

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Elizabeth H. Lydick, et al., legal owner(s) 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.A. and B.L. zone to an NE-9-G zone, for the following reasons:

There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that the reclassification requested is proper.

See attached description and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification 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.

KELLY PONTIAC, INC.
Elizabeth H. Lydick, et al.
Legal Owner
Address: 5801 Belair Rd.
Baltimore, Md. 21208
James D. Nolan
Petitioner's Attorney
Address: 204 W. Pennsylvania Ave., 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of December, 1969, 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 5th day of January, 1970, at 10:30 o'clock.

Sheet 3 of 3 sheets

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, William C. and Mary E. Riley, legal owner(s) 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.A. and B.L. zone to an NE-9-G zone, for the following reasons:

There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that the reclassification requested is proper.

See attached description and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification 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.

KELLY PONTIAC, INC.
William C. and Mary E. Riley
Legal Owner
Address: 5801 Belair Road
Baltimore, Md. 21208
James D. Nolan
Petitioner's Attorney
Address: 204 W. Pennsylvania Ave., 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of December, 1969, 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 5th day of January, 1970, at 10:30 o'clock.

Sheet 1 of 3 sheets

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, R.M. Kehm and Mildred M. Kehm, legal owner(s) 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.A. and B.L. zone to an NE-9-G zone, for the following reasons:

There was a mistake in the original zoning and/or the character of the neighborhood has changed to such an extent that the reclassification requested is proper.

See attached description and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification 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.

KELLY PONTIAC, INC.
R.M. Kehm and Mildred M. Kehm
Legal Owner
Address: 5801 Belair Rd.
Baltimore, Md. 21208
James D. Nolan
Petitioner's Attorney
Address: 204 W. Pennsylvania Ave., 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 6th day of December, 1969, 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 5th day of January, 1970, at 10:30 o'clock.

Sheet 2 of 3 sheets

ELIZABETH LYDICK, ET AL.
KELLY PONTIAC, c.p.
SE 1/4 Belair Rd. 583 m/s. of Ebenezer Rd.
11th District
R.A. and B.L. to B.M.
(Auto Sales and Service)
(7,190 acres)

Dec. 6, 1968 Petition filed
Jan. 8, 1969 D.Z.C. (Herdity) GRANTED Rec.
Feb. 3 Order of Appeal to C.B. of A.
Sept. 15 Granted in part by Board (Beldwin, Slowik, Miller)
Oct. 8 Order for Appeal filed in Circuit Court by W. Lee Harrison, Esq., for Protestants, Exeter Realty, Inc. and Charles and Leon Crane
Nov. 20 Record of proceedings filed in Circuit Court
Dec. 3 Amended Answer filed (including certified copy of Order of Appeal dated Oct. 1, 1969)
Sept. 9, 1970 Motion to Dismiss Granted and Appeal Dismissed - Judge Haile
Oct. 5 Order for Re-hearing
Oct. 5 Order for Appeal filed in the Court of Appeals by Edwin J. Wolf, attorney for protestants
Nov. 12 After rehearing on 10/9/70, appeal again dismissed by Judge Haile
Dec. 7 Order for appeal filed in the Court of Appeals from second Order of Dismissal by Mr. Wolf
March 8, 1971 Appeal to Court of Appeals DISMISSED by Appellants

GRANTED IN PART

EXETER REALTY, INC., et al
Appellants
vs.
ELIZABETH LYDICK, et al
Appellees
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Miscellaneous Law
Docket 8
Folio 491
Case No. 4327

Mr. Clerk:
Please enter an appeal to the Court of Appeals of Maryland from the Order of this Court passed on the 9th day of September, 1970.

I Hereby Certify a copy of the above Order for Appeal was mailed to James D. Nolan, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for Appellees, this 5th day of October, 1970.

Edwin J. Wolf
Attorney for Appellants

EXETER REALTY, INC., et al.,
Appellants
vs.
ELIZABETH LYDICK, et al.,
Appellees
IN THE CIRCUIT COURT
FOR BALTIMORE COUNTY
LAW DOCKET 8 FOLIO 491
CASE NO. 4327

ORDER
For the reasons set forth in the Statement of this Court filed immediately prior hereto, it is this 14th day of November, 1970, by this court

ORDERED that the motion to dismiss this appeal, heretofore filed by the appellees, be and it is hereby granted and the appeal is hereby dismissed.

Copies to:
Attorney for Appellants
Attorney for Appellees
Court Administrator's Office

EXETER REALTY, INC., et al.
Appellants
vs.
ELIZABETH LYDICK, et al.
Appellees
IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Miscellaneous Law
Docket 8
Folio 491
Case No. 4327

Mr. Clerk:
Please enter an appeal to the Court of Appeals of Maryland from the Order of this Court passed on the 12th day of November, 1970.

I Hereby Certify that a copy of the above Order for Appeal was mailed to James D. Nolan, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204, Attorney for Appellees, this 14th day of December, 1970.

Edwin J. Wolf
Attorney for Appellants

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of error in the original zoning map

the above Reclassification should be had, and it further appearing that by reason of

Special Exception for a should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this 3 day of

January, 1969, that the herein described property or area should be and

the same is hereby reclassified, from a RA and BL zone to a BM

zone, and/or a Special Exception for a should be and the same is

granted from and after the date of this order, subject to approval of the site plan by the

State Roads Commission, the Bureau of Public Services and the Office of Planning

and Zoning. DEPUTY Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition

and it appearing that by reason of

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE

GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day

of January, 1969, that the above reclassification be and the same is hereby

DENIED and that the above described property or area be and the same is hereby continued as and

to remain a zone, and/or the Special Exception for

be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

MICROFILMED

LAW OFFICES OF
NOLAN, PLUMHOFF & WILLIAMS
204 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

November 19, 1969

Edith T. Eisenhart, Secretary
County Board of Appeals
County Office Building
Towson, Maryland 21204

Re: Elizabeth Lydick, et al.
Kelly Pon, ac, Inc.
No. 69-139-R

Dear Edith:

Enclosed is a Motion to Dismiss Appeal and Request for Hearing which I will file in the above entitled matter on Wednesday, November 19, 1969.

Since there is no attorney of record for your office, I am taking the liberty of enclosing a copy, which I would appreciate your forwarding to the appropriate Assistant County Solicitor who will be handling this matter.

Sincerely,

James D. Nolan

JDN:jn

Enclosures

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of error in the original zoning map

the above Reclassification should be had, and it further appearing that by reason of

Special Exception for a should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this day of

January, 1969, that the herein described property or area should be and

the same is hereby reclassified, from a RA and BL zone to a BM

zone, and/or a Special Exception for a should be and the same is

granted from and after the date of this order, subject to approval of the site plan by the

State Roads Commission, the Bureau of Public Services and the Office of Planning

and Zoning. DEPUTY Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition

and it appearing that by reason of

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE

GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day

of January, 1969, that the above reclassification be and the same is hereby

DENIED and that the above described property or area be and the same is hereby continued as and

to remain a zone, and/or the Special Exception for

be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

Re: Petition to accompany Order
for Appeal for Reclassification
from R-A and B-L zones to
B-M Zone,
SE/3 Belair Road 583' S. of
Ebeneser Road
11th District
Elizabeth Lydick, et al.
Petitioners
Kelly Pontiac, Inc.
Contract Purchaser
No. 69-139-R

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Misc. 69-139-R

REQUEST FOR HEARING

Your Movants respectfully request that they be heard as to this Motion.

James D. Nolan

George W. White, Jr.
204 West Pennsylvania Avenue
Towson, Maryland 21204
623-7800

I HEREBY CERTIFY, that on this 25th day of November, 1969, a copy of the foregoing Request for Hearing, was mailed to W. Lee Harrison, Esquire at 306 W. Joppa Road, Towson, Maryland 21204, and R. Bruce Alderman, Esquire, County Solicitor, County Office Building, Towson, Maryland 21204, and to the County Board of Appeals for Baltimore County, at the County Office Building, Towson, Maryland 21204.

James D. Nolan

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of error in the original zoning map

the above Reclassification should be had, and it further appearing that by reason of

Special Exception for a should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this day of

January, 1969, that the herein described property or area should be and

the same is hereby reclassified, from a RA and BL zone to a BM

zone, and/or a Special Exception for a should be and the same is

granted from and after the date of this order, subject to approval of the site plan by the

State Roads Commission, the Bureau of Public Services and the Office of Planning

and Zoning. DEPUTY Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition

and it appearing that by reason of

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE

GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day

of January, 1969, that the above reclassification be and the same is hereby

DENIED and that the above described property or area be and the same is hereby continued as and

to remain a zone, and/or the Special Exception for

be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

Re: Petition for Reclassification
from R-A and B-L zones to
B-M Zone,
SE/3 Belair Road 583' S. of
Ebeneser Road
11th District
Elizabeth Lydick, et al.
Petitioners
Kelly Pontiac, Inc.
Contract Purchaser
No. 69-139-R

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Misc. P/401/4327

ANSWER TO MOTION TO DISMISS APPEAL

Now comes Exeter Realty, Inc., Leon A. Crane and Charles Crane and for Answer to the Motion to Dismiss Appeal, say:

1. That they admit the allegations of paragraphs 1, 2 and 3 of said Motion.
2. That they deny that the period for filing such Petition is a substantive rule as indicated by the Maryland Court of Appeals in Toomey v. Comerlinger, T35 Md. 456.
3. That the Court Reporter was unable to complete the transcription of testimony within thirty (30) days of the filing of the Order for Appeal and a Petition to Extend Time for the Transmission of the Record to the Circuit Court for Baltimore County was filed and an Order of Court executed thereon extending said time for sixty (60) days from October 8, 1969.
4. That one of the counsel for the Petitioner-Appellee and counsel for the Protestants-Appellants agreed that it would not be necessary to comply with said rules regarding filing petitions, etc., during said extension period and during which period attempts were to be made to settle differences between the Parties thereto.
5. That no prejudice or injury has resulted to the Petitioner-Appellee as a result of the failure to file said Petition as required by Rule P22 of the Maryland Rules of Procedure, the Court Reporter not having completed said

68219
1/3c
6/21/70

EXETER REALTY, INC., et al
Appellants
vs.
ELIZABETH LYDICK, et al
Appellees

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
Miscellaneous Law
Docket B
Folio 491
Case No. 4327

ORDER

This case having come on for Hearing on the Appellee's Motion to Dismiss Appeal with Appellant's Answer thereto, memoranda and affidavits in support thereof, counsel having been heard and argument having been made, it is this 9th day of September, 1970, by the Circuit Court for Baltimore County ORDERED that the Appellee's Motion to Dismiss Appeal shall be and is hereby granted and, accordingly, the Appeal in this case shall be and is hereby dismissed.

(Signed) Walter R. Haile
Judge

Copies mailed to counsel of record.

transcript of testimony until November 17, 1969, and the Petition accompanying the Appeal having been filed on November 19, 1969, before the record was even transmitted from the County Board of Appeals to the Circuit Court for Baltimore County.

WHEREFORE, having fully answered the foregoing Motion to Dismiss the Appeal, your Petitioners pray that the same be overruled.

W. Lee Harrison
306 W. Joppa Road
Towson, Maryland 21204
613 1200

I HEREBY CERTIFY, that on this day of 1969, a copy of the foregoing Answer to Motion to Dismiss Appeal was mailed to George W. Haile, Jr., Esquire, and James D. Nolan, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland 21204.

W. Lee Harrison

Re: Petition for Reclassification from R-A and B-L zones to B-M Zone, SE/3 Belair Road 583' S. of Ebenezer Road 11th District Elizabeth Lydick, et al. Petitioners Kelly Pontiac, Inc. Contract Purchaser No. 68-138-R

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Misc. 8/481/4397

MOTION TO DENY APPEAL

Now come Elizabeth Lydick, R. M. Kehm, Mildred M. Kehm, William C. Riley, and Mary E. Riley, Petitioners below, and Kelly Pontiac, Inc., Contract Purchaser, by James D. Nolan and George W. White, Jr., their attorneys, pursuant to Rule 85 of the Maryland Rules of Procedure (1963 Replacement Volume and 1969 Cumulative Supplement) and move that the appeals of the Exeter Realty, Inc., and Leon A. Crane and Charles Crane from the Decision and Order of the County Board of Appeals for Baltimore County dated September 11, 1969, in the above entitled matter be dismissed. The grounds of the motion are as follows:

1. That the Decision and Order of the Baltimore County Board of Appeals as stated hereinabove was rendered and dated September 11, 1969.
2. That the Doctet and the Clerk's Memorandum on the file indicate that an Order for Appeal on behalf of Exeter Realty, Inc., was filed on September 30, 1969, and that an Order for Appeal on behalf of Leon A. Crane and Charles Crane was filed on October 8, 1969.
3. That contrary to the provisions of Rule 82 (e.) of the Maryland Rules of Procedure (1963 Replacement Volume and 1969 Cumulative Supplement thereto) no Petition setting forth the action appealed from, the error committed by the agency in taking such action, and the relief sought, has been filed in the above entitled matter.

4. That the ten (10) day period for filing such Petition(s) has long since expired, and accordingly your Movants ask that pursuant to Maryland Rule 85 that the said appeals, and each and all of them, be dismissed for want of compliance with this important substantive rule regarding the filing of Petitions.

James D. Nolan
George W. White, Jr.
204 West Pennsylvania Avenue
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 18 day of November 1969, that a copy of the foregoing Motion to Deny Appeal, was mailed to W. Lee Harrison, Esquire, at 308 West Joppa Road, Towson, Maryland 21204.

James D. Nolan

-2-

Re: Petition for Reclassification from R-A and B-L zones to B-M Zone, SE/3 Belair Road 583' S. of Ebenezer Road 11th District Elizabeth Lydick, et al. Petitioners Kelly Pontiac, Inc. Contract Purchaser No. 68-138-R

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY Misc. 8/481/4397

REQUEST FOR HEARING

Your Movants respectfully request that they be heard as to this Motion.

James D. Nolan
204 West Pennsylvania Ave.
Towson, Maryland 21204
823-7800

I HEREBY CERTIFY, that on this 18 day of November 1969, that a copy of the foregoing Request for Hearing was mailed to W. Lee Harrison, Esquire, at 308 West Joppa Road, Towson, Maryland 21204.

James D. Nolan

LAW OFFICES
W. LEE HARRISON
308 WEST JOPPA ROAD
TOWSON, MARYLAND 21204

February 3, 1969



Mr. John G. Rose
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Re: Elizabeth H. Lydick, Widow, No. 69-39, R-A and B-L to B-M

Dear Mr. Rose:

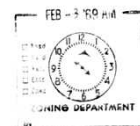
Please note an appeal to the County Board of Appeals from your decision and order dated January 8, 1969, granting the above requested reclassification, on behalf of Exeter Realty, Inc., Charles Crane and Leon Crane.

I enclose herewith check in the amount of \$75.00 to cover the costs of the appeal.

Very truly yours,

W. Lee Harrison

b
enc.



E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 825-3908

RESIDENCE: 771-4592

September 11, 1969

DESCRIPTION TO ACCOMPANY PETITION FOR PARKING USE IN A RESIDENTIAL AREA
1.368 ACRE PARCEL
PERRY HALL, MARYLAND

BEGINNING for the same at a point on the northeast side of a 30' Right of Way located 583' southwesterly from the intersection formed by the southeast side of Belair Road and the centerline of Ebenezer Road and 547°05'E 850.98' said point being also in the first or 251°00'E 1089' line of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife, running thence and binding on the northeast side of the 30' Right of Way and on part of the aforesaid first line 347°05'E 200.00' to the end thereof thence leaving the northeast side of the 30' Right of Way and binding on the second and on part of the third lines in aforesaid deed the two following courses and distances: N49°32'E 106.00' and N47°05'W 200.00' thence leaving the aforesaid third line and running for a line of division 549°32'W 300.00' to the place of beginning.

CONTAINING 1.368 Acres of land more or less.

BEING part of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife.



E. F. Raphael
Registered Professional
Land Surveyor #2246

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 825-3908

September 11, 1969

RESIDENCE: 771-4592

DESCRIPTION TO ACCOMPANY ZONING RECLASSIFICATION FROM R-A AND B-L TO B-M
5.822 ACRE PARCEL
PERRY HALL, MARYLAND

BEGINNING for the same at the intersection formed by the southeast side of Belair Road (70' wide) and the northeast side of a 30' Right of Way at a distance of 583' southwesterly from the intersection formed by the southeast side of Belair Road and the centerline of Ebenezer Road, said point being also in the first or 251°00'E 1089' line of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife, running thence and binding on the northeast side of the 30' Right of Way and on part of the first line in aforesaid deed 347°05'E 850.98' said point being 200.00' from the end of said first line, thence leaving the northeast side of the 30' Right of Way and the first line in aforesaid deed and running for a line of division N49°32'E 300.00' to intersect the third line in aforesaid deed at a distance of 200.00' from the beginning of said third line running thence and binding on part of said third line N47°05'W 200.00' to the southeast side of Belair Road, running thence and binding on the southeast side of Belair Road 549°32'W 300.00' to the place of beginning.

CONTAINING 5.822 Acres of land, more or less.

BEING part of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife.

BEING also all of the land which by deed dated June 20, 1947 and recorded among the Land Records of Baltimore County in Liber JWB 1578, folio 115, was conveyed by Charles Edward Dunn and wife to Elizabeth H. Lydick.

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 825-3908

RESIDENCE: 771-4592

page -2-

BEING also all the land which by deed dated October 8, 1948 and recorded among the Land Records of Baltimore County in Liber TBS 1705, folio 28, was conveyed by Charles E. Dunn, widower, to William C. Riley and wife.



E. F. Raphael
Registered Professional Land Surveyor
#2246

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND

OFFICE: VALLEY 5-2908

December 1, 1968

RESIDENCE: PRESCOTT 1-4912

DESCRIPTION TO ACCOMPANY ZONING RECLASSIFICATION
7.190 ACRE PARCEL
PERRY HALL, MARYLAND

BEGINNING for the same at the intersection formed by the southeast side of Belair Road (70' wide) and the northeast side of a 30' Right of Way at a distance of 583' southwesterly from the intersection formed by the southeast side of Belair Road and the centerline of Ebenezer Road, said point being also in the first or 251°00'E 1089' line of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife, running thence and binding on the northeast side of the 30' Right of Way and on part of the first line in aforesaid deed 347°05'E 850.98', thence leaving the 30' Right of Way and binding on the 2nd and part of the 3rd lines in the aforesaid deed the two following courses and distances: 1) N49°32'E 300.00'; 2) N47°05'W 1050.98' to the southeast side of Belair Road, running thence and binding on the southeast side of Belair Road 549°32'W 300.00' to the place of beginning.

CONTAINING 7.190 Acres of land, more or less.

BEING part of the land which by deed dated January 21, 1953 and recorded among the Land Records of Baltimore County in Liber GLB 2239, folio 87, was conveyed by John W. Hessian, Jr., Trustee, to Robert M. Kehm, Jr. and wife.

BEING also all the land which by deed dated June 20, 1947 and recorded among the Land Records of Baltimore County in Liber JWB 1578, folio 115, was conveyed by Charles Edward Dunn and wife to Elizabeth H. Lydick.

BEING also all the land which by deed dated October 8, 1948 and recorded among the Land Records of Baltimore County in Liber TBS 1705, folio 28, was conveyed by Charles E. Dunn, widower, to William C. Riley and wife.

E. F. Raphael
Registered Professional Land Surveyor #2246

RE: PETITION FOR RECLASSIFICATION
from R-A and B.L. zones to
B.M. zone
SE/S Belair Road 583' S. of
Ebenezer Road,
11th District
Elizabeth Lydick, et al,
Petitioners
Kelly Pontiac, Inc.,
Contract Purchaser

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 69-139-R

OPINION

The petitioner in this case seeks reclassification of a 7.2 acre parcel of ground from R-A and B.L. zones to a Business Major (B.M.) zone. The contract purchaser of the subject parcel of land is Kelly Pontiac, Inc. who proposes, if the reclassification is granted, to construct on the property a modern new car sales agency. The Kelly Pontiac agency is a long established, highly reputable, automobile sales firm that is presently located in Baltimore City and desires to relocate its agency in Baltimore County.

The tract of land lies on the east side of Belair Road (assuming for purposes of this Opinion that the Belair Road runs in a north-south direction, although the direction is actually more northeast-southwest) approximately 583 feet south of Ebenezer Road, in the Eleventh District of Baltimore County. The subject property is part of a larger tract of land zoned R-A, being tract 11-BA-20 as shown on the Northeastern Map 4-C, adopted by the Baltimore County Council in August, 1966. A small front portion of the property is presently zoned B.L. The property is rectangular in shape having a frontage on the east side of Belair Road of approximately 300 feet, and a depth running easterly from the Belair Road of 1051 feet.

Immediately north of the subject property is a large tract of Business Local zoning shown on the map as 11-BL-29, which extends easterly from the Belair Road for a distance of approximately 2500 feet, or 1500 feet beyond the property in question. This tract of land is improved with a large shopping complex known as the Perry Hall Shopping Center. On the west side of the Belair Road, across from the subject property, the zoning is Business Local and the land is developed with a number of commercial uses. South of the subject property the zoning is R-A (being part of the larger RA-20 tract), and is presently not developed.

Elizabeth Lydick - #69-139-R

The petitioner-contract purchaser, Kelly Pontiac, Inc., by Mr. Charles Kelly, General Manager of Kelly Pontiac, Inc., testified that the Company has had extreme pressure from the Pontiac Division of General Motors to relocate the agency to Baltimore County, and that he has been advised that if they do not acquire adequate facilities for a modern new car sales agency, they are in danger of losing the Pontiac agency. He further testified that by contractual arrangement with General Motors he is obliged to relocate the agency in the general area of the subject site. He testified at length to the anticipated sales, number of employees, etc., however, it would serve no useful purpose in this Opinion to recite that testimony.

Walter Maguire, a realtor with very impressive qualifications, testified that he had been retained by Kelly over two years ago to find a piece of property within the general boundary of the area which lies east of the Harford Road, west of Philadelphia Road, north of the Baltimore City Line, and south of Chapel Lane, and preferably in the Belair Road area north of the Baltimore City Line. He further stated that Kelly had advised him that he was not interested in any property less than five acres in size, and preferred a tract of seven to eight acres in size. He stated that in a two year search he could only find two sites properly zoned to permit a new car sales agency (i.e., B.R. or B.M.). One of these sites is on the west side of Belair Road north of the Baltimore County Beltway, and is shown on the zoning map as 14-BM-2. At the time he investigated that site, approximately a year ago, it was not for sale. The only other site that he could locate in the general area described above was on the northeast quadrant of the Harford Road and the Baltimore County Beltway, but that this property was not available because it was under lease to Doug Griffith, a Chrysler-Plymouth auto agency. He further investigated other sites in the area, all of which would require reclassification to B.R. or B.M. to permit an auto agency. There is one other Business Major site in the general area which is shown on the zoning map, 11-BM-2, which is on the west side of the Belair Road between the Beltway and Joppa Road, but it is not available as it presently has no utilities and no access. This was confirmed later in the hearing by the testimony of

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George E. Gavelis, Director of Planning for Baltimore County. He further stated that the subject property meets all of the site requirements of both Kelly and the Pontiac Division of General Motors.

The petitioner produced expert witnesses in the form of a civil engineer, Mr. Eugene Raphael, who testified generally as to the topography and dimension of the subject property, and it was agreed by all parties that public utilities; sewer and water, etc., are available at the subject site to accommodate the proposed use. John Erdman, a qualified traffic engineer, testified at some length having studied other automobile agencies, that the proposed use would not create any traffic congestion. The protestors did not produce any witnesses to contradict this testimony.

Crisby S. Moore, a well qualified real estate expert who lives within five blocks of the subject property, testified that in his opinion the reclassification would have no detrimental effect on the residential property in the area, and that Kelly Pontiac being a "major user" will in fact improve the value of properties along Belair Road. In his opinion the existing zoning is in error in that the map as adopted made no provision for any zoning that would allow a new car auto agency in the Perry Hall area, and he did not think it was feasible to build apartments on the Belair Road frontage, and further, that as a result of his long experience in the area it would not be feasible to construct office buildings on the property (a permitted use in an R-A zone with a special exception), as there is no demand for office space in the area. In his opinion the reclassification would have no adverse effect on the Crane property as the rear property line is at a point just east of where the stores in the Perry Hall Shopping Center are located. The buildings in the Perry Hall Shopping Center, immediately to the north of the subject property, are apparently set back 700 feet from the east side of Belair Road, and extend another 1000 feet easterly beyond the rear property line of the subject site.

Bernard Willemain, a well qualified expert in the field of land and city planning, stated that in his opinion the present zoning of the property is erroneous, and that the entire tract should be zoned commercial, and that he felt the B.M. request is entirely

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reasonable. He gave as reasons in support of this:

- #1 - The property abuts an existing shopping center
- #2 - The size of the property for R-A development is too small to compete in today's market, and would only be used in conjunction with the larger Crane tract to the east
- #3 - That the map is in error in that it made no provision for locating any new car dealerships in the Perry Hall area.

He further stated that in his opinion the reclassification here, from a planning standpoint, would have no adverse effect on the Crane tract. He, as well as other witnesses for the petitioner, conceded that there have been no substantial changes in the character of the neighborhood since August of 1966, but that the reclassification is justified on the basis of original error.

The sole protestors were Messrs. Leon and Charles Crane who are builders and developers, and own a large tract of ground, approximately 100 acres, immediately to the rear of the subject property. The land is presently not developed, however, Mr. Charles Crane testified that the engineering on their property is approximately seventy-five percent complete. They objected to the requested change primarily on the basis that the proposed use is for an auto agency. Mr. Leon Crane testified that he does not object to commercial zoning on the property, but that he does object to the proposed auto agency use. He further felt that commercial zoning should not be for the entire depth of the property. There was a great deal of conflicting testimony given by the Cranes and various property owners, and real estate agents produced by the petitioner. Without going into detail it is obvious to the Board that at various times over the past two to three years the Cranes, or their agents, have attempted to purchase the subject property by various options, contingent on securing Business Major zoning for the property. There is a dispute as to exactly what the proposals were, however, Petitioner's Exhibit No. 5 is a copy of an option agreement between Raymond J. Woerner, an employee of the Cranes, and Elizabeth H. Lydick, to purchase the Lydick property

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subject to reclassification to either Business Local or Business Major zoning.

George E. Gavelis, Director of Planning for Baltimore County, testified that as far as his office was concerned the original zoning is proper and correct. However, in the third paragraph of his comments of December 27, 1968, he did recommend that if the petitioner could show error in the map that would justify the reclassification, the objectives of the Northeastern Area Map could be maintained by maintaining the apartment zoning on the rear one-third of the tract, as well as a fifty foot strip of apartment zoning along the southern boundary of the tract. He did state, in answer to a question by the Board, that the testimony given by Mr. Maguire as to the availability of zoned property in the area was essentially correct, and that the tract known as 11-BM-2 is not ready since it does not have any utilities or accessibility at this time. He also stated that the Business Roadsides zoning placed on the map in the general area for a normal depth of approximately 200 feet "manifestly does not match what are now demands for new car sales activities". He stated that in the last five years in his experience as Director of Planning, there has been a great change in demand for the site tracts required for automobile agencies. He testified that with the exception of 14-BM-2 and 11-BM-2, which is not presently ready for development, a new car sales agency seeking to locate in this area would be forced to seek a reclassification by the petition process, as this use is not permitted in the B.L. zone. He further stated that it was not Planning's intention to prohibit such uses, and indicated that had the request been made at the time of the map adoption, he would have given it careful consideration. At one point in his testimony, a Board member asked:

- Q: Did this particular tract meet your standard for a new car dealership?
- A: This tract would have proximity to a community center, and if it were properly buffered on the rear and on the south so it would have no adverse effects in terms of consequential change to adjacent properties, I think it would be a suitable alternative to the present zoning.

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At another point in his testimony the Board asked:

- Q: Mr. Gavelis, if at the time of the map adoption you had had a specific request from somebody wanting to locate an automobile agency in this general area and it met the other criteria for commercial zoning that you set down, you would certainly have considered it?
- A: I think we would have certainly considered it and tried to make an equitable determination as to providing for that kind of use on the map.

After carefully reviewing all the testimony and exhibits in this case, the Board is of the opinion that the present zoning on the subject property is in error as to the front 851 feet of the property, and that the reclassification of the subject tract from B.L. and R-A to a B.M. zone for a depth of approximately 851 feet would have no adverse effect on the surrounding property, nor would it tend to upset the comprehensive plan for the general area. The Board, however, will deny the request for reclassification from R-A to B.M. on the rear 200 foot portion of the subject site, and in line with the recommendations of Planning, instead grant the petitioner a Use Permit to use the land for parking as permitted under Section 409.4 of the Zoning Regulations.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 11th day of September, 1969 by the County Board of Appeals, ORDERED that the reclassification from B.L. and R-A to B.M. on the front 851 foot portion of the subject property petitioned for, be and the same is hereby GRANTED, in accordance with the description and plat attached hereto and made a part hereof, and it is

FURTHER ORDERED that the reclassification from R-A to B.M. on the rear 200 foot portion of the subject property petitioned for, be and the same is hereby DENIED, and it is

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FURTHER ORDERED that the petitioner is hereby GRANTED a Use Permit for parking to use the rear 200 foot subject parcel of land in accordance with the description attached hereto and made a part hereof, subject to compliance with subsections a. through h. of Section 409.4 of the Baltimore County Zoning Regulations.

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, Chairman

John A. Slowik

John A. Miller

JAMES D. NOLAN
LIFE OFFICER
COUNTY CLERK
JUNE 10, 1969

Baltimore County
Board of Appeals
County Office Building
Towson, Maryland 21204

Attention: Edith T. Eisenhart,
Administrative Secretary

Dear Mrs. Eisenhart:

Re: Reclassification from an
RA and BL zone to a BM
zone - SE/S Belair Road
Road, 1200 feet SW of Camp
Chapel Road

At the Board's request, I am enclosing herewith three copies of amended plat, petitioner's exhibit #1, reflecting the correct building area.

You will note that I am sending a copy of this letter with a copy of this plat to W. Lee Harrison, Esquire.

Sincerely,

James D. Nolan

JDN:ijo
cc: W. Lee Harrison, Esquire
Enclosures

Official
CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
TOWSON, MARYLAND

#69-139-R

District 114 Date of Posting July 26, 1969

Posted for: _____

Petitioner: Elizabeth Lydick, et al. (Elly Lydick & Associates)

Location of property: 5615 Belair Rd. S.W. 1113 & 1114

Location of Sign: 2. Belair Hwy. Belair Rd. Lydick Shopping Center
W. 1114

Remarks: _____

Posted by: Mark H. Hise Date of return: March 23-69
Signature

TELEPHONE 823-3000 EXT. 387

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 60765
DATE Jan. 6, 1969

BILLED BY: _____
Zoning Dept. of Balto. Co.

TO: James S. Nolan, Esq.
204 W. Pennsylvania Ave.
Towson, Md. 21204

DEPOSIT TO ACCOUNT NO. <u>01-622</u>		RETURN THIS PORTION WITH YOUR REMITTANCE	TOTAL AMOUNT
QUANTITY	DESCRIPTION	FOR YOUR RECORDS	COST
1	Advertising and posting of property for Elizabeth Lydick, et al #69-139-R		\$74.75
7475 MC			

4

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204



