more or less, northerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue, said beginning point being also at the beginning of the land described in the deed from J. Frank Purcer and wife to The Overbrook Development Company dated May 2, 1929 and recorded among the Land Records of Baltimore County in Liber L. McL. M. 822, Folio 324, running thence binding on the center line of said Park Heights Avenue and on part of the first line of said deed, S. 23° 20' 50" E., 297.38 feet to Station 20 plus 50 on the base line of right of way of Park Heights Avenue as shown on the State Roads Commission of Maryland Plat No. 23616, Baltimore Beltway, Contract No. B 635-16-420, revised October 26, 1960, thence leaving said Park Heights Avenue and binding on the northerly and westerly right of way lines as shown on said Plat No. 23616, S. 66° 25' 48" W., 80.00 feet and S. 23° 34' 12" E., 19.2 feet, more or less, to a point on the second line of Baltimore County Zoning Description No. 3 R 28-6, thence binding on a part of said second line S. 72° 01' 30" W., 1684.6 feet, more or less, to a point on the third line of a deed from Louis T. Goldman and husband to Tobias Weinberg and wife, dated March 6, 1956 and recorded among the above mentioned Land Records in Liber G.L.B. 2886, Folio 563, thence binding on a part of said third line N. 23° 14' 00" W., 121.8 feet, more or less to the end thereof and to a point on the last line of a deed from William A. Tuerke and wife to Milton L. Halle, dated May 8, 1945 and recorded among the above mentioned Land Records in Liber R.J.S. 1387, Folio 129, thence binding reversely on a part of said last line and on the center line of Hooks Lane, 30 feet wide N. 63° 49' 25" E., 988.98 feet to the end of said line and to the beginning of the fifth or last line of the deed first herein referred to, thence binding on said last mentioned line and still binding on the center line of Hooks Lane, 30 feet wide, N. 67° 20' 50" E., 790.34 feet to the place of beginning.

Being the property of Milton L. Halle and Rachel N. Halle as shown on plat plan filed with the Zoning Department.

R-20 to R-A

Beginning for the same at the north end of the gusset line formed by the intersection of the westernmost right of way line of Park Heights Avenue and the northernmost right of way line of the Baltimore Beltway as shown on the State Roads Commission of Maryland Plat No. 17791, Baltimore Beltway, Contract No. B 635-16-420, revised October 26, 1960, said point of beginning being located 447 feet, more or less, northerly and 90 feet, more or less, westerly from the intersection of the center line of the Baltimore Beltway with the center line of Park Heights Avenue, thence binding on said gusset line S. 19° 14' 10" W., 84.85 feet to the end thereof, thence binding on the northernmost right of way lines of the Baltimore Beltway as shown on said Plat No. 17791 and on Plats No. 17790, No. 17782, and No. 17781 of said Baltimore Beltway the eight following courses and distances, (1) S. 64° 14' 08" W. 50.00 feet, (2) by a curve to the left with a radius of 1974.86 feet, the distance of 148.42 feet, said arc being subtended by a chord bearing S. 62° 04' 57" W., 148.39 feet, (3) S. 59° 55' 46" W., 506.47 feet, (4) S. 64° 05' 55" W., 335.34 feet, (5) S. 68° 25' 55" W. 412.27 ft., (6) S. 75° 11' 35" W., 207.23 feet, (7) S. 59° 29' 05" W., 511.59 feet and (8) S. 49° 38' 25" W., 190.90 feet to a point on the third line of the deed from William A. Tuerke to Milton L. Halle, dated August 14, 1945, and recorded among the Land Records of Baltimore County in Liber R.J.S. 1401, Folio 123, thence binding reversely on part of said third line and on the second and first lines of said deed, the three following courses and distances, (1) N. 40° 03' 20" W., 833.79 feet to the center line of Hooks Lane, twenty feet wide, binding thence on said center line of Hooks Lane, (2) N. 50° 25' 10" E., 84.15 feet and (3) N. 56° 46' 00" E., 419.69 feet to the beginning of said deed and to the beginning of a deed from Louise T. Goldman and husband to Tobias Weinberg and wife, dated March 6, 1956 and recorded among the above mentioned Land Records in Liber G.L.B. 2886, Folio 563, thence binding reversely on a part of the last line of the deed first herein mentioned, on the first line of the last mentioned deed, and along the center line of a road, thirty feet wide, S. 33° 14' 00" E., 282.41 feet, thence leaving said thirty foot road and binding on the second line and part of the third line of the last mentioned deed the two following courses and distances, (1) N. 56° 44' 00" E., 481.00 feet, and (2) N. 33° 14' 00" W., 137.7 feet, more or less, to a point on the second line of Baltimore County Zoning Description No. 3 R 20-6, thence binding on a part of said second line N. 72° 01' 30" E., 1684.6 feet, more or less, to a point on the westernmost right of way line of Park Heights Avenue as shown on Plat No. 23616 of said Baltimore Beltway, thence binding on said westernmost right of way line of Park Heights Avenue the three following courses and distance, (1) S. 23° 34' 12" E., 159.4 feet, more or less, (2) by a curve to the left with a radius of 7719.44 feet, the distance of 223.85 feet, said arc being subtended by a chord bearing S. 24° 24' 00" E., 223.84 feet, and (3) S. 19° 54' 30" E., 101.28 feet to the place of beginning.

By order of
JOHN G. ROSE,
Zoning Commissioner of
Baltimore County.

Sept. [illegible]

CERTIFICATE OF PUBLICATION

TOWSON, MD. September 20, 1963

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., ~~once in each~~ of 1 time ~~successive weeks~~ before the 10th day of October 1963, the first publication appearing on the 2th day of September 1963.

THE JEFFERSONIAN,

Leand Shettle
Manager.

Cost of Advertisement, $

RE: PETITION FOR RECLASSIFICATION from "R-20" and "R-40" Zones to an "R-A" Zone, SPECIAL EXCEPTION for elevator apartment buildings, W/S Park Heights Avenue and N/S Baltimore County Beltway Third District Milton L. Halle, et al, Petitioners : BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY No. 63-100-RX

: : : : : : : : : : : : :

CONCURRING OPINION

I agree with the other members of the Board in their decision on this matter, however, there are two minor points in which I am not in complete agreement.

I am not in a position to agree that this is unquestionably the best location among a number of applications filed and considered in the same area, as being a new member of this Board I am not familiar with the other applications in the same area. However, I do feel that this property being the only undeveloped quadrant at the intersection of the Baltimore County Beltway and Park Heights Avenue, the other quadrants being used as a cemetery, a radio station and a church and school, that the elevator apartments here would not be inharmonious with the existing uses of the remaining three quadrants being my feeling that apartment and institutional uses are quite compatible.

There was testimony regarding seweraging this property and an inference by the applicants that the construction costs of seweraging the property makes it economically unwise to develop it as presently zoned; with this contention I cannot agree. I feel that any increased cost will be caused by the increase in the number of dwelling units on the property over its present zoning and, therefore, cannot agree with the majority of the Board that it would not be economically feasible to develop "R-40" and "R-20" as presently zoned.

For the other reasons given in the majority opinion however, I do concur in the decision of the Board.

William S. Baldwin

DATE: June 11, 1964

GEORGE G. FINNEY
JOSEPHINE S. FINNEY
MRS. ALAN WURTZBERGER
HUGO DALSHEIMER
KATHERINE SMALL STEWART
NATT LEVI
JOYCE SHUGER
JESSE E. SALZMAN
STANLEY SILBERMAN
MORTON L. SILBERMAN
CARL DURKEE
VALGERD BAIN
EDGAR FAULKNER
ANITA FAULKNER
GREENSPRING & WORTHINGTON VALLEY PLANNING COUNCIL, INC.
STEVENSON IMPROVEMENT ASSOCIATION, INC.
Appellants

vs.

G. MITCHELL AUSTIN
W. GILES PARKER and
WILLIAM S. BALDWIN
constituting the County Board of Appeals of Baltimore County
Appellees

: IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Case No. 3043
Misc. Docket No. 7
Folio No. 397

ORDER

The papers in the above entitled case, including the transcript of testimony and trial memoranda, having been read and considered by the Court, and argument of counsel having been heard, it is this 26th day of October, 1964, by the Circuit Court for Baltimore County:

ORDERED that the County Board of Appeals of Baltimore County be and it is hereby ordered and directed to deny the petition for reclassification and special exception requested in this case.

John Grason Turnbull
JUDGE

True Copy Test
ROBERT R. GILL, Clerk
Per. [signature]
Deputy Clerk

Rec'd 10-27-64
9:30 AM
Entered

GEORGE G. FINNEY, et al

v.

G. MITCHELL AUSTIN
W. GILES PARKER and
WILLIAM S. BALDWIN
constituting the County Board of Appeals of Baltimore County, et al

: IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW 7/397/3043

: :

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal on behalf of Milton L. Halle and Rachel N. Halle, his wife, to the Court of Appeals of Maryland from that portion of the Order of the Circuit Court for Baltimore County, dated December 22, 1964, which reversed the Order of the Board of Appeals of Baltimore County.

W. Lee Harrison
507 Loyola Building
Towson, Maryland 21204
823-1200
Attorney for Milton L. Halle and Rachel N. Halle, his wife.

I hereby certify that on this 21st day of January, 1965, copy of the foregoing Order for Appeal was sent to J. Elmer Weisheit, Jr., The Jefferson Building, Towson, Maryland 21204.

W. Lee Harrison

#63-100-RX

Rec'd 1-26-65
9:00 AM

GEORGE G. FINNEY
JOSEPHINE S. FINNEY
MRS. ALAN WURTZBERGER
HUGO DALSHEIMER
KATHERINE SMALL STEWART
NATT LEVI
JOYCE SHUGER
JESSE E. SALZMAN
STANLEY SILBERMAN
MORTON L. SILBERMAN
CARL DURKEE
EMILY DURKEE
VALGERD BAIN
EDGAR FAULKNER
ANITA FAULKNER
GREENSPRING & WORTHINGTON
VALLEY PLANNING COUNCIL, INC.
STEVENSON IMPROVEMENT
ASSOCIATION, INC.

Appellants

vs.

G. MITCHELL AUSTIN
W. CILES PARKER and
WILLIAM S. BALDWIN,
constituting the County Board of
Appeals of Baltimore County

Appellees

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal on behalf of GEORGE G. FINNEY, JOSEPHINE S. FINNEY, MRS. ALAN WURTZBERGER, HUGO DALSHEIMER, KATHERINE SMALL STEWART, NATT LEVI, JOYCE SHUGER, JESSE E. SALZMAN, STANLEY SILBERMAN, MORTON L. SILBERMAN, CARL DURKEE, EMILY DURKEE, VALGERD BAIN, EDGAR FAULKNER, ANITA FAULKNER, GREENSPRING & WORTHINGTON VALLEY PLANNING COUNCIL, INC., and STEVENSON IMPROVEMENT ASSOCIATION, INC., from the Opinion and Order of the County Board of Appeals of Baltimore County, dated June 11, 1964, and signed by G. Mitchell Austin, Chairman, W. Giles Parker and William S. Baldwin, members of the aforesaid County Board of Appeals of Baltimore County, in the case bearing number 63-100-RX being a Petition for Zoning Reclassification from R-20 and R-40 zones to an R-A zone with a Special Exception for Elevator Apartment Buildings, all of which is more particularly described in the proceedings referred to.

The property subject to this Order for Appeal is all that property as described in the original Petition for Zoning Reclassification and Special Exception as filed by the Petitioners and as briefly identifed as being 49.672 acres of land more or less located at or near the Northwest Quadrant of the intersection of the Baltimore County Beltway and Park Heights Avenue and extending westwardly along the Baltimore County Beltway and northerly

Rec'd 7-9-64 11:15 am

J. ELMER WEISHEIT, JR.
ATTORNEY AT LAW
TOWSON, MARYLAND

along Park Heights Avenue, all located in the 3rd Election District of Baltimore County, Maryland. This Appeal is from the granting of the Petition for Reclassification and also from the granting of the Petition for Special Exception all as more particulary stated in the herein referred to Opinion and Order of the said Board of Appeals. This Appeal is filed in accordance with Rule B-2 and B-4 and other provisions of the Maryland Rules of Procedure.

EDWARD C. COVAHEY, JR.
J. ELMER WEISHEIT, JR.
101 Jefferson Building
Towson, Maryland 21204
VAlley 3-1011
Attorneys for Appellants

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a copy of the aforegoing Order for Appeal was served on the County Board of Appeals by delivery by me to said Board at its office in the County Office Building, Towson, Maryland, and which service was effected prior to the filing of the said Order of Appeal all in accordance with the requirements of Rule B-2 (c) (service on agency) of the aforesaid Maryland Rules of Procedure. This certificate is made as the "certificate of compliance" required by said section of said Maryland Rules.

EDWARD C. COVAHEY, JR.
J. ELMER WEISHEIT, JR.
101 Jefferson Building
Towson, Maryland 21204
VAlley 3-1011
Attorneys for Appellants

J. ELMER WEISHEIT, JR.
ATTORNEY AT LAW
TOWSON, MARYLAND

Mr. Rose

IN THE COURT OF APPEALS OF MARYLAND

No. 466

September Term, 1964

GEORGE G. FINNEY, et al.

vs.

MILTON L. HALLE, et ux.

#63-100-RX
2nd A

Prescott, C. J.
Hammond
Horney
Marbury
Barnes
Sobelloame
Evans, Matthew S.
(specially assigned),

JJ.

Dissenting Opinion by Hammond, J.

Filed: February 2, 1966

Hammond, J. dissenting:

Judicial acquiescence in an agency's perversion of the zoning process has constrained me to dissent. The Board of Zoning Appeals, in reclassifying the Halle property misconstrued its basic and fundamental function and place in zoning, and the affirmance of its action by the Court of Appeals will perpetuate its misconceptions and so foster bad zoning at the expense of good.

The strong presumption of the correctness of original zoning and comprehensive rezoning led the Court of Appeals to the now firmly established rule that piecemeal or individual change can validly be made by a zoning board or agency only if there is presented to it strong evidence either of mistake in the basic zoning or of a substantial change in the character of the neighborhood. In the instant case a consideration of the testimony before the Board and its opinion makes it entirely apparent that the Board granted the request for rezoning for high-rise apartments because it thought the Halle site was an appropriate place (an "ideal site") for elevator apartment buildings under the criteria of the Planning Board which were established two years after the comprehensive rezoning and felt there was need for such apartments in that part of the County, and that it justified the effectuation of its beliefs and feelings by finding "changes" that simply had not occurred or are not changes at all.

Mr. Gavrelis of the Planning Staff of Baltimore County testified that the subject property comes closer to meeting the locational criteria established by the Planning Board in locating apartment zoning than have other recent requests for apartment zoning elsewhere in this area * * *," although he testified further that he and the

Planning Staff found neither original error in the zoning map nor substantial changes in the physical character of the neighborhood.

In light of the views of the Planning Board, if the Halle property had been rezoned for apartment use as part of a comprehensive rezoning, either in 1957 or subsequently, there could be no just complaint that this was not appropriate and sound zoning, made with a view to and a consideration of the overall good and needs of that part of Baltimore County community and the property rights of the owner. But the Board of Appeals was not created to rezone piecemeal as if it were zoning originally or rezoning comprehensively. Suitability of a site for a particular use and a general need for that use are all important in basic comprehensive zoning but they are not controlling, or indeed properly persuasive, in determining under the purposefully restricted standards of original error or subsequent substantial change whether a reclassification of that site legally can be granted. To the Board of Appeals, as experts, has been confided the delegated function of determining whether there has been presented to it strong evidence of original error or substantial change. Its expertise is to be devoted only to deciding these two questions, not to the exercise of land planning and comprehensive rezoning. Just as war has been said to be too important to be left to the generals, so original zoning or comprehensive rezoning (in the guise of individual rezoning or otherwise) is far too important to be confided to a rezoning board or to any body except the elected legislative representatives of the people, acting in the exercise of the full plenary legislative powers confided to the municipality. The right and power of the Board to make individual reclassifications is to enable the rectification of mistakes, original or subsequently developed, which

a reasoning mind reasonably could find to have been proven and which have made the classification of the particular property incompatible with that of the adjacent or close community, so that its use under its existing classification would be inappropriate and inharmonious in relation to the other actual uses in the neighborhood. The Board of Appeals cannot lawfully rezone to accomplish what it thinks would have been more desirable original planning and zoning or what it thinks good comprehensive replanning and rezoning would achieve or to permit the highest or best or most profitable use of land, yet this is precisely what it has done in the instant case with the judicial blessing of the Court of Appeals, and a seamless web has been torn.

It can be demonstrated that no substantial change in the character of the neighborhood occurred since 1957. (There is no real claim of original error.) There can be no doubt that the location of the Beltway was fully known to and considered by the County Council in 1957 when it adopted the Third District map. Only the locations of the access and exit ramps for Park Heights Avenue and Stevenson Road were then undetermined. Knowing that the portion of the Halle land now involved would be north of the Beltway, the Council kept it zoned R-40 and R-20. Beyond question a wide busy road like the Beltway is a natural dividing line between land zoned for individual homes and land zoned for more intensive uses, both in fact and in law. "It would be difficult, to say the least, to think of a more logical line of demarcation between the industrial and commercial zones to the east and the residential zone to the west of this barrier [Harrisburg Expressway]." Hewitt v. Baltimore County, 220 Md. 48, 60; Kaslow v. Rockville, 236 Md. 159. In Stocksdale v. Barnard, 239 Md. 541, 548, we said in reference to the same situation on York Road:

"In Shadynook Imp. Assn. v. Molloy, 232 Md. 265, 192 A. 2d

502, we held that the existence of apartment uses on one side of the street does not alter the use of the land on the opposite side [for individual homes], and therefore the street is an appropriate line of demarcation."

Woodlawn Area Citizens Association, Inc. v. Board of County Commissioners for Prince George's County, __ Md. __ (No. 56, Sept. Term 196_, just decided).

The fact that part of the Halle tract was taken - at a full price - for Beltway use does not change the character of the part remaining or of other adjacent and nearby land north of the Beltway. All such land north of the Beltway on both sides of Park Heights Avenue still remains wooded and undeveloped, except by occasional individual homes on large lots. One has only to drive the Beltway to know that hundreds of individual homes line both sides of it in various areas, and its presence does not necessarily change the character of abutting land from that devoted to individual residences to more intense uses. There are no unusual circumstances here that would alter this general rule and make the Beltway, of itself, constitute a change in conditions. See MacDonald v. County Board, 238 Md. 549. See also Greenblatt v. Toney Schlese, 235 Md. 9.

The availability of a public water supply and of sewerage are not changes in the character of the neighborhood. They may permit use of the property for apartments, a fact which would be of significance in considering rezoning as part of a comprehensive change, but they do not change the character of the neighborhood as one suitable for devotion to individual homes, and thus are not significant in determining individual change. Individual homes need and use water and sewerage. MacDonald, supra. Availability of public water and sewerage makes the Halle site potentially more profitable and is analogous

in this respect to the need for apartments claimed by the applicants for rezoning. "That there may be a need for additional apartments in this immediate vicinity * * * fails to show anything more than that an R-A use would be more profitable than an R-6 use * * *." Shadynook Imp. Assn. v. Molloy, 232 Md. 265, 272; "a mere increase in population does not prove a change in the character of the neighborhood to justify another type of zoning," County Comm'rs v. Fairwinds, 230 Md. 569, 572. See also Pahl v. County Bd. of Appeals, 237 Md. 294.

The comprehensive rezoning by the Board, unsupported by any evidence of original error or subsequent substantial change in the character of the neighborhood should have been reversed. I agree that Judge Turnbull had no basis for denying the special exception the Board granted for elevator apartments.

IN THE COURT OF APPEALS OF MARYLAND

No. 466

September Term, 1964

GEORGE G. FINNEY, et al

v.

MILTON L. HALLE, et ux

Prescott, C. J.
Hammond
Horney
Marbury
Barnes
McWilliams
Evans, Matthew S.
(specially assigned),
JJ.

Opinion by Barnes, J.
Hammond, J. dissents.

Filed: February 2, 1966

The appeal and cross-appeal in this case are from an order passed on December 22, 1964 by Judge Turnbull in the Circuit Court for Baltimore County in which that Court affirmed an order of the County Board of Appeals of Baltimore County (Board), dated June 11, 1964 granting a reclassification of 49.672 acres of land owned by Milton L. Halle and wife, the appellees and cross-appellants, located at the northwest quadrant of the Baltimore County Beltway (Beltway) and Park Heights Avenue from R-20 (residence, one family, 20,000 square foot lot) and R-40 (residence, one family, 40,000 square foot lot), to R-A (residence-apartment) but reversed the Board's order granting a special exception for elevator apartment buildings. George G. Finney, fourteen other individuals and two improvement associations, are the appellants and cross-appellees. The individuals are apparently the owners of nearby land and aggrieved by the portion of the order of the Circuit Court affirming the Board's approval of the reclassification. No question was raised below or in this Court in regard

to their status to take and prosecute this appeal from that portion of the Circuit Court's order. The appellees have filed a cross-appeal from that portion of the order of the Circuit Court reversing the Board's granting of the special exception.

The property of Mr. and Mrs. Halle, which is the subject matter of the zoning reclassification involved in this case, consists of 49.672 acres of land bounded on the north by Hooks Lane (a part of which is a paper road), on the south by the Beltway, on the east by Park Heights Avenue and on the west by the rear yards of houses on Reservoir Road. This property (the subject property or the Halle property) was purchased by Mr. and Mrs. Halle in 1942 as a part of a larger tract with additional land purchased by the Halles, consisting of approximately 69 acres, known as the Pillbox Farm. The Pillbox Farm when purchased by the Halles was improved by a substantial 140 year old fieldstone residence, tenant house and barn. The Pillbox Farm had no frontage on Park Heights Avenue and the only means of access to it by public road was by means of Hooks Lane, westwardly to Reisterstown Road. Hooks Lane had a varying paving width of from 9 to 14 feet on a right of way of from 20 to 30 feet. The portion of Hooks Lane from the Pillbox Farm eastwardly to Parks Heights Avenue had never been paved or maintained as a road, and although it was passable and infrequently used during the early years of the Halle occupancy, ultimately fell into disuse, became overgrown and impassable.

The comprehensive zoning map for this area was adopted on January 16, 1957. At the time of the adoption of this map, the Pillbox Farm property was bounded on the south by the Druid Ridge Cemetery, on the east by a parcel of land owned by Overbrook Development Company, a subsidiary corporation of the cemetery corporation and used for nursery stock and sales, on the west by the municipally owned Pikesville Reservoir and the rear yards of houses on Reservoir Road and on the north (for the substantial part of the northern boundary) by the unpaved portion of Hooks Lane already mentioned and which had become impassable. A rectangular 2 acre parcel on the northern boundary toward the west had been used by Mr. Halle to build a home for his son. This 2 acre tract was later sold to a Mr. Weinstein, reducing the acreage of the Pillbox Farm to approximately 67 acres. North of Hooks Lane the land consisted mainly of farms and large acreage estates. To the east of Park Heights Avenue across from the Overbrook Development Company then used for the nursery business, was a tract of land owned by a Mrs. Barton which was improved by large English Manor type buildings which with the adjoining pastures, were occupied by the Baltimore Humane Society. To the south

of the Baltimore Humane Society property and east of Park Heights Avenue was a parcel of land which had an extensive road frontage and was occupied by the radio towers of Station WCAO. The comprehensive zoning map did not show the Beltway even as possibly proposed. The Baltimore County authorities knew that the Beltway was to be located in this general area but the plans and design of the interchanges of Stevenson Road and Park Heights Avenue with the Beltway were not approved until April 15, 1959 or more than two years after the promulgation of the comprehensive zoning map.

After the plans for the Beltway were finally approved, the State Roads Commission of Maryland in December, 1961 instituted condemnation proceedings to acquire title to that portion of the Pillbox Farm required for the construction of the Beltway. The land necessary for the construction of the Beltway split the Pillbox Farm substantially in two parts, leaving the Halles with only 35 or 36 acres to the north of the Beltway. The taking completely destroyed the house, the tenant house, the barn and several other out buildings. It left, without access, the land of the farm lying to the south of the Beltway which was also taken by the State Roads Commission.

Prior to the construction of the Beltway, it was physically possible to have provided a sewer for the Pillbox Farm by running a sewer extension out to Park Heights Avenue, approximately 1000 feet southerly to an existing sewer, but after the construction of the Beltway and the bridging of Park Heights Avenue over the Beltway it was no longer physically practicable to run sewers down Park Heights Avenue because of the new bridge. At the time of the construction of the Beltway, a sleeve (an 8 inch pipe) for a sanitary sewer crossing was installed under the Beltway for a distance of approximately one-third of the length of the Halle property running westwardly from Park Heights Avenue

Inasmuch as it was impossible to provide sewer facilities for the Halle property after the construction of the Beltway and the Park Heights Avenue bridge over it, Mr. and Mrs. Halle acquired a right of way though the Druid Ridge Cemetery property lying to the south of the Beltway. This right of way was acquired by two conveyances - one in August 1968, the other in March 1964 - the last one being through the parcel of land which the State Roads Commission had taken from Mr. and Mrs. Halle and conveyed to the Druid Ridge Cemetery Company. This parcel of land had theretofore been used for nursery purposes. The cost of this parcel and the cost of acquiring the right of way amounted in the aggregate to $134,000.00.

Hooks Lane, the northern boundary of the subject property, is in the approximate location of the top of the water shed or the divide for natural drainage purposes, the water flowing naturally by gravity to the south for the area south of Hooks Lane toward Moores Run and flowing naturally by gravity to the north for the area north of Hooks Lane toward Jones Falls.

At the time of the adoption of the comprehensive zoning map in January 1957, the public water supply in the general area was inadequate to such an extent that it was necessary to restrict construction in the area as late as 1961. In 1962, however, these building restrictions were lifted because of a number of changes in the water system, including a new 36 inch water main which extended through the reservoir, down Hooks Lane and back to Reisterstown Road at Hooks Lane. All of the work involved some 23,000 feet of line and cost approximately $1,250,000. A new pumping station has been erected and at the time of the hearing before the Board, a 1,000,000 gallon storage tank was under construction at Pleasant Hills, and virtually completed.

There is a Baltimore Transit Company bus route on Reisterstown Road approximately 1500 feet from the subject property. There is immediate access from the subject property to the westbound lane of the Beltway and also to the eastbound lane by a service or connector road between Park Height Avenue and Stevenson Road on the south side of the Beltway. A third lane in each divider is planned for the Beltway within the next 6 years. By use of the Beltway two large regional shopping centers are readily available to the subject property: 1) Town Plaza is 10 to 15 minutes to the east and 2) Westbrook is within 20 minutes to the west. Another large regional shopping center, Reisterstown Plaza, is approximately 10 minutes to the south and there are complete neighborhood shopping facilities within 5 minutes driving time in Pikesville.

The Deputy Zoning Commissioner, after a hearing, denied, on October 10, 1963, both the reclassification to an R-A zone and the special exception for elevator apartment buildings. He stated in his order that "the testimony produced at the hearing did not indicate that the Official Zoning Map of Baltimore County was in error when adopted by the County Council." Curiously enough, he made no finding in regard to a change in conditions in the area. A timely appeal was taken to the Board and substantial evidence was taken at the hearing before the Board on April 21, 1964.

At the hearing before the Board, Lester Matz, a registered professional engineer in Maryland and Delaware, who has practiced as a Civil-Sanitary Engineer for 14 years and who is president of Matz, Childs and Associates, Inc. testified for the owners. His qualifications as an expert are quite impressive. He prepared the plat plan for the owners and testified without contradiction to many of the facts already set forth. Mr. Matz was of the opinion that after the construction of the Beltway it would have not been economically feasible to develop the subject property under R-20 and R-40 zoning with the 77 permitted individual houses because of the water and sewer situation and the substantial cost involved in the construction of a sewer line and the acquisition of rights of way.

There was testimony by Gordon Sugar, a builder with experience for 15 years, who has developed land in the general area, that after making percolation tests on the subject property, a septic tank system would not operate in the area and probably would not be permitted by Baltimore County.

Bernard Willemain, a civil engineer and landscape architect, with unquestioned qualifications as an expert land planner, and who for 5 years was Deputy Director of the Baltimore County Planning Commission before he went into private practice, reviewed the factual situation and concluded that in his opinion "apartment use, with a special exception for apartments, represents not only the proper zoning for the property, but the most desirable use for the property, the most desirable one in the public interests." He stated that there was an unquestioned need for the type of apartments that could only be met with elevator buildings and that the subject property "is ideally situated and seemed to meet this particular need." He gave his detailed reasons for these conclusions. In his opinion this was a recognizable need on January 16, 1957 and this need was not met by the adoption of the comprehensive zoning map so that there was an error in the original zoning. He also testified to a number of changes affecting the subject property since the adoption of the comprehensive map.

Dr. Walter Worthington Ewell, a civil engineer of outstanding qualifications generally and particularly in regard to traffic problems, gave detailed testimony for the owners in regard to traffic tests, and conditions that the proposed re-classification of, and the erection of elevator apartments on, the subject property would not create a traffic hazard.

George E. Gavrelis, a well qualified planner, who prepared the Recommendations of the Planning Staff of Baltimore County, dated September 27, 1963, to the Zoning Commissioner,

testified that its recommendations were:

"1. The subject property is situated at the northwesterly quadrant of the Interchange of the Beltway and Park Heights Avenue. Park Heights Avenue is a radial route emanating from Baltimore City. Portions of Park Heights Avenue have been developed for elevator apartments in Baltimore City. The character of the land usage in the area immediately north of the Beltway appears to be institutional. A cemetery and a reservoir exists on the south side of the Beltway.

"2. The subject property comes closer to meeting the locational criteria established and used by the Planning Board in locating apartment zoning than have other recent requests for apartment zoning elsewhere in this area. The Planning staff sees a definite difference between the locational factors affecting apartment zoning on the subject property and those other properties in the area which also had requested apartment zoning. In many ways the location of the subject property is similar to the Strickland property at the southwest quadrant of Charles Street and the Beltway.

"3. The Planning Staff, however, does not concede that an error was made in the Third District Zoning Map or that the physical character of the neighborhood has changed to an extent that necessarily justifies apartment zoning here."

Mr. Gavrelis further testified that the locational criteria had not been adopted by the Planning Board until 1962 or substantially after January 1957, when the comprehensive zoning map was adopted, and his testimony indicated that:

"* * * the essence of our comment is to, in effect, state that the Halle tract comes awfully close and does substantially meet with the locational criteria that the Planning Staff and the Board has utilized in the creation of apartment zoning elsewhere."

The protestants produced two expert witnesses, a civil engineer and traffic expert and also a real estate expert, who testified that in their opinion respectively, there would be a traffic hazard and a detrimental effect on the surrounding residential properties if the proposed reclassification and special exception were granted. Six neighboring property owners also testified in opposition to the granting of the reclassification and special exception.

The Board, on June 11, 1964, rendered an elaborate and well considered opinion in which, after reviewing in some detail, the changes which had occurred in the area since the adoption of the comprehensive zoning map in January 1957, including the erection of the Beltway, the sewer and water situation, the acquisition of rights of way and the 13.156 acre tract by the Halles, giving access to the subject property on Park Heights Avenue, and various construction and zoning changes, concluded as follows:

"We feel that there is little question but that there have been substantial changes in the area which justify the reclassification of the tract in question. Additions to public water and sewer facilities are of major importance as is the effect of the Beltway construction. In addition, we concur with the comments of the Department of Planning that the character of the land usage at this intersection is largely institutional or non-residential in nature and it appears to be an ideal site for elevator apartment buildings in view of the local (locational) criteria established and used by the Planning Board. This criteria was not developed or in being at the time of the adoption of this map but came into being within the last two years. Moreover, there was testimony that there is a need for apartment zoning in the area now having been established on the map when it was adopted in 1957, with the exception of two acres which were also fully improved for office building purposes.

"We have carefully weighed the testimony of the real estate experts and the traffic engineers who testified in the case. We do not believe that the creation of apartment zoning and special exception for elevator apartment buildings at this site would have any detrimental effect on any surrounding properties which view is supported by the fact that Dr. Weinberg, the owner of the two acre parcel which was carved out of the original Halle tract, did not appear nor voice any objection. Similarly, we do not believe that there would be any traffic hazard or congestion created by the proposed project. The testimony indicated that it would be constructed in three stages which unquestionably would require a number of years before full development was reached. There appears to be little question that any possible problem would arise which could not be corrected by the installation of traffic lights if there was any necessity whatsoever to do so. However, in this regard, we are convinced that any traffic generated by this project would be adequately and safely handled by the existing facilities.

"In addition to the foregoing, we are convinced that the general welfare of the entire neighborhood would be enhanced by the provision of an elevator apartment zone in this area of sufficient size to adequately satisfy the need for sometime to come. We cannot ignore the fact that a number of applications have been filed and considered by us in the same area. Unquestionably, this is the best location for high rise apartments and the creation of such a zone at this location would undoubtedly tend to satisfy demands for high rise apartment zoning in the area and to stabilize zoning conditions generally. It appears fundamental that the pressure for apartment zoning and particularly high rise or elevator apartment zoning, will continue until the demand is satisfied. We do not wish to give the impression that our decision is based upon such a consideration. However, it is a factual condition which must be given some recognition and consideration.

"There was also testimony that sanitary sewers in the area have been reinforced and supplemented since the adoption of the zoning map in this case by the construction of the Moores Run Interceptor. The applicants here have acquired all necessary off site rights-of-way and there is no problem with either capacity or rights-of-way for off site sewer and reinforcement. All rights-of-way either are owned by the applicants or are located in state highways or county roads for which none will be required. The testimony in the case was uncontradicted that the costs of providing sanitary sewer for the proposed project, now

that the Beltway has been constructed, will be $130,000. If the property were developed under its present zoning the costs of providing sanitary sewer would be $110,000. The possibility of serving the majority of the property by septic tank is extremely doubtful because of percolation problems indicted by tests and by difficulty experienced in other developments in the area. It would hardly appear economically feasible to attempt to develop the subject tract under the "R-40" and "R-20" zones in view of these costs." (Emphasis supplied).

Commissioner Baldwin concurred in the opinion of the Board, but indicated that he was not in a position as a new member of the Board to agree that the subject property is "unquestionably the best location among a number of applications filed and considered in this same area," but he was of the opinion that the elevator apartments would not be inharmonious with the existing uses in the remaining three quadrants and that the "apartment and institutional uses are quite compatible." He indicated that he did not agree with the majority that it would not be economically feasible to develop R-40 and R-20 as presently zoned.

On appeal to the Circuit Court for Baltimore County, Judge Turnbull at first, by an order of October 26, 1964, reversed the Board on both the reclassification and special exception, apparently under the impression that the Beltway had been used by the County Zoning authorities as a barrier on the development of the Third District Zoning Map and relying on the case of Hewitt v. County Commissioners of Baltimore County, 220 Md. 48, 151 A. 2d 144 (1959). After a petition for reargument was filed and an answer to it filed, the trial court, upon reconsideration, by its order of December 22, 1965, affirmed the Board as to the reclassification and reversed the Board as to the special exception.

We have concluded that the trial court properly affirmed the reclassification by the Board but was in error in reversing its grant of the special exception which should also have been affirmed.

As has been indicated, the Board found that there were sufficient changes in the character of the neighborhood since the adoption of the comprehensive zoning map in January 1957 to justify the Board in granting the reclassification, so that it was not necessary to consider whether or not there had been a mistake in original zoning which would also justify a reclassification under the Maryland "Mistake-Change" rule. We agree with the Board and with the trial court that there were sufficient changes under the applicable rule, and that it is unnecessary to consider the question of mistake in original zoning.[1]

1. (see next page)

The determination of the Board of proper rezoning or reclassification is essentially legislative in nature. It calls for the zoning expertise of the Board in a special way and the function of the Court upon review is quite limited. We have said many times that it is not the function of the Courts "to zone or rezone,"[2] and it is vital to the public interest that this declaration by us be strictly applied; otherwise we will, in effect, substitute our judgment for that of the Board and this we may not do. It is only when the determination of the Board is not "fairly debatable" that we will hold that its action is unreasonable, arbitrary and capricious. Mothershead v. Board of County Commissioners, 240 Md. 365, 214 A. 2d 326 (1965); City of Baltimore v. Borinsky, 239 Md. 611,212 A 2d 508 (1965); Sampson Bros. (Md.) Inc. v Board of County Commissioners, 240 Md. 116, 213 A. 2d 289 (1965); Dal Maso v. Board of County Commissioners, 238 Md. 333, 209 A. 2d 62 (1965); Jobar Corp. v. Rodgers Forge Community Ass'n., 236 Md. 106, 202 A. 2d 612 (1964); Rohde v. County Board of Appeals, 234 Md. 259, 199 A. 2d 216 (1964); Trustees of McConogh Educational Fund v. Baltimore County, 221 Md. 550, 158 A. 2d 637 (1960); Offutt v. Board of Zoning Appeals of Baltimore County, 204 Md. 551, 105 A. 2d 219 (1954); Wakefield v. Kraft, 202 Md. 136, 96 A. 2d 27 (1953).

What then are the changes in conditions which the Board found to justify the reclassification?

The first and the most important change in the neighborhood of the subject property was the construction of the Beltway. The location or possible construction of the Beltway was not indicated on the comprehensive zoning map when it was promulgated. The condemnation petition to acquire the necessary portion of the Pillbox Farm for construction was filed in 1961 and the Beltway was constructed in that location in 1962. We have already described

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1. There is strong evidence in the case which might well have justified a finding of mistake in original zoning by the failure of the County Council to provide for a recognizable need for apartment zoning in January 1957. Cf. Jobar v. Rodgers Forge Community Ass'n., 236 Md, 106, 121-122; 202 A. 2d 612, 617-618 (1964). Many of the "changes in conditions" possibly reflect, in part, a possible mistake in original zoning, and a precise line of demarkation between the two factors in the case is difficult, if not impossible, to make. As we have indicated, it is not necessary to pass on this issue of mistake in original zoning, and we make no holding in regard to it. Cf. White v. County Board of Appeals, 219 Md. 136, 144; 148A. 2d 420, 423 (1959).

2. Da Maso v. Board of County Commissioners, 238 Md. 333, 340, 209 A. 2d 62, 66 (1965); Jobar Corp. v. Rodgers Forge Community Ass'n. 236 Md. 106, 202 A. 2d 612 (1964); Offutt v. Board of Zoning Appeals of Baltimore County, 204 Md. 551, 105 A. 2d 219 (1954); Wakefield v. Kraft, 202 Md. 136, 96 A. 2d 27 (1953).

the astounding effect the construction of the Beltway had on the Pillbox Farm. It cut it into two parts. It destroyed the dwelling house, barn and other outbuildings. It denied access to a substantial portion of the Pillbox Farm to the south of the Beltway which was taken by the State Roads Commission and later sold to the Druid Ridge Cemetery. It prevented the running of sewers down Park Heights Avenue because of the bridge over that road. It completely destroyed the country manor-type use to which the property had been put prior to the construction of the Beltway.

The construction of the Beltway was a far more extensive and important change in conditions, which would make the reclassification fairly debatable, than was the change in conditions resulting from the changes in construction and extension of Stevenson's Lane involved in Jobar Corp. v. Rodgers Forge Community Ass'n., supra. In Jobar, Stevenson Lane at the time of the adoption of the comprehensive zoning map was a small 12 to 15 foot road and in part a private drive. It was not built in front of the property involved in Jobar until approximately two years after the adoption of the comprehensive zoning map. At the time of the filing of the application for the reclassification, Stevenson Lane was a fully paved 42 to 44 foot bituminous concrete road, with a 70 to 80 foot right of way. It had become a major traffic artery between York Road and Charles Street and Bellona Avenue. Its construction did not have nearly the profound effect on the Jobar property as the construction of the Beltway had on the subject property and the improvement and extension of Stevenson Lane did not result in a highway comparable to the Beltway in the extent of traffic. We held in Jobar that the improvement and extension of Stevenson Lane was an important change in conditions. It necessarily follows that we should hold that the construction of the Beltway was an important change in conditions in the case at bar, and we so hold.

The appellants suggest that Jobar is to be distinguished from the case at bar because the existing zoning in Jobar was R-6 rather than R-20 or R-40 as in the case at bar and the Jobar property was in a high density rather than in a low density area. We are of the opinion that this does not impair the applicability of our holding in Jobar. Indeed it seems to us that the impact of the Beltway on an area zoned for low density development is probably greater than upon an area zoned for high density.

The appellants also suggest that the county authorities knew of the location of the Beltway in the area when the comprehensive zoning map was adopted on January 16, 1957, whereas in Jobar, it had not been settled at the time of the adoption of the comprehensive zoning map whether Stevenson Lane would ever be extended to connect with York Road and Bellona Avenue. The evidence, however, indicates that while the Baltimore County authorities knew that the Beltway was to be located in this general area at the time the comprehensive zoning map was promulgated on January 16, 1957, the plans and the design of the interchanges of Stevenson Lane and Park Heights Avenue with the Beltway were not approved until April 15, 1959 or more than two years later. The Beltway was not actually constructed at the location in question until 1962. As we have already stated nothing appears on the comprehensive zoning map even indicating in outline form the possible location of the Beltway. It seems clear that its possible construction was given little, if any, effect in formulating and adopting the 1957 zoning map.

Another substantial change in the area since the adoption of the comprehensive zoning map was in regard to sewer facilities. We have indicated in some detail the situation existing on January 16, 1957 as compared with subsequent actions by the Hollas necessary to obtain sewer facilities by obtaining rights of way, acquiring additional property and expending $134,000.00 for these purposes.

We have heretofore indicated that a change in conditions may be found in new or expanded sewer facilities. See White v. County Board of Appeals, 219 Md. 136, 144, 148 A. 2d 420, 423-424 (1959). See also Rohde v. County Board, 234 Md. 259, 268, 199 A. 2d 216, 221 (1964).

Then too, there has been a substantial change in the public water supply. In January 1957 this water supply was so inadequate that building construction was restricted at the time of the adoption of the zoning map and these restrictions continued until 1961. In 1962 - five years after the zoning map was adopted - a new 36 inch water main was constructed through the reservoir down Hooks Lane and back to Reisterstown Road at its intersection with Hooks Lane. As we have stated above, this substantial improvement involved 23,000 feet of line and cost approximately $1,250,000. A new pumping station has been erected and a 1,000,000 gallon storage tank has now practically been completed.

The case at bar is to be distinguished from Hewitt v. County Commissioners of Baltimore County, supra, in which the Baltimore-Harrisburg Expressway was shown on the comprehensive zoning map, had been constructed, and had been relied on by the zoning commissioner, as well as by the Planning Staff and the Planning Board in their recommendations to the County Commissioners. In the case at bar the Beltway is not even shown on the comprehensive zoning map as a proposed highway.

Because of the changes in conditions mentioned we cannot say that the reclassification was not fairly debatable. It follows that the action of the Board in reclassifying the subject property was not arbitrary, unreasonable or capricious and the portion of the trial court's order affirming this action by the Board should be affirmed.

The trial court, however, was in error in reversing the Board's order granting the special exception to erect the elevator apartments. The factors to be considered by the Board are set forth in Section 502.1 of the Baltimore County Zoning Ordinance. These factors are substantially the same as those set forth in Oursler v. Board of Zoning Appeals, 264 Md. 397, 401, 104 A. 2d 568, 569 (1954).

In considering the special exception, the Board acts as a body of zoning experts and the area of judicial review is quite limited. As Judge Delaplaine, for the Court, aptly stated in Oursler, supra:

> "The function of a zoning board is to exercise the discretion of experts, and the court on appeal will not disturb the board's finding where it has complied with the legal requirements of notice and hearing, and the record shows substantial evidence to sustain the finding." (Page 405 of 204 Md.; page 572 of 104 A. 2d).

See also Rohde v. County Board, supra, at page 267 of 234 Md., page 220 of 199 A. 2d.

It is clear to us that the evidence before the Board - much of which has already been set forth - was substantial evidence from which the Board could find that proposed elevator apartments would not be detrimental to the health, safety or general welfare of the locality involved, would not tend to create congestion in roads, streets or alleys therein or create any hazard from fire, panic or other dangers, would not tend to overcrowd land or cause undue concentration of population, or interfere with adequate provisions for schools, parks, water,

sewerage, transportation or other public requirements, conveniences or improvements or interfere with adequate light and air. Indeed in this regard, the evidence in the case at bar is stronger in support of the granting of the special exception by the Board than was the evidence we held sufficient for such support in Oursler or in Rohde. The Board's order granting the special exception should also have been affirmed.

ORDER OF DECEMBER 22, 1964 AFFIRMED IN PART AND REVERSED IN PART AND CASE REMANDED FOR THE ENTRY OF AN ORDER IN ACCORDANCE WITH THIS OPINION, THE COSTS TO BE PAID BY THE APPELLANTS

In the comprehensive zoning map approved January 16, 1957 no provision was made in this area for apartment development. The evidence indicates that there was a need for such provision at that time and that this need has become increasingly pressing. This need lead: the Planning Staff and the Planning Board in 1962 - five years after the approval by the County Council of the comprehensive zoning map - to adopt "locational criteria" as guides for apartment use of land. Mr. Gavrelis summarized these locational criteria as follows:

> "In essence, the criteria which we use currently for locating apartment zoning would evolve around the fact that the apartment building project is on a major thoroughfare, with good accessibility to the area within the region, so to speak, by the road system, or that it is in close proximity to community facilities, most usually shopping facilities, so that this higher density can take advantage of accessibility features and service features. The Planning Board would also like to see these higher density residential zones, that apartment zoning is within our current context of the regulations, generally at the edge of a residential area rather than in the middle of such an area."

We have already pointed out that in the opinion of the Planning Staff the subject property substantially met these criteria.

The establishment by the Planning Staff and Planning Board of these locational criteria confirms the testimony of the Hollas's experts of the increasing need for apartment use and the existing need for high rise apartments in the area of the subject property. These factors are to be considered as evidence of either error in original zoning or a change in conditions justifying reclassification. Chief Judge Brune, speaking for the Court, stated in Rohde v. County Board, supra:

> "The applicant produced considerable expert testimony to show that either as a result of lack of anticipation of trends of development in 1955 or as a result of changes in trend which have occurred since then, whether anticipated or not, the existing zoning was in error at the time of the hearing. The trend has been towards apartments and, particularly in areas close to the City of Baltimore, towards high rise apartments. The need and demand for such rental accommodations have increased greatly over the last several years, and the subject property is described as a prime site for apartment development, including high rise apartments. (Pages 267-268 of 234 Md.; pages 220-221 of 199 A. 2d).

Court of Appeals of Maryland

No. 496, September Term, 1965—Filed February 2, 1966

GEORGE G. FINNEY ET AL.

vs.

MILTON L. HALLE ET UX.

Two appeals in one record from the Circuit Court for Baltimore County, John Grason Turnbull, Judge.

Argued and reargued by *Edward C. Cornelius, Jr.*, and *J. Elmer Wickard Jr.*, both of Towson, Maryland, for appellants.

Argued and reargued by *W. Lee Harrison*, Towson, Maryland, for appellees.

16:20:65—Appeal before PRESCOTT, C. J.; HAMMOND, HORNEY, MARBURY and BARNES, JJ.

11:12:65—Reargued before PRESCOTT, C. J.; HAMMOND, HORNEY, MARBURY, BARNES, McWILLIAMS and MATTHEW S. EVANS, (Specially Assigned), JJ.

Zoning In Baltimore County—Petition For Reclassification—Change Of Conditions—High-Rise Apartment.

A large tract of land on Park Heights Avenue at Baltimore Railway was in 1957 zoned for density residential. Owners petitioned the Zoning Commissioner to allow high rise apartments alleging change of conditions. Board of Zoning Appeals approved the reclassification and granted special exception for variance. Circuit Court sustained Board. In appealing to Court of Appeals, owners assailed finding as to elevator type apartments.

HELD: That the case clear evidence of change since the original zoning. The finding of the Board should not be altered.

Order affirmed in part and reversed in **part and case remanded.**

BARNES, J. (Dissenting Opinion by **HAMMOND, J.**)—

The appeal and cross-appeal in by **PARK HEIGHTS AVENUE LAND CO.** this case are from an order passed on Decemb. 22, 1965 by Judge Jerome Cushner in the Circuit Court for Baltimore County in which the Court affirmed an order of the County Board of Appeals of Baltimore County (Hearth, Salsbury and Sheridan) of March 15, 1965 granting a petition of Milton L. Halle and his wife, the appellees and cross-appellees, located at the northwest quadrant of the Baltimore County Beltway (Beltway) and Park Heights Avenue from R20 zone to density residential, 20,000 square feet lot) and R-40 zone for one family, 40,000 square feet lot) to R-A zone (apartments) but reserved the Board's order granting a special exception for eleven apartment buildings (twenty-four Finney, fourteen other individuals and two impressed associations) are the appellants and cross-appellees. The individual nearby landowners (the owners) supported the petition of the appellees before the Circuit Court and opposed the Board's approval of the reclassification. No question was raised below or in this Court in regard to their status to bring and prosecute this appeal from that portion of these have filed a cross-appeal to that portion of the order of the Circuit Court sustaining the Board's granting of the special exception.

The property of Mr. and Mrs. Halle, which is the subject matter of the zoning reclassification involved in this case, consists of 10.622 acres of land bounded on the north by Hooks Lane, on the west by the **rear yards of Park Heights Avenue** and on the east by the **rear yards of homes on Roseville Road and on the north (for the substantial part of the northern boundary) by the unpaved portion of Hooks Lane, which last mentioned and which had become impassable. A rectangular 2 acre parcel on the northern boundary toward the west had been used by Mr. Halle to build a home for his wife on a 2 acre tract was later sold to Mr. and Mrs. Wolsefenson. The acre-age of the Wolsefenson Farm to apex of the 2 acre. North of Hooks Lane the land consists mainly of farms and large acreage estates. To the east of Park Heights Avenue across from the Overbrook Junior High School, then used for the **general** land uses, was a farm which was in use by Mrs. Pillsbury, a large English Manor type building which with the Pillsbury pastures, were occupied by the Baltimore Humane Society. To the south of the Baltimore Humane Society property as well as of Park Heights Avenue was a parcel of land known as the Pimlico Speedway and adjoining the radio towers of Station WEAL. The complained of zoning map did not show the Pillsbury farm as property proposed. The Baltimore County authorities knew that the Pillsbury was to be located in the general area of the interchange of Stevenson Lane and Park Heights Avenue, with the Cutoff were not adequate to sell an extra 4 that the Pillsbury farm was to be acquired until April 15, 1959 or more than two years after the promulgation of the comprehensive zoning map.**

After the plans for the Beltway were approved, the State Roads Commission of Maryland, December, 1961 instituted condemnation proceedings in a quite title to that portion of the **Pillsbury Farm required for the construction of the Beltway. The land necessary for the construction of the Beltway split the Pillsbury Farm** and at Pimlico Road forking properties, leaving the Halles with only 25 or 30 acres. The taking consisted of the house, the tenant house, the barn and several other out buildings. It left, without access, the land of the farm lying to the south of the Beltway which was also taken by the State Roads Commission.

Prior to the construction of the Beltway, it was physically possible to build a sewer for the Pillsbury Farm by running it from Stevenson out to Park Heights Avenue and connecting it with the Baltimore Sewer Authority's sewer line. The cost of the adoption of this map, the Pillsbury Farm property was bounded by the Beltway, the Pimlico Cemetery, on the east by a parcel of land (company) a subdivision development (the cemetery corporation) and used for nursery purposes and also, on the west by the municipally owned **Pimlico Reservoir and the rear yards of homes on Reservoir Road and on the north (for the substantial**

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The Deputy Zoning Commissioner, after a hearing, denied, on July 6, 1965, both the reclassification to an R-A zone and the special exception for elevator apartment buildings. He stated in his opinion that the petitioners failed at the hearing did not indicate that the Official Zoning Map of Baltimore County was in error when adopted by the County "Council." Curiously enough, he made no finding in regard to a change in conditions in the area. A timely appeal was taken to the Board of Appeals and a hearing was taken at the hearing before the Board on April 21, 1965.

At the hearing before the Board, Lester Matz, a registered professional engineer in Maryland and Delaware, who has practiced as a Civil-Sanitary Engineer for 14 years and who is president of the Maryland Society of Engineers, testified for the owners. He gave his qualifications as an expert are quite impressive. He prepared the plan for the owners and testified without contradiction to many of the facts already set forth. Matz was of the opinion that after the adoption of the zoning map it would have not been economically feasible to build the subject property under R-20 and R-40 zoning with the 77 permitted individual homes because of the water and sewer situation and the substantial cost involved in the construction of sewer line and the acquisition of rights of way.

There was testimony by Gordon Sparge, a builder with experience in this area, who has developed land in the general area, that after making percolation tests on the subject property, a septic tank system would not operate in the area and probably would not be permitted by Baltimore County.

Bernard Williams, a civil engineer and landscape architect, who has prepared many subdivisions, expert land planner, and who for 5 years was Deputy Director of the Baltimore County Planning Commission before he resigned the private practice, outlined the factual situation and testified in his opinion "apartment use, with a special exception, is the highest and best use of the property, but the most desirable for the property and the most desirable use in the public interest." He stated that there was an unprecedented need for the type of apartments that could only be met with elevator buildings and that the subject property is ideally situated and "is the best place to meet this particular need." He gave his detail of reasons for these conclusions. In his opinion this was a recognizable need on January 16, 1957 and this need was not met by the adoption of the comprehensive zoning map so that there was a change in the original zoning. He stated that there was a change of circumstances **affecting the validity of the adoption of the comprehensive zoning map.**

Dr Walter Worthington, Ewell, a civil engineer of outstanding qualifications gave testimony particularly in regard to traffic problems, gave detailed testimony for the owners in regard to traffic tests, and conditions that the proposed reclassification of, and the erection of the apartments upon the subject property would not create a traffic hazard.

George E. Gavrelis, a well qualified planner, who prepared the comprehensive zoning of the Planning staff of Baltimore County, Maryland, September 27, 1955, for the Zoning Commissioner, testified that his opinion and facts were:

"1. The subject property is situated in the northwestern quadrant of the Interchange of the Beltway and Park Heights Avenue. Park Heights Avenue is a radial route emanating from Baltimore. Traffic volumes at Park Heights Avenue have increased because of the elevator apartments in Baltimore City. The changes in the area immediately north of the zoning intersection, and in the area north of the reservoir exists on the south side of the Beltway.

"2. The subject property comes into an important or functional entrance to the City of Baltimore, by the Beltway. The Beltway is a major artery of the City of Baltimore, to which the subject property is oriented, and because of the increased demand for such apartments in the City of Baltimore, to which the subject property is oriented as a prime location for such apartments, the demand for such apartments in the City of Baltimore, to which the subject property is oriented as a prime location for such apartments, the demand for such apartments in the City of Baltimore, to which the subject property is oriented as a prime location for such apartments." (Pages 207-208 of 211 Md., 229-231 of 190 A. 2d).

The case at bar is to be distinguished from *Board v. Commissioners of Baltimore County*, supra, in which the Baltimore-Harrisburg Expressway was chosen as the competent site zoning map had been completed and was in use and in the zoning commissioner, as well as by the Planning Board in their recommendation to the County Commissioners. In the case at bar the Beltway is not even shown on the comprehensive zoning map as a proposed highway.

Because the changes in conditions mentioned we cannot say that the Board's conclusion is fairly debatable, it follows that the action of the Board in rezoning the subject property was not arbitrary, unreasonable or capricious and the portion of the trial court's order affirming this action by the Board should be affirmed.

The trial court, however, was in error in reversing the Board's action in granting the special exception to erect the elevator apartments. The Board, in its order, cited by the Board, see, set forth Section 502.1 of the Baltimore County Zoning Regulations. These factors are substantially the same as those set forth in *Schultz v. Board of Zoning Appeals*, 204 Md. 382, 386, 104 A. 2d 588, 589 (1954).

In considering the special exception, the Board acts as a board of zoning experts and the area of judicial review is limited. As Judge Delaplaine, for the Court, aptly stated in *Gessler, supra*:

"The function of a zoning board is to exercise the discretion of experts, and the court on appeal will not disturb the board, so long as it has complied with all the requirements of notice and hearing, and the record shows substantial evidence to sustain its finding." (Page 205 of 204 Md., page 572 of 104 A. 2d).

See also *Schultz v. County Board*, supra, page 386 of 204 Md., page 229 of 190 A. 2d.

It is clear to us that the evidence before the Board — much of which has already been set forth — was substantial evidence from which the Board could find that proposed elevator apartments would not adversely affect the health, safety or general welfare of the locality involved, would not tend to create congestion in roads, streets or alleys therein, would not impair the development of adjacent property, would not be detrimental to the economy of the neighborhood or cause undue concentration of population, or interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements or interfere with adequate light and air. Indeed in the instant case, the Board, in order to be in strict compliance with the granting of the special exception to the Board than was the evidence we held sufficient for such support in *Schultz v. Schultz*. The Board's order granting the special exception should also have been affirmed.

See *Schultz v. Schultz*, 204 Md. 382, 386, 104 A. 2d 588, 589 (1954) *and case remanded for the entry of a judgment affirming the order in this opinion, the costs to be paid by the appellees.*

"In there is strong evidence in the record which might well have justified a ruling of mistake in original zoning. Matz testified that the property was perfectly suited for apartment zoning in fact, the Board of Appeals, *Schultz v. Board of Zoning Appeals*, 204 Md. 382, 122, 383 A. 2d 482, 482-483 (1954), stated that "the fact that the property is suitable for such a purpose is strong evidence of mistake in original zoning," and a "mistake in zoning" and a "change in the factors in the rule (R.A.) is not impossible to make. As we have said, the mistake in original zoning can be shown by showing that the original zoning, and we make no holding that it was in error, was based on a mistake." (Page 386 of 204 Md. 104 A. 2d 588, 589-590).

"2. But there is ample evidence of a change in the area. See *Board v. Rosenberg*, 229 Md. 455, 459, 184 A. 2d 82, 84 (1962). *Inter Ocean Corp. v. Board of Appeals*, 230 Md. 1, 185 A. 2d 488 (1962); *Board v. Rosenberg*, 229 Md. 455, 459, 184 A. 2d 82, 84 (1962); *Wakefield v. Kraft*, 202 Md. 58, 95 A. 2d 337 (1953).

HAMMOND, J., dissenting:

Judicial acquiescence in an agency's perversion of the zoning process has continued so to dismiss. The Board of Zoning Appeals, in reclassifying the Halle property misconstrued its basic and fundamental function and place in zoning, and the affirmance by the Circuit Court and by this appeals will perpetuate its misconceptions and so foster bad zoning at the expense of good.

The strong presumption of the correctness of original zoning and comprehensive zoning by the Court of Appeals to the non-fitting established rule that planning or zoning is fairly debatable, and results by a zoning board or agency only if there is presented to it strong evidence either of mistake in the basic zoning or of a substantial change in the character of the neighborhood. In the instant case a consideration of the testimony before the Board and its conclusions therefrom reveal that the Board erred the required test for rezoning for high-rise apartments because it thought the Halle site was an appropriate place (unlikely site) for elevator apartment buildings under the criteria of the Planning Board which were established two years after the comprehensive zoning and felt there was need for such apartments in that part of the county and that it justified the effectuation of its belief in fashioning or finding 'changes' that simply had not occurred or are not changes at all.

Mr. Gavrelis of the Planning Staff of Baltimore County testified that the subject property becomes closer to meeting the lowest common denominator of the factors the Board in bestowing apartment zoning than have other recent projects of apartments in the area where in this area * * * although it testified further that he and the Planning Staff found neither original nor in the zoning map any substantial changes in the physical character of the neighborhood.

In light of the views of the planning Board if the Halle property had been zoned for apartment zoning either in 1957 or subsequently, there could be no just complaint that this was not appropriate and sound zoning, made with a view to and consideration of the overall good and needs of the City of Baltimore County community and the property rights of others. But the Board of Appeals erred, and, as a result, perpetuated as if it were zoning and planning, a misconception, simply. Suitability of a site for a particular use and a general need for that use are all important in basic comprehensive zoning but they are not controlling, or indeed property persuasive, in fashioning under the retrospectivity required of reclassification, proof of subsequent substantial change, whether a reclassification of that kind should be granted. To the Board of Appeals, as experts, has been confided the delegated function of determining whether there has been presented to it strong evidence of original error or substantial change in the character of the neighborhood. Its decision rests on its decision of these questions, not to the exercise of fiduciary or quasi-legislative power. Just as war has been said to be too important to be left to the generals, so original zoning or comprehensive rezoning in the guise of individual petitions for reclassification is too important to be left to the zoning board or to any body except the elected legislative representatives of the people, acting in the exercise of the full plenary legislative powers confided to the municipality. The right and power of the Board to make individual reclassifications is outside the reification of mistake, original or subsequent substantial change, is a zoning void reasonably could that to have been proven and which the existing classification would be inappropriate and inhamonious in

rounding residential properties if the proposed reclassification and special exception would not be in harmony with the neighborhood and would not be detrimental to the neighborhood and special exception.

The Board, on June 11, 1964, rendered an elaborate and well considered opinion in which, after reviewing in some detail, the change in conditions in the area since the adoption of the comprehensive zoning map of January 1962, including the erection of the Beltway, the sewer and water situation, the property rights of way and the 13.156 acre tract in the Halles, giving access to the subject property on Park Heights Avenue, the construction and zoning changes, concluded that:

"We feel that there is little question that the area has undergone substantial changes in the area which justify the reclassification of the Halle property. Additions to public water and sewer facilities have been of importance as to the effect of the present zoning upon the property, we concur with the contention of the Planning Board that the change of the land usage in this interchange is largely commercial and non-residential in nature, and it appears to be as good a place for elevator apartment buildings in the area as any that have been called to our attention. We do not feel that the evidence has shown any difference between the locational factors affecting apartments in the subject property; and those other properties in the area which we had requested upon zoning. In many ways the location of the subject property is similar to the location of the apartments at Charles Street and the Beltway.

Bernard Williams, a civil engineer and landscape architect, who has prepared many subdivisions, expert land planner, and who for 5 years was Deputy Director of the Baltimore County Planning Commission before he resigned the private practice, outlined the factual situation and testified in his opinion "apartment use, with a special exception, is the highest and best use of the property, but the most desirable for the property and the most desirable use in the public interest." He stated that there was an unprecedented need for the type of apartments that could only be met with elevator buildings and that the subject property is ideally situated and "is the best place to meet this particular need." He gave his detail of reasons for these conclusions. In his opinion this was a recognizable need on January 16, 1957 and this need was not met by the adoption of the comprehensive zoning map so that there was a change in the original zoning. He stated that there was a change of circumstances affecting the validity of the adoption of the comprehensive zoning map.

"* * * the essence of our complaint is that the Board and the Halle tract comes anything and does substantially meet with the legislative criteria for rezoning. Indeed, the Board has utilized in the creation of apartment zoning elsewhere."

The protestants produced two expert witnesses, a civil engineer and traffic expert and also a real estate expert, who testified that in their opinion respectively, there would be a traffic hazard and detrimental effect on the surrounding residential properties if the proposed reclassification and special exception were granted and that the neighborhood would not be injured by the proposed reclassification and special exception.

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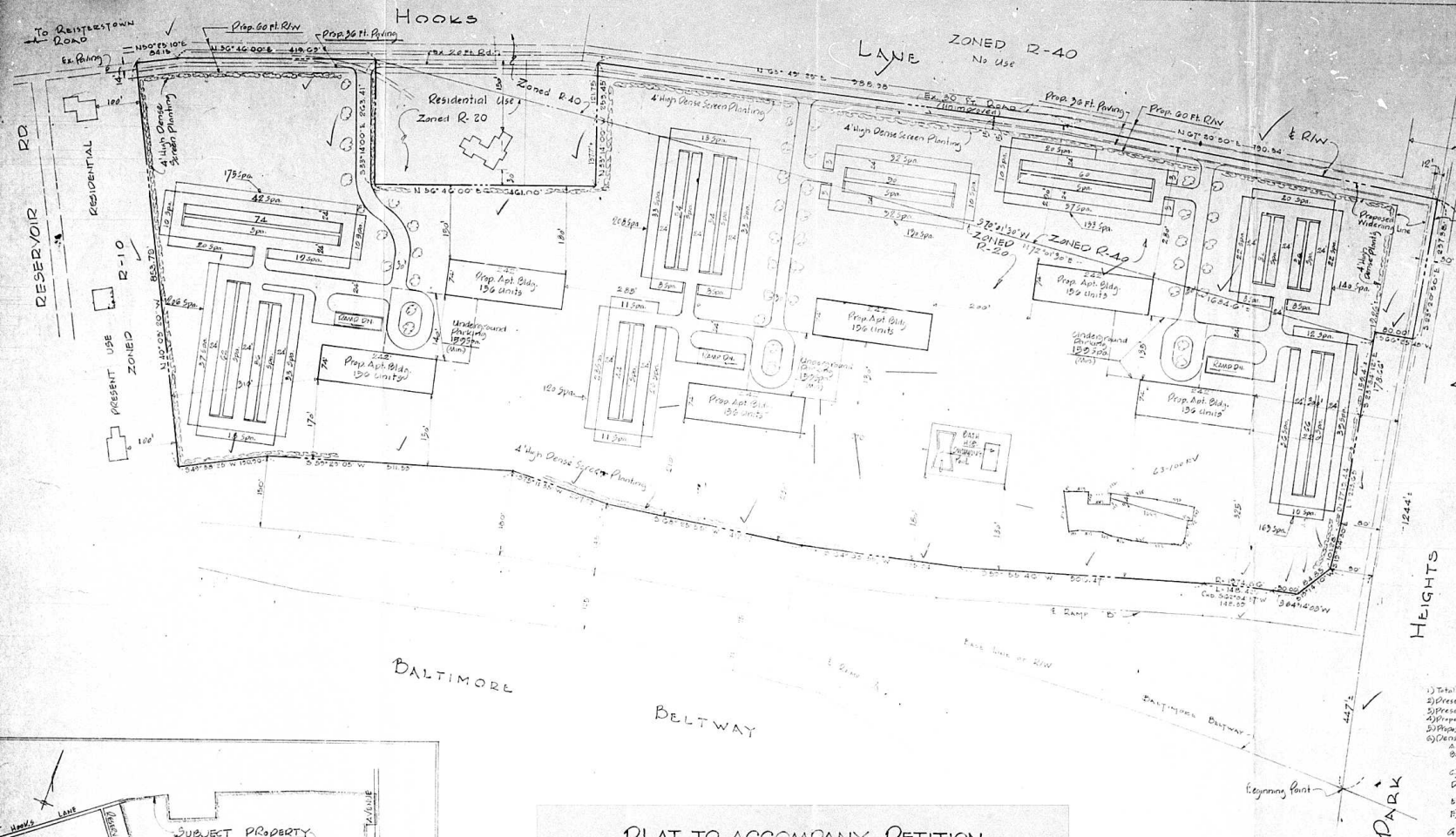
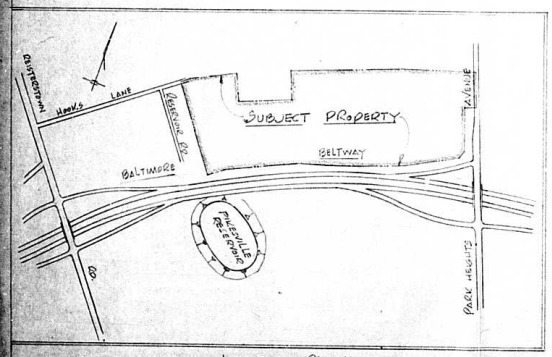
"We have carefully weighed the testimony of the various experts and the traffic engineers who testified. *We do not believe that the creation of residential zoning such as requested for elevator apartments, in the area, would have the effect of forcing people to say surrounding properties which have been built in the last five years.* We believe the owner of the Halle property would have zoned property in the area which was carved out of the original Halle tract, and, in the past we voice any objection. *We believe that the traffic hazard or congestion created by the proposed project.* The testimony indicated that it would be constructed in three stages which unquestionably would require a number of years before full development was reached. There would be no increase in traffic during periods of construction to arise which could not be corrected by the Board of Appeals. Traffic lights if there was any necessity whatsoever to do so, in addition to the other actual uses in the neighborhood. The Board of Appeals is fully capable of accomplish what it thinks would have to arise as the result of good planning and zoning or what it thinks public safety requires. Zoning and rezoning would whether or not the property is the most profitable use of land, yet the Board of Appeals, in the instant case, is bound by the judicial blessing of the Court of Appeals, and is obvious to us, that it has been fled and considered by the County Board of Appeals as a barrier on the development of the Third District Zoning Map and by ruling on the case of *H. scott vs. County Commissioners of Baltimore County*, 229 Md. 48, 181 A. 2d 488 (1962) and *Board of Appeals for Montgomery vs. Gisd* and an answer to it filed, the trial court, upon Embassy, and by its order of December 22, 1965, affirmed the board on the 15 zoning petitions and reversed the Board as to the special exception.

We have concluded that the trial court was correct in finding that the Board erred in finding that there was no error in reversing its grant of the special exception, for the reasons stated in the opinion of the Board, which we have adopted as our own, and which we have reinforced and supplemented by our own opinion. *There was also testimony that such a use would be the area have been reinforced and supported by the adoption of the zoning map in this case by the construction of the Mosier Interceptor. The application* have been acquired all necessary of site development and there is no problem with either engineering or right-of-way for of site sewer and reinforcement. The Board of Appeals, in the case heated in state highways or county roads for which sewer will be required. The testimony in the case was unquestioned that the costs of providing sanitary sewer to the proposed project, now that the Beltway has been completed, is now developed under its present zoning the cost of providing sanitary sewer would be $110,000. The Board of Appeals, by the majority of the property by zoning, is entirely debatable because of percolation problems, and the cost of the sewer, which was unknown to the Board, is not relevant to the question of the fitness of the site and the application for the reclassification. Embassy vs. Board, 229 Md. 42 to 44 (1962). Similarly, the testimony of the Board of Appeals, in the case of *Montgomery vs. Gisd*, 229 Md. 365, 184 A. 2d 328 (1962), and *Board of Appeals vs. Rosenberg*, 229 Md. 455, 184 A. 2d 82 (1962), *Inter Ocean Corp. vs. Board of Appeals*, 230 Md. 1, 185 A. 2d 488 (1962), *Board of Appeals vs. Rosenberg*, 229 Md. 455, 184 A. 2d 82 (1962), *Wakefield vs. Kraft*, 202 Md. 58, 95 A. 2d 337 (1953).

B-40 to B-A.

Beginning at intersection of the centerline of Park Heights Avenue and the centerline of Hooks Lane, with the center line of Hooks Lane, 30 feet wide, with the center line of Park Heights Avenue, 80 feet wide, thence leaving said point being located 30 feet from the intersection of the centerline of Hooks Lane and Park Heights Avenue, with the center line of Hooks Lane, 30 feet wide, and 30 feet from the intersection of the centerline of Hooks Lane and Park Heights Avenue, with the center line of Park Heights Avenue, 80 feet wide, and 30 feet from the intersection of the centerline of Hooks Lane and Park Heights Avenue, with the center line of Hooks Lane, 30



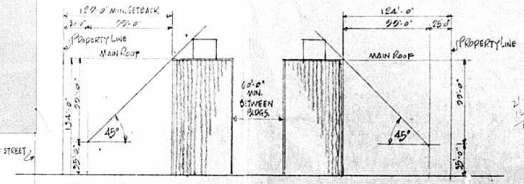


LOCATION PLAN
1" = 500'

PLAT TO ACCOMPANY PETITION
FOR REZONING PROPERTY AT THE INTERSECTION OF PARK HEIGHTS AVE. & BALTIMORE BELTWAY.

3RD ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 100' — AUGUST 23, 1963



FRONT & REAR YD. REQUIREMENT — SIDE YD. REQUIREMENT

DIAGRAM SHOWING MAXIMUM BLDG. HEIGHT

GENERAL NOTES:

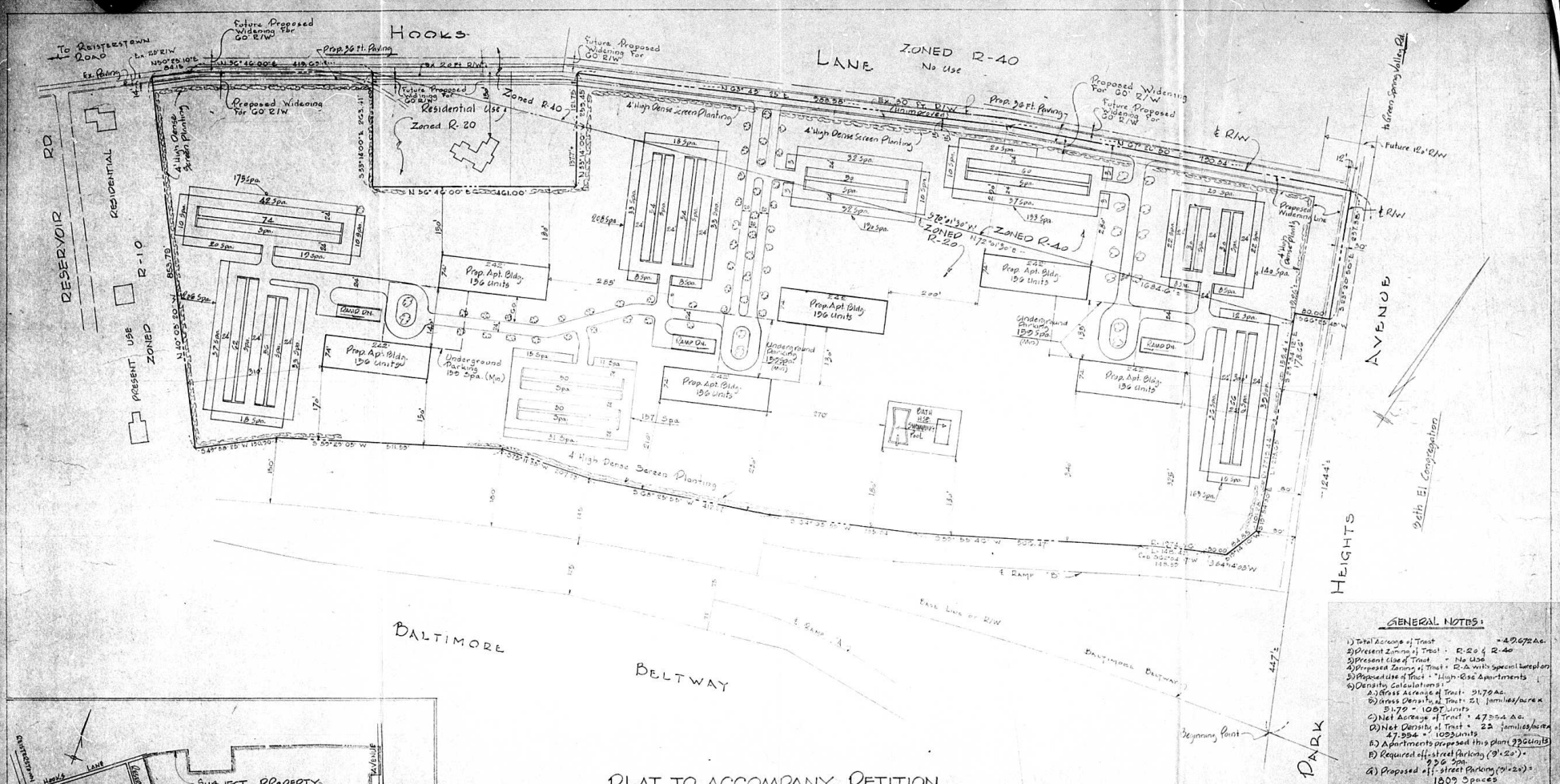
1) Total Acreage of Tract = 47.672 Ac.
2) Present Zoning of Tract - R-20 & R-40
3) Present Use of Tract - No Use
4) Proposed Zoning of Tract - R-A with special exception
5) Proposed Use of Tract - "High-Rise" Apartments
6) Density Calculations:
   a) Gross Acreage of Tract - 51.70 Ac.
   B) Gross Density of Tract - 21 families/acre x 51.70 = 1087 units
   C) Net Acreage of Tract - 47.554 Ac.
   D) Net Density of Tract - 22 families/acre 47.554 = 1053 units
   b) Apartments proposed this plan - 1336 units
   F) Required off-street parking (1.5 x 2.0) = 936 Spa.
   G) Proposed off-street parking (1.0 x 2.0) = 1772 units

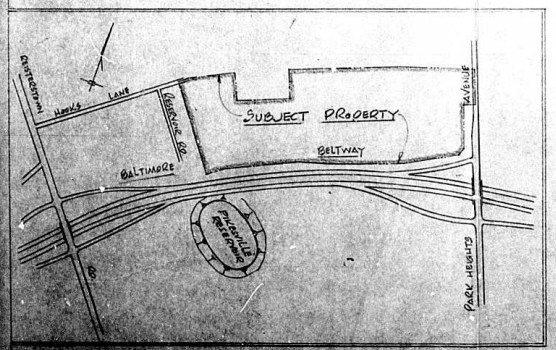
#63-100RX

MAP #3
SEC. 2-C

MATZ, CHILDS & ASSOCIATES
2122 N. CHARLES STREET
BALTIMORE, MARYLAND

Matz, Childs & Associates
2122 N. Charles St.
Baltimore, Md. 21218





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3RD ELECTION DISTRICT
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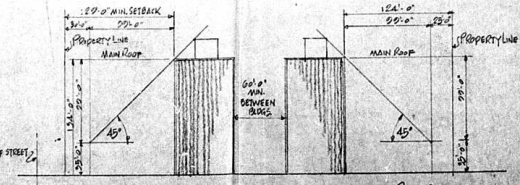
BALTIMORE COUNTY, MARYLAND
AUGUST 23, 1963
REVISED SEPT. 5, 1968



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6) Density Calculations:
   A.) Gross Acreage of Tract: 51.79 Ac.
   B.) Gross Density of Tract: 21 families/acre x 51.79 = 1087 units
   C.) Net Acreage of Tract: 47.554 Ac.
   D.) Net Density of Tract: 22 families/acre x 47.554 = 1053 units
   E.) Apartments proposed this plan (3 x 156 units) 468
   F.) Required off-street parking (1.5 x 20) = 936 Spa.
   G.) Proposed off-street parking (1.5 x 20) = 1809 Spaces

Metz, Childs & Associates
2120 N. Charles St.
Baltimore, Md. 21218