PETITION FOR ZONING RE-CLASSIFICATION 62-146-RX AND/OR SPECIAL EXCEPTION

The Trustees of the Shappard and Snoch Pratt Hospital, legal owner and Western Woods, Inc., Contract Purchaser County and which is described in the description and plat attached hereto and made a part hereof, plat p hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant 49 to the Zoning Law of Baltimore County, from an .. B. 20 and R. 10 zone to an

NW-104 NW-9-A See Attached Description

Proposed Proposed

PRATT #6

9446 777-

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Saltimore County, to use the herein described property, OKANESKARE KEREKERA KARNES EREKERE for Slevator Apartment Spildings - 6 stories

Property is to be posted and advertised as prescribed by Zoning Regulations xxxx we, agree to pay expenses of above re-classification and or Special Exception advertising, posting etc. soon films of this netition, 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

THE TRUSTEES OF THE SHEPPARD AND ENOCH PRATT HOSPITAL WESTERN WOODS, INC. By: John A Letter, By: Harry In huy wo Jun / Gutherneger

Address 1300 First National Bank Bldg-Address C/o M. William Adolson, Esq.

Baltimore, Maryland, 21202 M. William Adelson, Esq. Petitioner's Attorney 1035 Maryland National Bank Bldg. 1035 Maryland National Bank Bldg Baltimore, Maryland, 21202 \*\*\*\*\*\*\*\*\* 1. Fill Souls

PROME: Pizza 2-6682

ORDERED By The Zening Commissioner of Baltimore County, this Contabar ....., 1963, that the subject matter of this petition be advertised, as required by the Zonic. Law of Baltimore County, in two newspapers of general circulation through out 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 1903 at 10100 o'clock 22nd day of hoverber

\_\_\_ OCT 10 '83

John IV men Zoning Commissioner of Baltimore County. Ernest & Tringle Time in Tity

Subject, also, to an existing 10 foot easement as shown on Baltimore County Right of Way Plats R/W 55-211 & 212, Plat Book R-1A-4 & 5 and described in a deed and agreement dated March 22, 1957 and recorded among the Land Records of Baltimore County in Liber G. L.B. #3138 folio 308 etc. was conveyed by The Trustees of The

SUBJECT, also, to any portion of Chesapeake Avenue as now constructed and maintained by Baltimore County for public use that may encroach along the first line of the herein described tract of land.

Sheppard and Enoch Pratt Mospital to Bultimore County, Maryland,

BEING part of that tract of land which by indenture dated July 10, 1858 and recorded among the Land Records of Baltimore County in Liber G. H. C. #22 folio 274 etc. was conveyed by Rachel P. Brown et al to The Trustees of the Snappard

Come how

- 7 3-C

CHARLES D. GRACE 181 ALLEGHANY AVENUE TOWBON 4. MD.

#63-146 RX

# 63-146 RX

map V

SHEPPARD PRATT PROPERTY

SEC 3-C BEGINNING for the same at a point in the fourth or South 68 1/2 decrease 216.7 perchas line of that tract of land which by indenture dated July 10, 1858 and recorded among the Land Records of Baltimore County in Liber G.H.C. #22 (ollo 274 etc. was conveyed by Rachel P. Brown et al to The Trustees of the Shoppard Asylum said point being distant 53.76 feet North 69 degrees 36 minutes 25 seconds West from a stone marked "S. A." heretofore planted at the end of said line said point of beginning also being distant 52, 89 feet North 2 degrees 34 minutes 44 seconds Fast from a point on the Northernmost Right of Way line of Proposed West Burke Avenue 35.00 feet measured radially from center line station 35 + 60.00 as shown on Baltimore County Right of Way Plat HRW 62-106-11 said point of beginning also being in the Southwesternmost outline of Block 5 Plat of Southland Hills filed among the Plat Records of Baltimore County in Plat Book C. W.B. Jr. #12 folio 30

thence running reversely with and binding on part of said fourth line and binding on part of the said Southwesternmost outline of Block 5 Southland Hills and binding on or near the Southwesternmost side of Chesapeake Avenue as now constructed

North 69 degrees 36 minutes 25 seconds West 2315,02 feet to intersect the Easternmost side of Old Charles Street 66 feet wide, said point being distant 1193. 36 feet South 69 degrees 36 minutes 25 seconds East from a stone marked S. A. haretofore planted at the beginning of said fourth line

thence leaving said fourth line and said side of Chesapeake Avenue and binding on the said Easternmost side of Old Charles Stree

CHARLES D. GRACE

#63-146PX -2mpp South 30 degrees 54 minutes 22 seconds West 377.73 feet to a point on said # 9

side of Old Charles Street distant 34,85 feet South 59 degrees 33 minutes 00 seconds East from center line station 3 + 90,00 as shown on Baltimore County Right of Way NW-10A Plat H. R. W. 62-106-16

thence binding on the Easternmost right of way lines of the Relocation OIA  $\frac{N^{N}}{2A}$ . Charles Street as shown on said Plat H. R. W. 62-106-16 and blading on the Easternmost right of way lines and Northernmost right of way lines of said Relocation Old Charles Street and said Proposed West Burke Avenue respectively as shown on Plat H. R. W. 62-106-15 and binding on the Northernmost right of way lines of said Proposed West Burke Avenue as shown on Plats H.R.W. 62-105-14 through H.R.W. 62-106-12 inclusive and binding on part of the Northernmost right of way lines as shown on said Plat H.R.W. 62-106-11 the eighteen following courses and distances:

South 59 degrees 33 minutes 00 seconds East 20.15 feet V South 30 degrees 27 minutes 00 seconds West 33.60 feet North 59 degrees 33 minutes 00 seconds West 20, 41 feet South 30 degrees 54 minutes 22 seconds West 55,24 feet V

Southwesterly by a line curving to the South with a radius of 370,00 feet for a distance of 181.73 feet (the chord of said arc being South 7 degrees 47 minutes 37 seconds West 179, 91 (ser)

North 83 degrees 43 minutes 22 seconds East 51, 52 feet

South 11 degrees 46 minutes 25 seconds East 55,60 feet Southeasterly by a line curving to the South with a radius of 2235,00 feet for

#63-146 PCX

a distance of 834, 51 feet (the chord of said arc being North 88 degrees 55 minutes 22,25 seconds East 829.67 feet) South 80 degrees 22 minutes 50 seconds East 469, 18 feet

North 30 degrees 17 minutes 10 seconds East 123.26 feet routh 59 degrees 42 minutes 50 seconds East 43.00 feet Soull 30 degrees 17 minutes 10 seconds West 107.04 feet South 80 degrees 22 minutes 50 seconds East 448, 42 feet North 9 degrees 37 minutes 10 seconds East 25,00 feet South 60 degrees 22 minutes 50 seconds East 30.00 feet South 9 degrees 37 minutes 10 seconds West 25,00 feet

South 80 degrees 22 minutes 50 seconds East 328, 62 feet and Southensterly by a line curving to the East with a radius of 2165.00 feet for a distance of 237, 54 feet (the chord of said are being South 83 degrees 31 minutes 25.5 seconds East 237, \$2 (set) to the afore mentioned point on the said Northernmost right of way line of said Proposed West Durks Avenue opposite said center line station 35 + 60.00 as shown on said Plat H.R.W. 62-105-11

thence North 2 degrees 34 minutes 44 seconds East 52.89 feet to the place of

CONTAINING 16.809 Acres of land more or less.

SUBJECT, however, to the easements as shown on the aforedescribed Baltimore County Right of Way Plats N.R.W. 62-105-11 (arough H.R.W. 62-106-16

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO Mr. John C. Rone, Zoning Compissioner Date November 12, 1963 FROM Mr. George E. Gavrelis, Deputy Director

SUBJECT Petition #63-116-X.

9th District

Friday, November 22, 1963 (10:00 A.M.)

wised by the petitioner's attorney that the site plan is advised by the petitioner's attorney that its site plan is being melined further to develop better appear relationships being melined further to develop better appear relationships with the petition of the state o

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO Nr. John G. Rose, Zoning Commissioner Date November 12, 1963

FROM Mr. George E. Cavrelia, Deputy Director

SUBJECT #63-116-K. From R-20 and R-10 to R-A. Petition for Special Exception for elevator apartment building - 6 stories. Northside of proposed West Burke Avenue and east side of Old Charles Street Avenue.

9th District

HEARING: Friday, November 22, 1963 (10:00 A.M.)

The staff of the Office of Flanning and Zoning has reviewed the subject petition for reclassification from R-20 and R-10 to R-A soning, together with a Special Exception for elevator apartment buildings. It has the following advisory comments to make with respect to pertinent planning factors:

- In February of 1951, the Flamming Board pussed a resolution dealing with the extension of Burke Arenne westerly from York Road and recommending that land uses west of Fore Road result residential or institutional in character. This was followed by the state of the state of the state of the state of the along those portions of the state of the state of the the Towson State College and Steppard Fratt properties.
- 2. Concerning the subject property, the report noted that it is sever a portion of the Stemman varieties when with the sever a portion of the Stemman varieties when with that read to Consequent Arms. The report allow noted that the sever reason to capeut that Dispute Print to the late of the sever reason to capeut that Dispute Print to the preparation of the property for residential purposes or for an institutional use such as expert affirmed the use of the westerly portion of the property for residential purposes or for an institutional use such as well as the severe that the sev
- 3. From a Flamming viewpoint, the basic request for the remoxing of this portion of the Shappard Fratt tract is logical and in accord with the resolution of the Flamming board noted earlier. A partners that the Partner Shappard of the Partner Shappard of the Barke Avenue actealion is not being sought. The proposed the Barke Avenue actealion is not being sought. The proposed road system is such that the property will have commenter relationships to places of employment and shopping. Good relationships exiting also with other public inclinations with neighboring state of the Partner Shappard of the principles and the criteria schedulated by the Flamming Source for princip agartemnt locations.

4. At the time of this transmittal, the Planning staff has been

FRANCES H. MEGINNISS, et al. IN THE CIRCUIT COURT

FOR COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY BALTIMOPE COUNTY

Misc. Docket 7 Case No. 3222

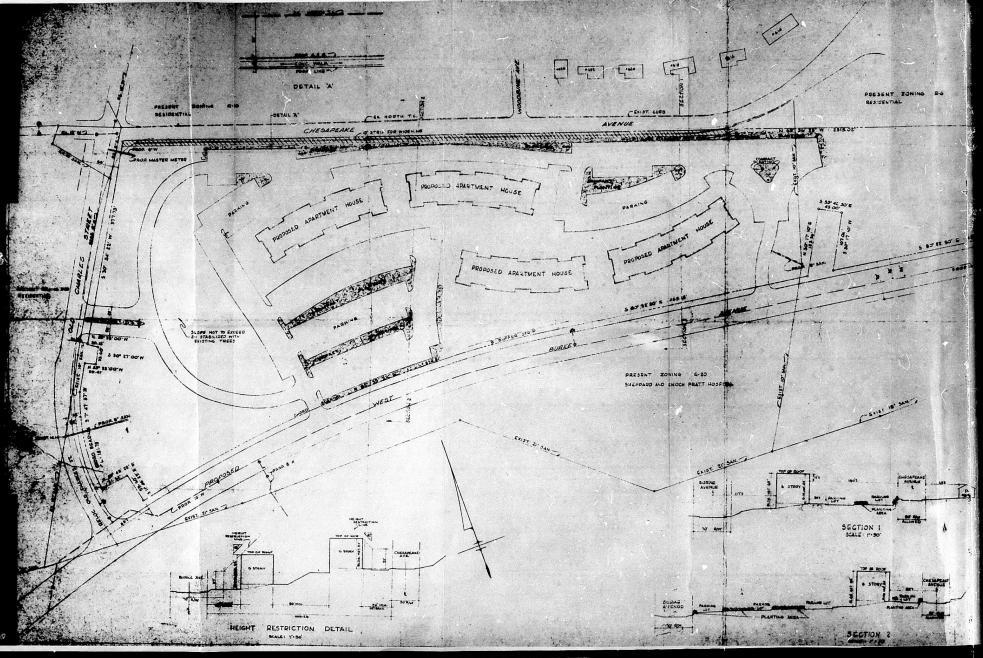
#### NOTICE OF APPEAL

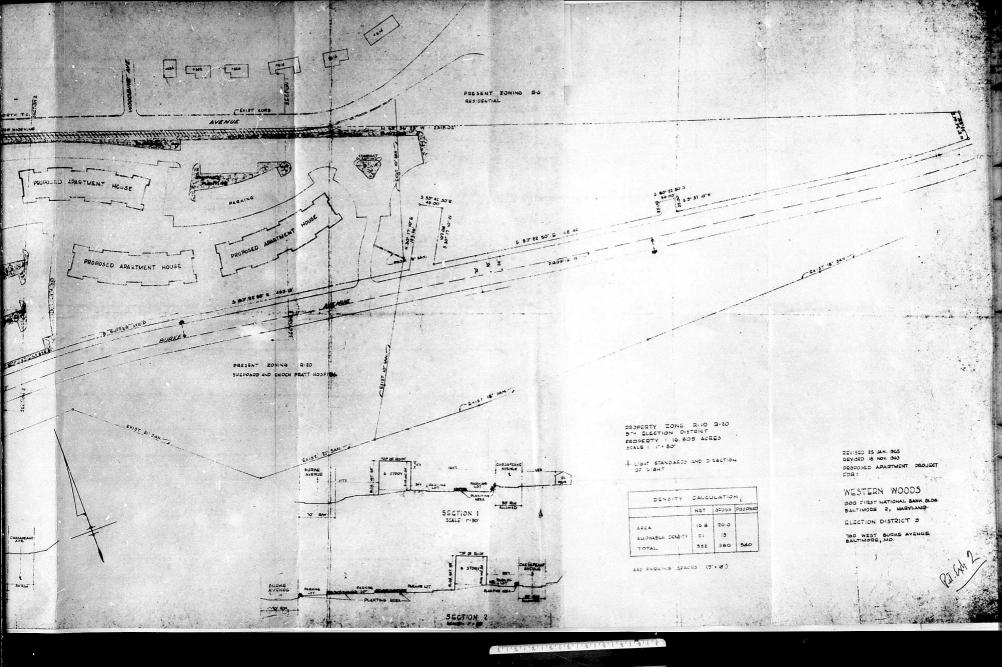
#63-146 RX

Please enter an Appeal to the Court of Appeals of Maryland from the decision of Judge W. Albert Menchine, dated May 27, 1966.

> Ernest C. Trimble lowson, Maryland 21204

DATE ON COURT DOCKET - 6/24/66







battimore county office of planning and zoning TOWSON, MARYLAND 21204 (301) 484-3211

LESLIE H. GRAEF DIRECTOR

JULY: 1967 -- Transferred from Sheppard and Enoch Pratt Hospital to Western Woods, Inc. 4783/329 16.81 acres

Merged into Versailles North Charles, Inc. Merged into New Monumental Properties

DECEMBER, 1969 -- Changed name to Monumental Properties, Inc. 5083/637

# VERSAILLES APARTMENTS

Zoned RA by Petition 63-146 - May 27, 1966 both parcels Net Acreage 12.75 1-24-68 -- Tentative plan approved

1-24-68 -- Tentative plan approved

No open space required (preceded Bill 100)

No develogment plan required

210 units constructed

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

8-3-70 -- Bill No. 100 passed by County Council

LAMBETH HOUSE (formerly Towsontown Apts.)

Zoned DR 16

Net Acreage 4.06

5-2-72 -- Transferred from Monumental Properties, Inc., to EJR Associates 5264/855 4.06 acres

6-1-72 -- Tentative plan approved

6-8-72 -- Development plan approved

6-27-72 -- Final plat recorded

1-30-74 -- 1st Amended Development Plan approved (amended to create several doctor's offices and shape of swimming pool)

76 Density Units approved which converts to 92 Dwelling Units.

Open space required per Bill 100 - 0.72 acres Open space provided per Bill 100 - 1.8 acres

JM: dme

February 24, 1978

PETITION FOR RECLASSIFICATION from R-10 and R-20 Zones to an R-A Zone, SPECIAL EXCEPTION nor Elevator Apartment Buildings N/S proposed West Burke Avenue & E/S of Old Charles Street 9th District The Trustees of the Sheppard and Enoch Pratt Hospital, Petitioners Western Woods, Inc.,

Contract Purchaser

BEFORE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

No. 63-146-RX

#### OPINION

The petition in this case seeks a reclassification to an R-A Zone of a 16.809 acre tract of land located on the north side of West Burke Avenue and the east side of Charles Street. The petition also seeks a special exception for elevators in each of the four m-dium rise buildings proposed to be constructed on the site to house a total of 34) families. On its southern boundary, the land fronts approximately 2100 feet on West Rurke Avenue, a new arterial highway, serving as a connector link between Charles Street and York Road, both heavily traveled highways. The property is bordered on its west side by Charles Street, on its north by Chesapeake Avenue, and on its east by the Towson State College. On the north side of Chesapeake Avenue, opposite the subject property, are six individual homes. East of Chesapeake Avenue and along Dixie Drive, are other homes, which will not overlook the proposed apartments because of being located to the north of a wooded area which is to remain virtually undisturbed. On the south side of West Burke Avenue lies the property of Towson State College and a substantial hospital complex, comprised of new Greater Baltimore Medical Center, Sheppard-Pratt Hospital, and St. Joseph's The Sheppard-Pratt Hospital is a privately endowed, non-profit, institution which has been in existence for over 100 years. It has operated the hospital since 1891 and is favorably known throughout the United States. Its Board of Directors is comprised of some of the outstanding civic, religious, and medical leaders in the Baltimore area. The subject property is a piece of land which because of the construction of Burke Avenue. not invited by the institution, is now worse than useless to Sheppard-Pratt.

The petitioner proposes to build four apartment buildings, six stories in height along their north (Chesapcake Avenue) side and seven stories in height along their south (Burke Avenue) side, with eighty-five units in each building, for a total of 340 units A total of 442 parking spaces are to be provided, although the zoning regulations require only one for each family unit or 340 parking spaces. 
Screen planting is proposed along Chesopeake Avenue, with no access from the apartments to that street. 

The apartment building in line with the houses on Chesapeake Avenue will be not more than 12 feet in height above them, because of the steep decline of the subject property in a southerly direction from Chesapeake Avenue. All of the requirements of the zoning regulations as to use, height and area have been complied with in the proposal and there are more than adequate front, side and rear yards

It is evident that there has been a substantial change in conditions in the area since adoption of the original zoning map in November, 1955. West Burke Avenue, severing the subject property from the remainder of a 400 acre tract, has been constructed as a project highway along the frontene of the property, and the last link (to York Road) is now being built. New Burke Avenue provides direct access from the subject property to the commercial development and office buildings along York Road and is a short distance from the Towson business district, which has expanded through construction of County and r ivate commercial and office facilities. There has been intensified institutionalization of the land to the south. New Greater Baltimore Medical Center is under construction on a 58 acre tract. Scheduled for opening in September, 1965, it is designed as a 600 bed hospital. The new St. Joseph's Hospital, providing for 300 beds and a nursing school, is likewise under construction. Sheppard-Pratt Hospital, now having 156 acres, is to remain with its substantial facilities. Directly opposite the subject property, Towson State College has acquired approximately 68 acres for expansion of its facilities, and there was testimony that the College is expected to expand to the extent so that it will have 10,000 students by 1970.

Further, the uncontradicted testimony showed that there has been a significant change in utilities. Only minor sewer and water lines existed in November, 1955, and these were totally inadequate to service any development of the land. Construction since that time has provided sewer and water lines, adequate to service the subject property as a 340 unit apartment project

There presently exists a trend to apartment development which did not exist and was not anticipated at the time of the adoption of the original zoning man in November, 1955. As a result, virtually no provision was made for apartments in the Towson area, although the need and demand for rental accommodations have increased greatly in the past several years. The Board was impressed by the testimony of Mr. Marton Haffman, economic consultant and market analyst, who had made an exhaustive study of the situation. Mr. George E. Gavrelis, Director of Planning for Baltimore County, testified, the subject property now meets all the planning staff criteria as a prime site for apartment development. The Courts have recognized that a trend to apartment dwelling constitutes a change, and that the failure to anticipate same can be error. While some rectification of the map, since its adaption, has occurred in the rezoning of at least seven sites for apartments in the Towson area, the evidence showed continuing need and demand and, further, that the reclassifications heretofore granted have, in turn, affected the subject site, as all pertain to Charles Street or York Road, the area of the subject property.

it is obvious that in the adoption of the zoning map in November, 1955, no real study was made of the original 400 acre tract of Shenpard-Pratt Hospital to determine appropriate land usage, but that substantially all of the Hospital property was classified R-20 because it satisfied existing farm and hospital usage. No one, however, could easonably believe that such property in the metropolitan area, lying midway between the densely populated Towson area and Baltimore City, would continue in formuse. As soon as water and sewer facilities were brought into the area, some development necessarily would occur, a fact which has materialized through the erection of two large hospitals, with their large staffs and accompanying facilities

- 3 -

The protestants were unable to effectively challenge the evidence as to changed conditions occurring in the area during the pine years which have elensed since adoption of the map. At best, protestants seek to require a single family development in conformity with the present unplanned zoning, despite changes in the area and in disregard of the obvious unsuitability of the subject property for single family development

Admittedly, we have a situation in which there no longer exists the gual atmosphere created by the former Sheppard-Pratt Hospital form operation. Some development in the area is now inevitable. In such circumstances, the application must be viewed in the light of the changed conditions. The testimony clearly indicates that the subject site does not readily lend itself to single family home development.

Mr. Charles D. Grace, an engineer and land surveyor, testified on behalf of the applicants that it would be necessary to excavate substantial rock deposits and perform extraordinary analisa in order to provide individual building fots on the property His testimony was based on actual soil tests and measurements on the subject property, from which he prepared a lot layout and made exact, detailed cost computations, submitted in evidence, and which included rock excavation costs only in areas which he had tested His estimate of costs for utilities for individual lots on the property was not discussed and Mr. Kenneth McCard, an expert witness for the protestants, agreed that Mr. Grace had used conservative unit figures for the cost of excavating and grading. Mr. McCord agreed with, and even exceeded. Mr. Grace as to the extent of grading necessary, but he excluded rack excavation from costs by largely dismissing the possibility of rack on the property and also claiming that his proposed ayout would avoid the rock formations demonstrated by the studies of Mr. Grace. It should be noted that the layout of Mr. McCord. while technically not prohibited by law, would be undesirable to County Planning and Traffic authorities. Mr. McCord had made no actual borings on the property and relied upon a general geological survey of the area, and the result: of test borings in the bed of West Burke Avenue, which did not completely support his conclusions. Even excluding the cost of rock excavation, it is obvious from the cost breakdown of Mr. Grace that lot development costs would be exceedingly high. While Mr. McCard testified that lot development costs on the subject property would be reasonable for custom built homes, it developed that

in a previous case before this Board, when testifying for an applicant involving another property sought to be rezoned R-A with a special exception, he had stated that a much lower development cost per lot rendered single family lot development of the land in tha case economically unfeasible. The overwhelming weight of the testimony convincingly demonstrates the economic unfeasibility of single lot development of the subject property in its present R-10 and R-20 classification.

The protestants presented no substantial evidence to show that apartments would depreciate neighboring properties. Neither Mr. McCord nor Mr. Gilbert, a real estate expert who also testified for the protestants, undertook to contradict the testimony from various experts on behalf of the applicants, that apartment development would tend to stabilize the area and would not adversely affect neighboring property values. Land along a major arterial road, such as Burke Avenue, is not as desirable for individual dwellings as a sound-proofed apartment with limited access and adequate screening from traffic. We believe it would be inappropriate to limit the subject property to development for single family homes and deprive the owner of its reasonable and logical use for apartments, especially since there would be no reciprocal benefit accruing to the public generally

The testimony of most of the protesting land owners indicates a fear on their part that the granting of this petition would lead to extensive commercial development in the neighborhood. We believe these fears are unfounded

With regard to the special exception, the uncontradicted testimony presented to this Board showed that the special exception requested is not detrimental to the health, safety, or general welfare of the locality involved. Mr. W. Worthington Ewell, an acknowledge traffic expert, testified that the proposed apartment operation would not tend to create congestion in the roads or streets. The developer and its architect testified that the apartment was constructed of fireproof materials and created virtually no hazard from fire. There was testimon, to the effect that very few children would live in the apartments so that virtually no increase in school population proportionate to the number of residential units would occur. All concede the adequacy of sewer, water and drainage facilities. The proposal for the apartment complies with all height and area requirements of the zoning regulations, and obviously does not interfere with adequate light and air. The land coverage of 8% of the total acreage is minimal, and all the evidence indicated that there would be no avercrowding of the land or undue concentration of population. We believe it clear, from all of the testimony, that all of the requirements of Section 502.1 of the Zoning Regulations have been met by the petitioners.

For the reasons stated above the Board is of the opinion that the reclassification to residential apartment use should be granted, and that the special exception for

- 5 -

elevator apartment buildings as proposed here is proper in this case subject to the following restrictions

- That the development of the property shall be substantially in accordance with the site plan submitted by the petitioners and marked as E-Libit No. 2
- 2. There shall be no vehicular access to Chesapeake
- The buildings shall not exceed six (6) stories on Chesapeake Avenue side
- The buildings shall be situated on the property . Eshibit No. 2. and as shown on petitioners' Exhibit No. 2, and no other buildings shall be erected elsewhere on the subject tract

#### ORDER

For the reasons set forth in the aforegoing Opinion, it is this 674 day of March, 1965 by the County Borzd of Appeals, ORDERED that the reclassification and special exception petitioned for, be and the same is hereby granted, subject to the aforementioned restrictions

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

William S. Baldwin

FRANCES H. MEGINNISS, ANTHONY R. SPARTANA and ARTHUR GORDON TURNER

IN THE

CIECUIT COURT

FOR

G. MITCHELL AUSTIN.

. GILES PARKER an WILLIAM S. BALDWIN, Constituting the County Board of Appeals for Baltimore County BALTIMORE COUNTY

#### ORDER FOR APPEAL

#### Mr. Clerk:

Please enter an Appeal to the Circuit Court for Baltimore County on behalf of Frances H. Meginniss, Anthony R. Spartana and Arthur Gordon Turner, each of whom were parties to the proceedings and are aggrieved by the decision of the Board of Appeals of Baltimore County, in the matter of the Petition for Reclassification from an R-10 and R-20 zone to an R-A zone, with a Special Exception for elevator apartment buildings, for property located on the North side of West Burke Avenue and the East side of Old Charles Street in the 9th Election District of Baltimore County. This Appeal is from the decision in Case No. 63-146-RX of the County Board of Appeals of Baltimore County dated March 6, 1965, granting the request for reclassification and special exception. This Appeal is filed pursuant to the provisions of Maryland Rules B2 and B4.

> rney for Appellants 404 Jefferson Building Towson, Maryland 21204

I HEREBY CERTIFY That on this / day of April, 1965, a copy

of the foregoing Order for Appeal was mailed to M. William Adelson, Esquire, 1035 Maryland National Bank Building, Baltimore, Maryland 21202 and the Board of Appeals of Baltimore County, County Office Building, Towson, 15 Coret C. Trimble

PRINCES H. MEGINNISS, of al

VS: G. MITCHELL MUSTIN, etc.

constituting the COUNTY BOARD OF SPENIS F BALTIL CRE COUNTY

FCR

IN THE CIRCUIT GOURT

BALTIN CRE COUNTY Misc. 7/ 487/3222

### MEMORANDUA CPRIION

This is an appeal by protestants from a occision of the County Board of Appeals of Bultimore County, granting a reclassification to Recoming or a tract of lond comprising 16.809 acres with a special exception for elevator spartments. The property had been classified R-20 and R-10 under the 1955 Joning http. The property is conferred on the west by Charles Straet, on the north by Chesapeake Avenue, on the south by Barke avenue, and on the east by property in the ownership of the Tov son State College. The land contours are such that the greater part of its northern boundary along Chesapeake are substantially higher than the southernmost boundary along Earke Avenue. It is a divided portion of the former Sheppard-Fratt property.

The decision of the Board was grounded upon the same change--error concept that formed the beats of its decisions in Halls v. Board, 2:1 Md. 22., and Beth Iffich v. Board. 242 Md. 8 . The opinion of the Board, consisting of five pages, sets forth fully and particularly the factual findings made by it in granting the requested reclassification and special exception. This court believes that it would serve so useful purpose to detail the evidence supporting such factual findings, beyond the statement that clear and substantial evidence required the exercise of the expertise of the Board on the issue of the propriety of replaceification and cause that issue to be a marter for reasonable debate. The Court in such a case is not authorized to substitute its judgment for that of the Board. Hotel Corp. v. Solows force, 236 Md. 106, 120. It is not without some significance that the property

considered in that decision itself was affected by some of the influences of change in the utilization of parts of the Sheppard-Fratt Tract.

There is a clear showing that the great of a special exception for elevator apertments did not create conditions prohibited by \$502.1 of the Zoning Regulations The decision of the Board is affirmed.

W. ALBERT MENCHINE, Judge

MAY 27, 1966

IN THE COURT OF APPEALS OF MARYLAND No 285 \$ 63-146 EX September Term, 1966 MAP PRANCES H. MEGINNISS, et al #9 SE(13-6 NW-10-A NW- 9-A TRUSTEES OF THE SHEPPARD A DA-X Marbury Barnes McW111.a Pinan, JJ. Opinion by Barnes, J.

Piled: May 15, 1967

for the expansion of Towson State college. Partner south are times large hospitals. At the time of the hearing before the Bours, to of these hospitals were nearing completion. One was .... Jreater Baltimore Medical Center, a 400 bed general hospital and large medical center with apartment units for the staff, constructed on 57 acres of land at an approximate cost of (15,00,000. The other was St. Joseph's Biopital, an eight-atory, 322 bed hospital with a school for 120 nurses, creeted on a 27-1/2 acre...act. Sheppard Fratt continues to operate its facility on approximately 100 acres of land. South of the Sheppard Fratt outildings is the property of the School Sisters of Notre Dame, used for institutional purposes, and the Rodgers Forge development of over 5000 errous houses.

East of the subject property, bounding on West Burke Avenue, is the Towan State College. Nearby, on the cast, it me property of Baltimore County, improved with a fountain-type arrangement to treat sewage and at the time of the hearing, used as a construction storage yard for cinders, malt, trucks, graders, pipe, tools, bulldozers and other County Public Works equipment. Still farther east are the Esso Office Building, the slue Gross Office Building, Valley View and other Spartments and finally, the commercial uses along York Rond and the filling station at the corner of York Road and West Burke Avenue.

North of the subject property, between the Towson commercial area on the east and Bellona Avenue on the west, are primarily residential and institutional areas, most of the lot

The appeal in this case was taken from an order of May 27, 1966, by the Circuit Court for Baltimore County (Memchine, J.), affirming an order of the Baltimore County Board of Appeals. The Board had appreved the reclassification of 16,809 acres of land in Baltimore County, owned by the Trustees of the Sheppard and Znoon. Pratt Hospital (Sheppari Pratt), one of the appellees, for residential apartment use with a special exception for elevator apartment buildings, subject to certain restrictions. The other a pellee, Western Woods, Inc., is the contract purchaser of the reclassified land and joined with the owner, Sheppard Pratt, in filling the initial petition for the reclassification and special exception.

Sheppare Pratt originally eweed 400 acres of .and ...
Baltimore County. The 16.809 acre tract involved in this ap..al
(the subject property) was created by the involuntary severance
of the subject property from the original 400 acre tract by the
ins.allation through the northern portion of the 400 acre tract
c \_ major four-lane arterial highway, West Burke Avenue, connecting
c \_ ...les Street on the west with York Road on the east. When the
Comp.chemnive Land Use Map was adopted by Baltimore County on
N...sher 14, 1955, the proposed course for West Burke Avenue did
not contemplate this severance of the subject property from the
original 400 acre tract. A substantial portion of the subject
property has pronounced grades; 32% of the land has grades ranging
between 11% and 20%, and 23% of the land has grades ranging between
10% and 25%. There are also substantial rock deposits on the
subject property.

development being in either R-6 or R-10 zenes. Southland Hills, an R-6 development running along Dixto Drive, abuts the subject preperty to the morth. The land directly opposite the subject property to the morth side of Chesapeake Avenue is zoned R-10, but is improved by only one house on a large hillop site, between Charles Street and Woodbine Avenue, and six houses between Woodbine Avenue and Dixto Drive. Parther north, but inside the Baltimere County Beltway, are the spartment developments along Charles Street.

West of the subject property is the block formed by Charles Street Avenue, West Burke Avenue, Charles Street and Boyce Avenue (the name given the extension of Chesapeake Avenue, west of Charles Street), Which is improved with single-family residen and developed in basic conformity with R-20 zoning.

The contract purchaser, Western Woods, Inc., proposed to build four six-story apartment buildings, 54 feet in height, each centaining 85 apartment units, to house a total of 340 families on the 16.809 acre subject property. This is 12 families less than the maximum density allowable under the applicable zoning regulations. The preposed buildings would be so located that the building closest to Chesapeake Avenue would be across from the open land area. The house on the hilltop site and not in front of any home. The building located in front of, and across from the remaining homes on Chesapeake Avenue, would be placed the greatest distance away from that street. The roof of this building would rise only 12 feet higher than the roof of the building would rise only 12 feet higher than the roof of the building on 618 Chesapeake Avenue and is set back 79 feet from Chesapeake Avenue. The proposed

At the time the Comprehensive Land Use Wap was adopted in 1955, no zoning study was made of the large Sheppard Pratt tract, as Sheppard Pratt was using the trace for institutional and agricultural purposes and did not press for any particular roning. Except for a strip, 190 feet deep, along Chesapeake Avenue, zoned in an R-10 zone (residence - one-family, lots not less than 10,000 square feet), the bulk of the Sheppard Pratt tract was zoned in a low density R-20 zone (residence - one-family, lots not less tran 20,000 square feet). In 1955, only two acres of the subject propertywers severable and the then available water facilities value inadequate for apartment development.

The subject property is roughly triangular in shape. The western boundary, forming the base of the triangle, is approximately 700 feet long. The northern boundary, forming a size of the triangle, is approximately 2315 feet long and the southern boundary, forming the other side of the triangle, is approximately 2395 feet lo.g. The two sides of the triangle form an apex on the east, approximately 53 feet wide. The subject property is bounded on the west by old charles Street, known now as charles Street Avenue, and on the south by West Burke Avenue. A pertion of the northern boundary is Gheanpeake Avenue; the remainder of the northern boundary is Gheanpeake Avenue; the remainder of the northern boundary is formed by the rear yards of houses, in an R-6 zone, fronting on Dixie Drive. Bordering the subject property on the east is the land of the frowen State College.

Access to the subject property is proposed through an entrance on Charles Street Avenue and at two points on West Burke

Avenue. No access is contemplated from Chesapeake Avenue and the order of the Board prohibited such access.

The read patterns surrounding the subject property have changed since November, 1955. West Burke Avenue was under construction when the case was heard by the Board in 1965. This east-west arterial street runs south of the Towen residential area and was designed to siphon off traffic using Charles Street Avenue and Chesapeake Avenue. West Burke Avenue is 43 eet wide from curb to curb and has a capacity of approximately \$5,000 (whicles a day. Traffic experts estimated that it would install carry approximately 8000 vehicles a day and a greate, number unimately. Osler Drive, intersecting West Burke Avenue from the contract of the surface of the subject of the surface of th

Avenue and Chesapeake Avenue. West Burke Avenue is 48 eet wide from curb to curb and has a capacity of approximately 25,000 schicles a day. Traffic experts estimated that it would initial. carry approximately 8000 vehicles a day and a greater number u. timately. Osler Drive, intersecting West Burke Avenue fro. 100 south, gives access to St. Joseph's and Sheppard Pratt Hospit La and connects with Stevenson Lane, a four-lane road running between Charles Street and Yo.' Road and thence to the Loch Raven Boulevard area. Osler Drive was also under construction at the time of the hearing before the Board and Stevenson Lane had recently been completed. Charles Street Avenue, adjacent to the subject property, is a three-lane highway. Improved Charles Street, which intersects west Burke Avenue near the subject property, is a four-lane nighway built after November, 1955, and constitutes one of the better radial routes emanating northerly from Baltimore City to the Baltimore County Beltway. It also serves to feed traffic into the Towson commercial area by way of West Burke Avenue.

Directly south of the subject property, across West Burke Avenue, is 67 acres of a 100 acre tract of land acquired

buildings cover approximately 1.1 acres of land or 8% of the subject property, the remainder being available for open space and parking area. The buildings would be of brick and concrete construction. The apartments would be completely air-conditioned, with balconics, sliding glass doors, dish washers and disposals. There will be no building of any kind on the triangular parcel of land to the rear of the homes along Dixic brive and this immediate the developer was a requirement of the Board in granting the special exception. It is proposed to maintain this area in its Dreems hauten booded state.

6.

The developer contemplates dividing the total or 340 apartment units equally between one and two bedroom apartments. There will be 482 parking upaces based on a formula of one parking space for each one bedroom apartment and 1.6 parking spaces or each two bedroom apartment. This exceeds the 346 parking space requirement of the applicable zening regulations. The parking area will be screened with decorative screen planting along the entire Chemannek Servenic Crosses.

Before the Board, the appellees produced several expert witnesses including an experienced developer, a market consultant and analyst, a real estate broker and appraiser, a land planner, and a civil engineer. These witnesses testified that after a study of the sulject property and surrounding areas, in their opinion, the proposed construction would have no detrimental effect on the health, safety or general welfare of the locality, and gave reasons for their opinions. A well qualified traffic expert teatified that, in his opinion, the proposed construction would create no traffic problem and gave detailed teatimony supporting this opinion, which was not contradicted. The preposed apartment construction would present less fire hazard than garden apartments or even houses. There was adequate water pressure at the maximus height of the buildings to service fire fighting equipment. The site plan was in full compliance with the set back and height requirements of the applicable rules and regulations. The proposed construction would not interfere with the adequate light and air of the surrounding properties. There was also evidence indicating that the subject property could not be used for development under the existing zoning, as a practical, economic matter.

The protestants produced evidence tending to show that the subject property could reasonably be developed under its existing zoning and that the development of the subject property with the proposed apartments would be injurious to the neighbori...

In addition to the substantial changes in the road pattern since 1955, the appelless offered substantial evidence of other changes in the area surrounding the subject property since that date.

Except for approximately two acres of land, the subject property was not severable in 1955. In 1956 Baltimore County and Baltimore City adopted the "Register Wolff Report" which provided

for the extension of public utilities into the Towson area. including most of the Sheppard Pratt area. This enabled Baltimore County to proceed with planning for greater density and resulted in the rezoning of many tracts of land in the north Towson area. In 1958 and 1959 the Sheppard Pratt property was served with a sanitary sever line going down into Roland Run and Jones Palls. This permitted a more intensive use of that land for apartment construction and eliminated the need for the treatment plant on the east edge of the property. In 1963 and 1964 a 16 inch water line was installed in Burke Avenue and a 12 inch water line in Charles Street. Adequate storm water facilities were installed after November, 1955, when West Burke Avenue was constructed.

8.

Since 1955, there has been a substantial increase in the demand and need for apartment units. Mr. Gavrelis, Director f Planning for Baltimore County, testified that the office of Planning and Zoning had concluded that there was a need for apartments, and in the opinion of Mr. Gavrelis, available rental housing will not be enough to meet the demands arising merely from the increase in the longevity of the population. The substantially increased need for additional apartment units was also confirmed by the market analyst who testified for the appellecs.

There has been, as we have indicated, a marked intensification of institutional uses in the area since 1955. Towson State College has doubled in size and its 1970 enrollment is projected at 10,000 students. The Greater Baltimore Medical Center ultimately will have 600 beds (400 were initially provided

for the September, 1965, opening), and approximately 450 apartment units will be constructed for the hospital personnel. It was estimated that this hospital will have between 1000 to 1200 employees. St. Joseph's Hospital, already a substantial facility, has provision for expansion. The quiet, bucolic atmosphere of 1955 has changed to one of great activity resulting from the construction of the new large institutional facilities.

reclassified to permit apartment construction. Mr. Gavrelis estimated the number at several thousand.

The appellees also offered evidence tending to show that there was a mistake in the original zoning but we do not find it necessary to give the details of this

The Board, in a well-considered opinion, reviewed the facts, found, inter alia, that there had been a charge in conditions in the area, that there would be no injury

and by its order of March 6, 1965 granted both the reclassification and special exception subject to four restrictons: (1) that the development be substantially in accordance with the site plan submitted by the developer; (2) that there be no vehicular access to Chesapeake Avenue; (3) that the buildings not exceed six stories on the Chesapeake Avenue side of the site; and (4) that the buildings should be situated on the property as shown on Exhibit No. 2 of the that petitioners, and/no other buildings be erected on the subject Also since 1955, a number of properties have been As we have indicated, Judge Menchine, on appeal to the

Circuit Court for Baltimore County from the decision of the Board, affirmed the Board's decision, concluding that the issue was fairly debatable as there was sufficient evidence of either change or mistake to justify a reclassification and special exception and that the court should not, under our decisions, substitute its judgment for that of the Board.

properties from the proposed reclassification and special exception,

We are of the opinion that the lower court correctly affirmed the decision of the Board and the order of the lower court will be affirmed.

We do not find it necessary to consider the questions raised by the appellees that there was an original mistake in zoning and that the appellants are not parties aggrieved and have no standing to maintain the appeal in this case, as we have concluded from the record that there was sufficient evidence of a change in conditions in the area in question to make the

question of the proposed zoning reclassification and special exception fairly debatable. When the issue is fairly debatable we will not substitute our judgment for that of the Board, as we have held in many cases. See Bosley v. Hospital for Consumptives of Maryland, No. 188, Sept. Term 1966, filed April 6, 1967 and the cases therein cited.

aignificant
In our opinion, the /xxxxxxxx change in the area in the road patterns, the intensification of the institutional uses, the substantial increase in water and sewerage facilities, the great increase in the need for additional apartment units and the zoning changes already mentioned are sufficient evidence of a change in condition in the area since November, 1955, when the comprehensive zoning map was adopted, to make the issues before the Board in this case fairly debatable. The facts were sufficient to sustain the Board's conclusion that the reclassification was properly granted and that the special exception should be allowed.

> ORDER OF MAY 27, 1966, AFFIRMED, THE APPELLANTS TO PAY THE COSTS.

> > No. 20256



Date of Posting .. November . f .. 1963. Posted for Patision for Maclosaffication from M-20.4 R-10.10.8-6.

petition for Uppe, Syo, for Elevator Asta, Multimgs-6 stories.

Petitioner: The Sheppard L Enoch Pratt Hospital Location of property: M/S. Proposed Nost, Burke, Ave. & M/S of Clit. Charles St. Ave.

Location of Signs, 1. encs. Seciless. S. Spec., Sip., 3/S. Chenegrass. Szc., ni. dead.end. of Woodbine Ave. 1 Seciless on a/S Cherles 35, Ave. 1 Spec., Say, 328.

South of Chesepease Ave. Remarks: ....

Date of return November . 7, 1963 ....

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District 9th Date of Posting Jan. 30. 1964 The Sheppard & Snoch Pratt Hospital. Location of property N/S proposed West Burke Ave. & E/S Old Charles St.

Location of Signs 5/5 had Coperior the Ale Ale Alend Engl modifier its E/Sa harles At use 300' S. of humper all

Posted by Date of return and 30 / first M WILLIAM ADELSON

ANTMENT January 6, 1964

18N -7 '64 '4 ·

Hon. John G. Rose Zoning Commissioner of Baltimore County County Office Building Towson 4, Maryland

No. Class No. 62-165-EM-Petition filed by The Trustoos Lf the Shoppard and Enoch Pract Touston Local Control C

FIRST P SW TH

Please enter an appeal on behalf of the retitioners to the County Board of Appeals from the Order and Decision of the Section 23-36, Title 23 in time of the Section 23-36, Title 23 in time of the Section 24-36, Title 23 in time of the Section 25-36, Title 25 in time of the

A check for \$70.00 is enclosed herewith to cover the cost of the instant appeal.

Respectfully yours,

M. William Adeison, Attorney for Petitioners, The Trustees of the Sheppard and Encoder Part Hospital, Legal Osner, and Western Woods, Inc., Contract Purchaser, 1035 Maryland National Bank Building, Baltimore 2, Maryland Plaza 2-6682



DATE 10/11/63 COURT HOUSE TOWSON 4. MARYIAND Editinore County \$50.00 Petition for Reclassification & Special Exception for Sheppard & Eno. Pratt Hospital 17.1063 4927 0 \* 0 11P-0.00 101001 -927 a a = 110\_ IMPO SECT BLE TO BALTIMORE COUNTY, MARYLAND MAIL 1 TION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE R. ION OF THIS BILL WITH YOUR REMITTANCE.

OFFICE OF FINANCE DATE 11/21/63 COURT HOUSE TOWSON 4, MARYLAND \$124.50 Advertising and posting of property for The Sheppard & Prett Hospital IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND MAIL TO DIVISION OF COLLECTION OF THIS BILL WITH YOUR REMITTANCE.
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

BATIMAE COUNTY, MRYL ND

BAI MORE COUNTY, MAYLAND OFFICE OF FINANCE DATE 1/7/64 Strisson of Collection and Recei COURT HOUSE TOWSON 4. MARYLAND Office of Planning & Zoning COST \$70.00 1--868 as 67 . . III-7000

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

INVOICE BAI ORE COUNTY, M. AND OFFICE OF FINANCE COURT HOUSE

DATE 1/27/64

No. 20180

TELEPHONE

TOWSON 4, MARYLAND

OHLLEO Office of Planning & Zoning 119 County Office Bldg., Towns h, Md.

BARTIMONE COUNTY, MARYLAND OFFICE OF FINANCE

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The patitioners request a special exception in order to build the two elevator apartment buildings.

The milites for apartment soning must be considered first and in order to more fully understand the matter to be decided immedia as the requested reclassification is concerned some review of sening is proper,

restrictions of the course of lands has the right to use that land subject to the course of the course of the people, restrictions of the course of the people, restrictions, and so long as he does not create a nulsample of the course of the restriction of any here concerned with restriction of the concerned with restriction of the course of the cours

The Constitution of Maryland, Declaration of Rights provides

\*Article 1. The all Geremannt of right originates from the People, is founded in compact only, and instituted scleby for the good of the whole; and they are at all times, the inminental right to deep refere or shellsh their form of Geremannt in such number as they may dean appointme.

\*Article 2). That me can ought to be taken or imprisoned or disselted of his fresheld, liberthen or mivileges, or cuslawes, or cuslawes, or in any manure destroyed, or desprived of his life, liberty or property, but by judgment of his posts, or by the Law of the land\*.

are on the held that the heavy burden resting upon the appelles to show one on the part of the logislative body, the Genny Gennii, in the comprehensive receiving spitcheds to the properly here involved hem in boom not; and accordingly we must reverse the scale into the control of and remain the case with distriction to the Earth of the Earth of the Earth of the Control of the Co

At its mosting on February 18, 1963 the Saltimere County Planning Board passed the following resolution to the Burke Avenue Acton-sion from York Rest to Charles Street:

"AMERICAS, The proposed extension of Burke Arenue from its present terminus of fork Read westerly to Charles Street will provide a necessary eathest traffic-may along the southern pertion of central Toxon; and

Wideling. That the Baltimere Domny Flamming Board endersor the route of the proposal vesturity extension of Burke Armon and recovering the Wideling State of Burke Armon and the present of the State of

MUSCAYAD, That it is the recommendation of the Baltimere County Planning Sourd that land uses west of York Ross along the projected rotte should remain residential or institutional in character, except in the invadate vicinity of York Ross?

At its meeting on October 8, 1963 the Baltimore County Flanning nates contained the following item:

meand minutes contained the solicoming terms in earlier, the finding and required the Scoretary to read to the Board a latter from its floor in which the latter required that the planning and the read of the Board a latter from its floor in which the latter required that the planning terms with the solicoming of the solicoming that the solicoming that the planning and the solicoming that the planning and the solicoming that the planning that the planning terms is engagested by that the plan complement that of the 10 sl. Scott and latter Rock Terms and the solicoming that the planning terms referred to the resolution passed by the Board at the Rockman referred to the resolution passed by the Board at the Rockman referred to the resolution passed by the Board at the Rockman referred to the resolution passed by the Board at the Rockman referred to the resolution passed by the Board the Scott plan had been solicoming to the Property of Land use, and that copies of it, together than the solicoming the solicoming that the property of the solicoming that the property of the solicoming that the property of the solicoming that the property is been given to the interested parties.

This plan had not been delivered to the Zoning Com-missioner by the time this hearing was completed on December 13, 1963.

the general route as new proposed has been referred to the Baltimore County Planning Board for its re-immendations thereon; therefore,

Judge Offutt in Mayor and City Council of Poconoke City vs Standard Cil Company, 162 Nd. at page 376 said:

Standard Cil Company, 162 M: at page 376 saids:

The property relative to the constitution anything more than a right to hold and use the property subject to restrictions in fewer of the public which the location and interest restains separation, and the continuous control of the control of

Jurge Markell in Benner, et al vs Tribbitt et al Commissioners, 190 Hi at page 20 suid:

190 it at page 20 saids of the pulse of political questions regarding exercise of the police power, e.g., regulation or probabilists of theyer traffic or restricted betting or passage of a general building iteraffic or scaning at the police power, e.g., regulation or probabilists iteraffic or scaning at the said of the police power and the said of the police power and the said of the police power and the said legislature iteraff can deprive an institution of property rights to worked of the police power matter a manifelyal corporation not the said legislature iteraff can deprive an institution of property relations and the said of the police power and the said of the sa

Judge Hammond in Wakefield vs Kraft, 202 Hi., at page 136 said:

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We number of the Baltimore County Planning Staff testified during the pointeners' hearing, but on November 13 1963, it. Goorge Z. Gew. Lig. Deputy Director of Planning sent the following activity coverents to the Zening Comissions:

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- "1. In February of 1963, The Planning Board passed a regulation In softwary of 1963, The Flanding Seard passed a row little dealing with the estendion of Burke Avenue retearly from For-Reas and retectanding the state of the Search Search Flanding to the state of the Search Search Search Search followed by a report thich analyzed land use existing and potential along those portions of the Sawke Avenue exten-ter exhrenced by the Toward Sate College and Sheppard Pratt properties.
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  7. Concentral, the subject property, the report neted that it is formed by the proposed extension of there always which all nerves a personnel of the Sequenci-Pasts treat are understy from that read to the second of the report of thread the use of the western protect of the report of thread the use of the western protect of the report of the second of the seco
- 3). Form a Planning viewpoint, the basic request for the resoning of this perion of the Shappard-Post treat to begind and the perion of the Shappard-Post treat to begind and the state of the Shappard-Post treat to be a state of the Shappard control to the state of the state prime apartment locations.
- wi. At the time of this transmittial, the Flanning Staff has been advised by the printingness attempt that the size plant in the stage of the stage

During the intervals between the comprehensive revisions of the Daring the intervise between the compressence revisions or scanning maps by the County Countil, potitions for reclassifications are heard by the Zendag Countinionar after public hearing. Communia from the Flanning Beard and the Flanning Staff are not made after a public hearing as they are in the case of the adoption of a map or now scaining regulations and are, during \* If there was a mistake in an original seming ordinance, or if the character of the mispherheed has charged, so that an assail; revaluance is of the mispherheed has charged, so that the misphering course have built in reliance and in proper, but fact that neighboring enough have built in reliance so the complaint about the mean regard right which will successfully support a complaint about the many control of the repair of the reliance of the confing status of the reliance of the confing status classification made by although he is entitled to rely on the rule that a classification made by although he is entitled to rely on the rule that a classification made by although he is entitled to rely on the rule that a classification made by although he is not included which the charge is required for the public good and is not made unabout the rule reportly course of the some mispherheed control of the other property

Judge Delaplaine in Offutt ws Board of Zening Appeals, 204 MH.

cald not change with the changing conditions and the combination of the change with the changing conditions and the combination of the release when the changing conditions and the combination of the which we depressed on the release the change conditions and the changed conditions are reasonable toldy could be so unreasonable under changed conditions and the change conditions are considered to the power to their once lines for this. Let then be the are a substantial changes in conditions and such alteration has reasonable suchare.

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Judge Henderson in Zinn vs Board of Zonin Appeals, 207 Mi.

This an established rule that shows an application is made for reclassification of a tract of land from one some in method, there is a presemption which the zerom ostablished by the cut final county great and a superior of the county of the

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and at Lare 359:

"Zoning, of course, looks to the future and is predicated upon an assumed allily to predict future needs with a narrow range of fallibility from its argued that an annufactated met has developed, this presuppose that is the criginal plan, but should be ideally corrected by a resurvey of the land use may return than by placement alteration." Judge Henderson in Nottee vs County Commissioners, 212 Ns. at

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58, 59, said: Judge Hammond in Huff vs Board of Zoning Appeals, 21/1 Ht. pe.

That a comprehensive plan should seek to accomplish as for the public interest, but slow with the safeguarding of the interests of the individual property comer \*.

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Chief Junge Brune in Stadymeck Improv ment Association vs Melley, 232 Md, at page 265 said:

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The Special Exception, of course, cannot exist without the Residence, Apartment reclassification, and therefore should be denied.

Zening Commissioner of Baltimore County

Judgo Hammeni in his decision of Nevember 5, 1963 pointed out that a change in committees does not compel a reclassification.

The heavy burdon placed upon the potitionurs to show must and the potition should be denied.

Commissions of Salts that of Salts and the force should be dented.

Commissions of Salts of S

63-146

No. I Newburg Avenue

CATONSVILLE, MD.

November 5, 1963.

THIS IS TO CERTIFY, that the ennexed advertisement of John G. Hose, Zoning Gommissioner of Baltimore Gounty

was inserted in THE BALTIMORE COUNTIAN, a group of three weekly newspapers published in Baltimore County, Maryland, once a week for One Week SECONSTREMENTALES before the 5th day of November, 1963, that is to say the same was inserted in the issues of

# November 1, 1965. THE BALTIMORE COUNTIAN

By Paul J. Morgary Editor and Manager D.

NO PLAT IN THIS FOLDER

MICROFILM -