

# PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, JOSEPH MULLAN COMPANY, owner of the property situated in Baltimore County and which is described in the description and plot 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-6 zone to an CONValescent HOME zone; for the following reasons:

Error in original zoning, error in comprehensive zoning map and change in the character of the neighborhood.

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 CONValescent HOME.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above re-classification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

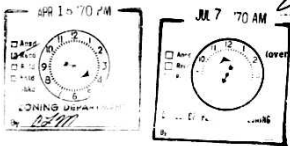
Contract purchaser: THE JOSEPH MULLAN COMPANY  
BY: JOSEPH MULLAN, Pres Legal Owner  
Address: 217 Northway

Baltimore, Md. 21218  
Richard A. Reid  
Petitioner's Attorney

Address: 102 N. Pennsylvania Ave.  
Towson, Md. 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 7th day of July, 1973, 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 19th day of August, 1973, at 1:00 o'clock P. M.

Edward D. Hardisty  
Zoning Commissioner of Baltimore County.



ROYSTON, MUELLER, THOMAS & MCLEAN  
ATTORNEYS AT LAW

CARROLL W. ROYSTON  
HEATHWELL J. MUELLER  
WILLIAM THOMAS  
R. TAYLOR MCLEAN  
RICHARD A. REID  
F. HARRISON STONE  
MILTON A. SMITH, JR.  
C. A. KINGSLEY HOFFER, JR.  
MARGARET F. MANNING

100 WEST PEPPER STREET, BALTIMORE, MARYLAND 21201  
TOWSON, MARYLAND 21204

AREA CODE 301  
823-1800

September 21, 1973

John A. Slowik, Chairman  
County Board of Appeals  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Re: #71-51-RX The Joseph Mullan Co.,  
East and West Side of Goldenwood Road  
90' N. of Martinique Road  
14th District

Dear Mr. Slowik:

In reply to your Notice of September 5, 1973, I wish to advise that my client, The Joseph Mullan Company, agrees to the voluntary dismissal of the above entitled matter.

Very truly yours,

Richard A. Reid  
Richard A. Reid

RAR/key

RE: PETITION FOR RECLASSIFICATION : BEFORE  
from R-6 to R-A and : COUNTY BOARD OF APPEALS  
SPECIAL EXCEPTION for a : OF  
Convalescent Home :  
E. & W. S. Goldenwood Rd. :  
90' N. of Martinique Road :  
14th District : BALTIMORE COUNTY  
The Joseph Mullan Company, :  
Petitioner : No. 71-51-RX

## ORDER OF DISMISSAL

Petition of The Joseph Mullan Company for reclassification from R-6 to R-A and a special exception for a Convalescent Home on property located on the east and west side of Goldenwood Road 90 feet north of Martinique Road, in the Fourteenth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Letter to Dismiss Appeal filed September 24, 1973 (a copy of which is attached hereto and made a part hereof) from the attorney representing the petitioner-appellant in the above entitled matter.

WHEREAS, said attorney requests that the appeal filed on behalf of the petitioner be dismissed and withdrawn as of September 24, 1973.

IT IS HEREBY ORDERED this 24th day of September, 1973, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS  
BALTIMORE COUNTY

John A. Slowik, Chairman

W. Giles Parker

Walter A. Reiter, Jr.

RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION : BEFORE THE  
E/S and W/S of Goldenwood Road, : ZONING COMMISSIONER  
90' N. of Martinique Road - 14th :  
District : OF  
The Joseph Mullan Company - :  
Petitioner : BALTIMORE COUNTY  
NO. 71-51-RX (Item No. 258) :

The Petitioner's property, for the purpose of the zoning hearing, has been divided into two (2) parcels: 95.994 acres now zoned R. 6 for which R. A. zoning is requested and 3.320 acres now zoned R. 6 for which a Special Exception for a convalescent home is requested.

Plans call for the construction of fifteen hundred and forty-three (1,543) apartment units with off-street parking facilities for two thousand and sixty-six (2,066) vehicles. A two (2) story eighty (80) bed convalescent home of brick construction would also be built.

In the opinion of the Zoning Commissioner, the Petitioner fell short of making a case of error in arguing that he is being deprived of the reasonable use of his property. There is no question that the subject property can be developed in its R. 6 classification but development costs would be higher than usual. The Zoning Commissioner must take notice of the fact that since the subject tract was once mined for clay, the Petitioner more or less created his own dilemma concerning any topographical problems which he now faces.

With respect to the question of change, the Zoning Commissioner feels that the Petitioner has likewise failed in proving this point. The most significant change involves a tract of land in the northwest quadrant of the intersection of the John F. Kennedy Memorial Highway and the Baltimore County Beltway which was reclassified several years ago to R. G. and R. A. However, it would appear that the Kennedy Highway would be a natural buffer, and the aforementioned Petition should not materially affect the subject property.

error because the topography of the land is unsuitable for residential development. Also, the close proximity of such properties in relation to I-95 and the Baltimore Beltway Interchange make cottage residential zoning inappropriate. It is believed that residential apartment zoning and a convalescent home would not only be desirable in the general area for the reasons mentioned above, but would also be compatible with the other existing uses.

PETITION FOR RECLASSIFICATION : BEFORE THE  
FROM R-6 TO RA AND FOR SPECIAL : ZONING COMMISSION  
EXCEPTION FOR CONVALESCENT HOME : FOR  
WITHIN EXISTING R-6 BY THE :  
JOSEPH MULLAN COMPANY (14th :  
Election District) : BALTIMORE COUNTY

## MEMORANDUM

The following changes have occurred in the area sought to be reclassified since adoption of the original zoning map:

1. 68-159 x SPH - East side Kenwood Avenue - 95 feet South of Hazelwood Avenue. Petition for special hearing for off-street parking and special exception for elevator office building by Alpine Gardens Development granted on January 25, 1968.
2. Tremendous population growth in general area has created need for more apartments; i.e. - Franklin Square Hospital complex and increased shopping areas. Note: A large shopping center was constructed and completed within the past year in the general area.
3. An extensive building program at Essex Community College near the subject tract was undertaken in 1968 and subsequently completed.
4. Construction is presently underway for a new YMCA at Radecke Boulevard North of the Beltway near the subject tract.
5. Prior to the adoption of the original zoning map, the tract was used for the extraction of clay for the manufacture of brick. Being then so used, no consideration was given to the appropriate zoning for the tract. Since map adoption, such extraction use has ceased and the land is now available for appropriate development.

The original R-6 zoning of the subject properties was in

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 201  
110 W. PENNA. AVE.  
TOWSON, MD. 21204  
823-1800

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 201  
110 W. PENNA. AVE.  
TOWSON, MD. 21204  
823-1800

Without further reviewing the evidence, the Zoning Commissioner feels that in the absence of proof of error or change, this Petition must be denied. Accordingly, the request for a Special Exception for a convalescent home must also be denied.

For the foregoing reasons, IT IS ORDERED by the Zoning Commissioner of Baltimore County this 15th day of January, 1971, 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 R. 6 Zone, and the Special Exception for a convalescent home be and the same is hereby DENIED.

Edward D. Hardisty  
Zoning Commissioner of  
Baltimore County

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardisty, Zoning Commissioner Date: August 14, 1970  
FROM: Mr. George E. Gavreitis, Director of Planning

SUBJECT: Petition #71-51-RX, East and West sides of Goldenwood Road 90 feet north of Martinique Road.  
Petition for Reclassification from R-6 to R.A.  
Petition for Special Exception for a Convalescent Home  
The Joseph Mullan Company - Petitioners

14th District

HEARING: Wednesday, August 19, 1970 (1:00 p.m.)

The Staff of the Office of Planning and Zoning understands that the subject petition for reclassification from R-6 to R.A. zoning, together with special exception for a convalescent home has been postponed. We welcome the postponement in the sense that we need additional time to resolve in our own minds the implication of traffic and land use relationships which would be brought about by the subject petition.

GEG:mh



RE: PETITION FOR RECLASSIFICATION AND SPECIAL EXCEPTION 2/S and W/S of Goldenwood Road 90' N of Martinique Road - 14th District The Joseph Mullan Company - Petitioner No. 71-51-RX (Item No. 258)

# NOTICE OF APPEAL

ZONING COMMISSIONER  
County Office Building  
Towson, Maryland 21204

MR. COMMISSIONER:

Please note an appeal from your Decision and Order dated January 15, 1971, in the above entitled matter to the County Board of Appeals of Baltimore County on behalf of The Joseph Mullan Company, Petitioner.

Richard A. Reid  
102 W. Pennsylvania Avenue  
Towson, Maryland 21204  
823-1800

Attorney for Petitioner

## BEFORE THE ZONING COMMISSIONER

### OF BALTIMORE COUNTY

Petition #71-51-RX. Reclassification from R. 6 to RA and for Special Exception for Convenience Home Within Existing R. 6 by The Joseph Mullan Company (14th Election District)

#### PROTESTANTS' REPLY BRIEF

#### Summary of Testimony - Protestants' Case and Rebuttal to Petitioner's Case

Testimony of MR. DAVID W. DALLAS, JR.  
Registered Civil Engineer - Witness for Petitioner

The Petitioner's Brief appears to place an enlarged emphasis on the testimony of Mr. Dallas. The expert engineer not only attempted to explain in detail the Petitioner's Plat in that all utilities are available to the subject property, but he also stated that development time would be expected to be approximately "seven years from the start of construction". This, in itself, is purely speculative, inasmuch as the developer, if granted rezoning in the instant matter, could develop the subject tract immediately, or not at all, which amounts to being irrelevant and immaterial as to when he intends to develop, if at all, inasmuch as the property is presently for sale "subject to rezoning". There is no question that Mr. Dallas testified under direct examination about the alleged difficulty on the part of the owner of the subject tract to develop the tract in individual lots, but only from the stand-point that "it could not be economically developed as such because of the extensive grading costs involved ---". At no time did Mr. Dallas develop any other valid reasons, such as a change in the character of the neighborhood, or errors in the original zoning use maps as to the present zoning to give any basis to reclassification of the subject property. He further testified on direct examination, "that the only difference in developing this tract with individual homes under its R. 6 classification, and the Petition for reclassification to RA would be the difficulty in the grading situation, which would be more expensive to a developer

developing residential rather than apartment zoning".

Under cross examination, Mr. Dallas conceded that it would be entirely possible to develop the property in its R. 6 zoning, but it would not be practical only from a "money and expense stand-point". He also admitted that the developer could build a more expensive type home from which he could arrive a reasonable return on his investment in its present zoning. It is the Protestants' contention that the owner's theory regarding the proposed development of the subject tract as to its present zoning with individual residential homes should be given little consideration, in view of the reasons so stated by the owner, and necessarily must fall of their own weight. Mr. Mullan testified that he could not build homes in keeping with the neighborhood, claiming that to do so would cost an indeterminate amount of money, which would not be as profitable to him, than he were granted the right to build apartments. He stated he could not even get a permit to build homes, but gave no reason as to why. He claimed that the topography of the land, because of its rolling nature, would be too expensive to grade for the purpose of building individual homes under R. 6 classification, but his most fallacious statement is that it would not be economically feasible, nor from a builder's point of view, to develop the tract into individual homes, because of the proximity of the John F. Kennedy Memorial Highway and the Baltimore County Beltway. How far from the facts and the truth can we possibly get, when it is obvious to the observer, and should be clear to the trier of these facts, that the adjacent subdivision developments of Wayburn Park, a very expensive development of individual homes borders and is contiguous to the John F. Kennedy Memorial Highway, and the Tunnel Approach Highway; the development of Hillbrook-Camelot also is contiguous and adjacent to the John F. Kennedy Memorial Highway. The developments of Hazelwood Park East, Goldenwood Gardens and

Greenview border on and are contiguous to the John F. Kennedy Memorial Highway and the Baltimore Beltway, and the homes in the aforesaid developments range from the \$25,000.00 low to above \$50,000.00. It is also significant to note, if the trier of these facts is not acquainted with the actual topography of the aforesaid developments, that the land is not only rolling in character, but runs from a low point in some areas to 30' to 40' above sea level, to the Park East Development of over 200' above sea level, which certainly aptly describes the topography of the subject property, yet the developer of these subdivisions were able to develop residential single family dwellings in an R. 6 zone, and evidently were successful in their financial ventures.

Review of Testimony: MR. JOSEPH MULLAN - Petitioner  
President, The Joseph Mullan Company

Petitioners lay claim to the fact that Mr. Mullan distorted the alleged severe topography of the property by the introduction of an alleged correct model of the tract. Mr. Mullan testified that the subject property was formerly used as clay pits, but because of the construction of the Baltimore Beltway, the area could not profitably be mined for clay, since 1961. He continually referred to the "severe topography", and stated that he could not "develop the land under its present zoning, but could develop it into a one-bedroom garden type apartment". Upon cross-examination, Mr. Mullan readily admitted that he had been paid fair market value by the State Agency which acquired his land for the Baltimore Beltway, and that mining of clay had still been carried on continuously up to the last couple of years, and that the excavations and large holes caused by these mining operations for clay were of his Company's own operation from which the Company derived an extensive profit. It is also significant to bear in mind from his cross-examination that he claimed he could not build houses in keeping with the neighborhood, because he would have to spend too much

money in the area for development costs, which would not bring him the greatest amount of profit, if he could develop the land in the reclassified RA zoning. At no time during the testimony of Mr. Mullan has he ever shown any change in the character of the neighborhood, nor an error in the present zoning land use map, but only that he could not develop the property in such a way that he could derive the most profit for the use of the property.

Review of Testimony: MR. ALBERT V. QUINBY  
Chairman of the Joint Site Selection Committee  
on Public Facilities for Baltimore County -  
Witness for Petitioner

The significant part of the testimony of Mr. Quinby is that regardless of the crowded conditions of the present school facilities in the Greater Rosedale Area, and even though a new elementary school is in the process of being built, namely McCormick Avenue site, that the proposed Shady Spring Elementary School, shown on the Petitioner's Plat for alleged acquisition by the Board of Education, is not yet a reality, and that "he would anticipate that if the funds were available and the acquisition made, that the Shady Spring Elementary School in the subject site could be operative sometime in 1975". It is the contention of the Protestants that the over crowding of the school facilities now can only be considered in a bad and worsening condition, and to over burden the area with a reclassification for 1500 additional apartments would create such an over burden on the present school facilities, while waiting for five more years or more for the speculative construction of the Shady Spring Elementary School would create such an over crowded condition that a complete breakdown of the school facilities for elementary grades, and for Junior and Senior High School pupils could reasonably be foreseen in the Greater Rosedale Area.

Review of Testimony: MR. GILBERT S. BENSON  
Assistant Chief, Bureau of Public Services,  
Department of Public Works for Baltimore County  
Witness for Petitioner

There is no question that a 66" water transmission line is planned in the area, although it has never been established that the testimony of Mr. Benson is in any way conclusive that Baltimore County plans with respect to the acquisition of the water transmission line to acquire concurrently with the right of way for the construction of said line, the rights of way for construction of a road system over such rights of way, and even if Baltimore County plans are tentative to this phase of proposed road widening and road construction, it is significant to note from his testimony, "that the right of way for the water transmission line will be widened to 70' to accommodate a 50' road with curb and gutter, and that this would be accomplished prior to the opening of the Shady Spring Elementary School". The most significant part of this statement by Mr. Benson is that the roadway would allegedly be installed prior to the opening of the Shady Spring Elementary School, which according to Mr. Quinby's testimony might be as far removed in the future as 1975. If we take all the testimony in the light of the best interests to the Petitioner, it could conceivably be possible that no further manner of ingress and egress to the subject tract would be available except the present small street entrance off of Summit Avenue, and in the back entrance off Deleage Road, the last being through the present residential subdivision of Greenview Manor.

Review of Testimony: MR. C. RICHARD MOORE  
Assistant Traffic Engineer, Department of  
Traffic Engineering for Baltimore County  
Witness for Petitioner

Mr. Moore had testified that he had prepared the comments regarding the means of access to the property for the Zoning Advisory Committee, and he had based his comments upon the assumption that the only means of access would be through Deleage Road. However, he now equivocates to the extent that he further assumes, based on Petitioner's self-serving statements as to alleged additional road system into the subject tract to tie

into the existing County Roads, "might be sufficient to handle the projected traffic". However, from his own comments, he adds that even the intersection of Deleage Road and Golden Ring Road cannot handle the projected volume of traffic. It would be well also to bear in mind that the projected trip density, if the classification is changed, would be increased from 5,000 to 12,000 trips per day, or two and one-half times the traffic volume presently using the road system in this area to the detriment and safety of the residents presently occupying the subdivision homes in the immediately surrounding developments, and because of the lack of proper sidewalks in this area on the roadways leading to the schools, churches and shopping areas. The testimony leaves no question that the increase in traffic to be generated by the proposed reclassification of the subject tract would be highly detrimental to the health, welfare and safety of the protestants and residents of the Greater Rosedale Area if the subject tract is reclassified as petitioned.

#### PROTESTANTS' CASE AND WITNESSES TESTIMONY

Review of Testimony: MR. JOHN W. FREDERICK  
President, Greenview Manor Community Association  
Witness for Protestants

The Attorney for the property owner appears to make light of the testimony of Mr. Frederick, and certainly has misconstrued Mr. Frederick's statement, or either has not quoted him in full context as stated in his Brief. The testimony of Mr. Frederick was that as the President of the Greenview Manor Community Association, he was concerned that any reclassification of the subject tract would have a serious detrimental and depreciative effect on property values in the Greater Rosedale Area. He believes the construction of any type of apartment complexes, even such as the Petitioner has indicated may be built, will generate a loss of value to not only the expensive homes in the Greenview Manor subdivision, but all other subdivision residential property in the Greater Rosedale Area.

The main objection Mr. Frederick has in speaking for the Greenview Manor Community Association is that there is a need for further apartment complexes in the Greater Rosedale area, because of the present areas already built, and those in present construction stage, and even though testimony of the developer of the subject tract seems to indicate that a high type of apartment complex may be built, one must compare the present apartment complexes already in existence, or are being built in the Greater Rosedale area, which are considerably less than an asset to the Greater Rosedale Community. He not only objects to the construction of apartments on the subject property, but Mr. Frederick objects, on behalf of Greenview Manor Community Association, to any additional apartment zoning in the Rosedale area, because of the effect it will have on the residential character of the Greater Rosedale Area, the health, safety and welfare of the residents in the area, and the lack of school facilities, both at present, and projected in the future for the Greater Rosedale area. It is suggested that Mr. Frederick's testimony be quoted in full context, rather than as quoted in the Petitioner's Memorandum Brief.

Review of Testimony: MR. NORMAN L. RAY  
Department of Planning - Witness for Protestants

The comments of the Department of Planning, as set forth in Baltimore County's Zoning Advisory Committee Report, dated June 11, 1970, plus the comments of the Director of Planning to the Zoning Commissioner, dated September 18, 1970, were read as part of the testimony of Mr. Ray. The comments in the memorandum from the Director of Planning to the Zoning Commissioner, dated September 18, 1970, noted that the Department of Planning for Baltimore County is opposed to the reclassification for the reasons stated in said memorandum of the aforesaid date. While Mr. Ray, according to Petitioner's Brief, appeared unable to explain the conclusion that the Department of Planning would adversely affect the school capacities in the Greater Rosedale

area, it should be noted that he unequivocally disagreed with the conclusion of the Board of Education in allowing two bedroom apartments on the subject property would generate fewer school students, but it is unfair to state that Mr. Ray was unable to give any reason for this disagreement, because it is fairly obvious that the only thing the School Board did was to possibly project something that cannot be taken as a material fact because, "who can decide what shall be the number of elementary pupils in the future, except those persons who shall have the children". Petitioner's Attorney also minimizes the fact that the Department of Planning is diametrically opposite in its comments with regard to the testimony of Mr. C. Richard Moore and Mr. Benson, in that they state emphatically that one of the road systems in the immediate area is scheduled for improvement in the present capital improvement program. Certainly, the Department of Planning in their inter-office correspondence to the Commissioner, under date of September 18, 1970, was the result of considerable review by experts with regard to the request for rezoning, and should be given great weight in this matter.

Review of Testimony: MR. AUGUSTINE J. MULLER  
Zoning Expert - A former Zoning Commissioner  
for Baltimore County and County Councilman  
Witness for Protestants

Mr. Muller was recognized as a highly respected Zoning Expert, and testified that on the basis of the request for rezoning, he felt there had been no error in the original zoning, and having made a detailed study of the character of the neighborhood, he concluded there were no changes in the character of the neighborhood in the vicinity of the subject property, and it was his considered opinion that any reclassification from its present R. 6 to RA would be highly inappropriate, particularly in that the surrounding areas are of a subdivision use, and the area, which is requested for reclassification, is, in his opinion, residential in character, and can be used for such subdivision

are at least three to four present apartment complexes in the area and several more in the process of being built, which certainly should take care of the need for apartment building in the Greater Rosedale area for sometime to come.

Petitioner makes confiscation a part of error when there is no proof of the fact that to allow the R. 6 classification to remain in no way amounts to confiscation. In the case cited, this was not a matter of reclassification in the residential zoning classification, but for industrial classification.

#### EVIDENCE OF ALLEGED CHANGE

Petitioners cite in their Brief, the granting of a special exception for an elevator office building at Kenwood Avenue, South of Hazelwood Avenue, but it should be brought to the attention of the Zoning Commissioner that such special exception was granted on January 25, 1958, which has long since matured into the present use, and no such building is even contemplated being built as cited by the Petitioners.

Petitioners cite the Adams Corporation zoning case as a change, when in reality, this tract is separated by the John F. Kennedy Memorial Highway and the Baltimore County Beltway, both highways acting as a buffer between the tract cited by the Petitioners and the subject tract. The granting of this rezoning to RA taking into consideration the location of Fontana Village, Franklin Square Apartments, Hazelwood Park East Apartments, Rosedale Gardens and several other apartment complexes in the Greater Rosedale area, point out the fallacy of the Petitioner's claim regarding the alleged need for additional apartments on the subject tract.

There is no question that the Greater Rosedale area has had a substantial growth in population, but the statement made by the Petitioner that the land currently zoned for apartments is insufficient to meet the need for additional apartment and zoning construction is a self-serving declaration of the Petitioner, without any basis of fact, when it should be noted that

use within the R. 6 classification.

#### Arguments

The Protestants find that at the time the area zoning map was adopted in 1966, the zoning of R. 6 was completely in accord for the development of the subject tract, particularly with reference to the fact that there were at least five or six subdivisions either in existence, or in the process of being built, such as Hazelwood Park East, Highpoint-Greenview, Weyburn Park, Kenwood Park, Greenview Manor and Hillbrook-Camelot. The Protestants take a diametrical stand to the statement by the Petitioner, in his Brief, that the error occurred in zoning the property R. 6, that it could not be economically developed as R. 6 due to the topography. Attention is directed to both the Hazelwood Park East Development and Highpoint-Greenview, Weyburn Park, and Greenview Manor subdivisions, that the topography begins possibly at 20' to 30' above sea level to 180' - 200' difference in the topography. Certainly the developers of these areas found no difficulty in economically developing these areas, because at this time, there are homes in the aforesaid developments ranging from \$10,000.00 to \$50,000.00.

Insofar as the location of the subject tract is concerned, the Petitioners make a self-serving statement that because the subject tract lies off of the John F. Kennedy Memorial Highway and the Baltimore County Beltway such expressways allegedly "carrying large amounts of traffic generating noise and fumes" should make it more appropriate for the development of apartments rather than individual homes. Nothing could be further from good development truth. All one has to do is to look in the immediate area in the developments mentioned above, and note each development borders either the John F. Kennedy Memorial Highway or the Baltimore County Beltway, and certainly the buyers of these properties considered the location of their homes with relationship to the aforesaid expressways, and so did the

the area is replete with apartment complexes already in existence, and other areas were zoned for apartments in the Essex, Franklin Square Hospital and Community College complex separated by the Baltimore County Beltway from the subject tract, and only bears out the Protestants' argument that there is no need for any additional apartment zoning, but residential zoning should be retained on the subject tract in keeping with the character of the neighborhood.

Attention is directed to the Petitioner's claim that the construction of Essex Community College and Franklin Square Hospital in the years 1967 through 1969, constitutes change in the character of the neighborhood in the area of the subject tract. Nothing could be further from the truth. Both Essex Community College and Franklin Square Hospital are at least five to seven miles from the subject tract, separated by the high speed highways of the John F. Kennedy Memorial Highway and the Baltimore County Beltway in an entirely different type of community other than the Greater Rosedale area, in fact, the two institutions cited are in the Rossville area rather than the Rosedale area.

There need not be any further discussion except those stated heretofore by the Board of Education for the Shady Spring Elementary School, which by all testimony may or may not be in operation by the year 1975.

There is conflicting testimony between the various officials of Baltimore County as to the construction of additional county roadways to the subject tract, particularly when, at the present time, there is nothing in the Capital Improvement Program of Baltimore County which should allow the construction of these proposed roadway systems.

#### CONCLUSIONS

It is the contention of the Protestants and their experts that the Petitioner's request for rezoning of the subject property from R. 6 to RA with the special exception for a six story

building and developments of such high priced homes, which are in high demand in this area. The writer's own home, as a matter of fact, is in the same general area of the Petitioner's property, and his property abuts the John F. Kennedy Memorial Highway for over 300', and the writer feels no problems insofar as traffic noise and/or fumes from the traffic. If we take the quotation set forth in the Petitioner's Brief in full context, then every piece of available land at a major highway interchange should, at no time, ever be considered for the building of residential properties. This is, in the writer's opinion, a fallacy. The Protestants state emphatically that this may apply particularly to the case quoted in the Petitioner's Brief, but does not apply to each and every case where zoning is requested such as the subject tract.

The Protestants find that the statement by the Petitioners that the location of a high voltage electrical transmission line reduces the utility and suitability of the subject tract for development for single family residences. There are two thoughts regarding this utterly fallacious statement, one is that the transmission line skirts only the edge of the property, and secondly, the transmission lines transverse a great portion of the Eastern and Northeastern Sections of Baltimore County in which highly desirable residential homes are presently in existence and have been built, even though the transmission lines were already in place.

No error should be described because of what the Petitioners claim is a lack of foresight on the part of the Office of Planning, for the simple reason that it is assumed expert planners anticipate projected needs in regard to population growth for residential and other zoned properties.

Petitioners cite the case of Bonnie View Club v. Glass, 247 Md. 46, where it is stated the Court upheld the rezoning of the Glass Property because of the error in the Zoning Map, and cites the reason for the reclassification: (1) the topography

Convenience Home should not be granted for the following reasons:

a. Petitioner has not proven any error in the original zoning map, but only states his version of what errors he believes were made, rather than factual situations which do not amount to errors in the original zoning and use maps.

b. No change in the character of the neighborhood has yet been developed by the Petitioner, as each one of the cases cited in Petitioner's Brief are either outside of the area of the subject tract and not in the Greater Rosedale area, and the one particular special exception for an elevator office building is not a change in zoning, because the zoning of the subject property was already in effect in the granting of a special exception for office building use, and should not be considered a change in classification by the cases cited by the Court or Appeals in this type of zoning.

c. Petitioner would have the Zoning Commissioner believe that he will develop the property allegedly over a seven year period, so that all of the roads allegedly to be constructed as shown on the Petitioner's Plat "will be in existence". This is highly speculative, and has no merit for basis of fact, and Petitioner, if the reclassification is granted immediately, could begin construction of the entire tract regardless of the present road system.

d. Protestants are not "afraid" of the rezoning of the property for an apartment complex, but rather are concerned as civic minded citizens should be, when threatened by the crass encroachment of irresponsible commercial zoning solely for the basis of increasing profits to the owner of such lands by increasing utilization in higher zoning of such tracts as the subject tract. The Protestants are owners of highly developed and expensive residential homes in highly desirable and expensive property laid out subdivisions, which have increased the taxable base in this highly residential section of Baltimore County, and their only fear, to quote the Petitioner, "if it be fear", is that

of the land due to previous mining operations made it economically unfeasible to develop as R. 10 and R. 20, although it could be developed as RA; (2) the location of the property adjacent to the Jones Falls Expressway made it more suitable for apartments than single family residences; (3) the high tension electric line through the property adversely affected its utility for single family residences; and (4) the planners failed to adequately anticipate the need for apartments in the area and plan therefore by providing sufficient RA land in the area.

It should be noted that the reasons expressed in the Bonnie View Club v. Glass supra are not exactly in all four stated by the Petitioner. In the Bonnie View Club case, mining operations were confined particularly to quarrying granite and rock, which made large quarry water holes. This is not true of the subject property, as the only mining on the subject property was for clay, which makes the subject property entirely feasible to development of R. 6, its present classification, although it may, as expressed by all experts, cost the developer additional monies for the grading of the subject tract. The location of the subject property is no more advantageous for the construction of apartments than for single family residences, because of its location to the John F. Kennedy Memorial Highway and the Baltimore County Beltway, any more than the subdivision developments located in the area of the subject tract, which are highly desirable and expensive single family dwellings; in the Glass case, the high tension electric line bisects the Glass property, and in the instant case, the high tension wires skirt the subject property, and it should be noted that individual homes already in the area in the vicinity of the high tension lines on location in the instant case; while it may be true, but not conceded, that there may have been a possible need for apartments in the area of the Bonnie View Club case, certainly this is not the case in the instant matter, in view of the fact that there

to allow the development of the subject tract for its use as an apartment complex of the magnitude and size requested by the Petitioner, would cause such a decided effect on the value of the properties, which certainly would reduce in the very near future, the taxable and assessable base of Baltimore County, and reduce and deplete the investment of private land holders and land owners of individual private properties and homes, so that the only gain would be to the developer and Petitioner, which is not a basis for reclassification. Protestants are more than concerned about the effect apartment reclassification would be granted on the subject tract with regard to the inadequate school system in the Greater Rosedale area. There is no question that the present school systems and facilities are not adequate to accommodate the present residents in the Greater Rosedale area, and although new schools are in the process of being built or developed and sites considered, the schools will still be overcrowded. How much more should the schools then be overcrowded with the additional population which will be generated, if the subject tract is reclassified?

e. Protestants lay great stress upon the testimony of Mr. Mullan about the type of buildings he has built and "will have to take Mr. Mullan's word on this point". This is highly provocative, as once the zoning would possibly be granted to the Petitioner he could do as he pleased in the construction as to the type of buildings as long as it set the Baltimore County Code.

f. Protestants are not concerned with the type of construction, but only that the construction of any apartments and/or reclassification of additional land for apartment zoning would have a detrimental effect on their present land values and would harm the health, safety, welfare, and values of the present residents of the Greater Rosedale area. Petitioners minimize, even in the face of actuality, the lack of school



facilities in the area. It need not be developed further than any increase in the density of population by the laws of nature itself, will cause a population explosion, the lack of which cannot even be controlled by the Board of Education of Baltimore County. Population explosion can only be controlled by those who are concerned with populating the human race, and not by cold calculated algebraic mathematics conceived by a governmental agency. School facilities in the area are already over-taxed and inadequate, and any increase in the density of population would more than over-tax the present facilities and Protestants fears are not groundless, but actual.

G. There is no question that it is a matter of fact children are using portable classrooms at the Red House Run Elementary School at the present time, which are on view for anyone to see, and the Red House Run Elementary School has only been in existence for four years. Secondly, attention is directed to the fact that children, because of the lack of school space in the area, are being transported to the schools in the Essex area, and are on half-day schedule. If these not be reason enough, consider the fact that a new school is being built, which is already inadequate to handle the children of this area, and the fact that the Board of Education has seen fit that by 1975 to acquire the Shady Spring Elementary School site in an effort to accommodate the population in the Greater Rosedale area for educational purposes.

It is obvious that the Protestants have made a strong case against the reclassification in that for the reasons cited herein, there has been no error in the original land use map approved in August of 1966, as to the zoning in the present area, and particularly the subject tract, and secondly, Petitioner has shown no change in the character of the neighborhood. However, the Protestants are concerned about the health, safety and welfare of themselves, their children and their grandchildren.

MR. ALBERT V. QUIMBY  
Chairman of the Joint Site Selection Committee  
on Public Facilities for Baltimore County

Mr. Quimby testified that he had recommended the school site shown on Petitioner's plat for acquisition by the Board of Education for the construction of an elementary school to be known as Shady Spring Elementary School; that funds were available for such acquisition and, if his recommendations were followed, he would anticipate that the school would be operating in 1975. He concluded his testimony by stating that plans for the school were not related to the development of subject property; and that the school would be built whether or not subject property were developed.

MR. GILBERT S. BENSON  
Assistant Chief, Bureau of Public Services,  
Department of Public Works for Baltimore County

Mr. Benson testified that a 66" water transmission line is planned in this area; that some rights-of-way therefor have already been acquired; that the route of such line has been fixed and is as indicated in purple on the plat introduced by Petitioner; that funds are currently available for the acquisition of a 50' right-of-way therefor, as shown, leading from subject property to Kenwood Avenue; and that acquisition of such right-of-way is imminent. He further testified that rights-of-way have been acquired for the widening of Haslewood Avenue at the time the water transmission line is installed. Mr. Benson went on to say that the right-of-way for the water transmission line will be widened to 70' to accommodate a 50' road with curb and gutter, and that this would be accomplished prior to the opening of the Shady Spring Elementary School. He concluded his testimony by saying that the County's plans with respect to the acquisition of the right-of-way, construction of the water transmission line, and construction of a road over such right-of-way were firm and would proceed irrespective of the development of subject property.

because of the lack of school system facilities, proper traffic controlled roadways with attendant sidewalks for safety, the welfare of the residents with regard to an overpopulated but less taxable transient type resident, which tends to depreciate the value of their properties, and the fact that there is no need, either at the present time or in the future, for any additional apartment reclassification in the area, with the construction of apartment complexes in the vicinity of the Franklin Square-Exeter Community College complexes, and the location of apartment complexes in the present area, such as Rosedale Gardens and Hazelwood Park East Apartment complexes.

For these and many reasons as stated in the testimony before the Commission, the Protestants respectfully submit that Petitioners have not proved the need for reclassification of the subject tract as requested, and the Petition should be dismissed, disapproved and denied.

John A. Juchman  
Attorney for Protestants

I HEREBY CERTIFY that a copy of the foregoing Protestants' Reply Brief was mailed this 12th day of November, 1970, to Richard A. Held, Esquire, Attorney for Petitioner, Suite 600, 107 W. Pennsylvania Avenue, Towson, Maryland 21204.

John A. Juchman  
Leroy Paulding  
2611 E. Fayette Street  
Baltimore, Maryland 21204  
(410) 321-1431  
Attorney for Protestants

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

- 2 -

# BEFORE THE ZONING COMMISSION OF BALTIMORE COUNTY

Petition #71-51-RX. Reclassification From R. 6 to RA and for Special Exception for Convalescent Home Within Existing R. 6 by The Joseph Mullan Company (14th Election District)

## PETITIONER'S BRIEF

### Summary of Testimony - Petitioner's Case

MR. DAVID W. DALLAS, JR.  
Registered Civil Engineer

Mr. Dallas explained in detail Petitioner's plat; that all utilities are available to subject property in sufficient quantities to service the proposed apartment development; and that the development time will be seven years from the start of construction, with an estimated 200 units to be constructed each year. Mr. Dallas further testified that he did the engineering and layout work for Mr. Scarfield with respect to the development of Goldenwood Gardens and that, according to Baltimore County planning, the temporary road leading to such development from Kenwood Avenue will be closed when subject property is developed with access to Kenwood Avenue; and that plans for the development of the Scarfield property on file with the Department of Planning show a road to Golden Ring Road, generally in the vicinity of Petitioner's 20' right-of-way. Mr. Dallas went on to say that the topography of subject tract is extremely severe, with elevations ranging from 50' to 185'; that he examined the feasibility of developing the property as zoned in R. 6 lots and determined that it could not be economically developed as such because of the extensive grading costs involved, but that it could be developed economically for garden apartments.

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

- 2 -

MR. C. RICHARD MOORE  
Assistant Traffic Engineer, Department of  
Traffic Engineering for Baltimore County

Mr. Moore testified that he prepared the remarks for the Department of Traffic Engineering in the comments of the Zoning Advisory Committee, and that they were based upon the assumption that the only means of access to the property would be Deleage Road. He explained that if the two additional means of access as shown on Petitioner's plat were supplied, it would be his opinion that they, along with Deleage Road, would be sufficient to handle the projected traffic to and from the apartment development as planned.

### Summary of Testimony - Protestants' Case

MR. JOHN W. FREDERICK  
President, Greenview Manor Community Association

Mr. Frederick testified that he is President of the Greenview Manor Community Association and that he is afraid that development of subject property in apartments would depreciate the value of the homes in Greenview Manor and be generally undesirable if such apartments were similar to those of Fontana Village (not built by Petitioner). Upon cross examination, he admitted that he was not opposed to apartments per se on subject property, but only to a poorly constructed development such as Fontana Village.

MR. NORMAN L. RAY  
Department of Planning

Mr. Ray read the comments of the Planning Department opposing the requested rezoning for two reasons: first, vehicular access to the site was considered inadequate; and, second, elementary school facilities in the area are already over-crowded. Mr. Ray was unable to explain how the Department concluded that the development of subject property in apartments would adversely affect the

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

- 6 -

On cross examination, Mr. Dallas testified that although it would be possible to develop the property under R. 10 or R. 20 zoning, he would not consider such development practical in view of the property's location adjacent to two high-speed expressways.

MR. JOSEPH MULLAN  
President, The Joseph Mullan Company

Mr. Mullan demonstrated the severe topography of the property by introducing for the Commission's consideration a model thereof. He testified that because of its topography, he could not develop the land under its present zoning, R. 6, but that he could develop it economically and attractively in, primarily, one-bedroom garden apartments. He testified that there was need for such apartments in the area created by a substantial growth in population and such institutional uses as Essex Community College and Franklin Square Hospital, which were opened after the adoption of the zoning map in 1966. He stated that there is an agreement between The Joseph Mullan Company and Frank Scarfield that whichever of the two develops their property first would build a road from the southern end of subject property to Golden Ring Road, generally in the vicinity of Petitioner's 20' right-of-way and that the other party would cooperate by deeding whatever land was necessary therefor. Mr. Mullan went on to explain in detail the type of construction, number of beds, etc., of the proposed nursing home for which he seeks a special exception.

On cross examination, Mr. Mullan explained that because of the acquisition of his land by the State Roads Commission, he could not continue to mine clay and could not finish the grading, etc. of the property as had been originally planned.

northwest quadrant of the intersection of the John F. Kennedy Memorial Highway and the Baltimore County Beltway, from R. 10 to RG and RA:

\*\*\*. The court agrees with the County Board of Appeals that the most logical place for high density development is at a major highway interchange and not a place for expensive residential developments. \*\*\*. Memorandum Opinion and Order of Court filed August 17, 1970 in the case of Bernoga, et al. v. \*\*\*. The County Board of Appeals of Baltimore County, in the Circuit Court for Baltimore County, at law, Miscellaneous Docket 9, Folio 534, case no. 4414, zoning file no. 69-113-R.)

3. The fact that subject property is crossed by a high voltage electrical transmission line of the Baltimore Gas and Electric Company reduces its utility and suitability for development in single family residences.

4. At the time of the adoption of the map, the planners did not foresee the substantial population growth that has taken place in this area, failed to anticipate the need for apartments created thereby and failed to provide sufficient land zoned therefor on the map.

The instant case is on all fours with the case of Bonnie View Club v. Glass, 242 Md. 46, where the court upheld the rezoning of property in Baltimore County from R. 10 and R. 20 to RA because of error in the zoning map. Reasons for the conclusion of error were: (1) the topography of the land due to previous mining operations made it economically unfeasible to develop as R. 10 and R. 20, although it could be developed as RA; (2) the location of the property adjacent to the Jones Falls Expressway made it more suitable for apartments than single family residences; (3) the high tension electric line through the property adversely affected its utility for single family residences; and (4) the planners failed to adequately anticipate the need for apartments in the area and plan therefor by providing sufficient RA land in the area.

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

ROBERTSON, MUELLER,  
THOMAS & MCLEAN  
SUITE 600  
107 W. PENNS. AVE.  
TOWSON, MD. 21204  
823-1800

Although zoning of Petitioner's property as R. 6 amounted to confiscation, it should be noted that proof of confiscation is not required in order to constitute error. In Dill v. The Jobar Corporation, 242 Md. 16, the court at page 23 said:

"Even though the existing zoning does not result in confiscation and thus require reasoning, original error may permit the agency to which the controlling legislative body has entrusted individual rezoning properly to change a classification, \*\*\* if it does so on evidence before it which is substantial enough to permit reasoning minds reasonably to conclude that the strong presumption of the correctness of the original zoning or comprehensive rezoning has been overcome. \*\*\*"

#### CHANGE

Since the adoption of the comprehensive zoning map in 1966, many changes have occurred in the neighborhood.

1. Zoning file no. 68-159 x SPH - granting a special exception for an elevator office building by Alpine Gardens, with a special off-street parking permit, on January 25, 1968, for property located on the east side of Kenwood Avenue 95' south of Hazlewood Avenue.
2. Zoning file no. 69-113-R - Petition of the Adams Corporation for property located in the northwest quadrant of the intersection of the John F. Kennedy Memorial Highway and the Baltimore County Beltway requesting that a parcel of 31 acres be rezoned from R. 10 to R. 6, that a parcel of 14.6 acres be rezoned from R. 10 to RA, except for a parcel on the west side of Gun Spring Road to be reclassified from R. 10 to R. 6. The zoning as requested was granted by the Zoning Commissioner on December 30, 1968, affirmed by the County Board of Appeals by its Orders of January 28, 1970 and February 11, 1970, and by the Circuit Court for Baltimore County on August 14, 1970. However, an appeal has been filed by protestants in this case to the Court of Appeals of Maryland.

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 800  
116 W. PENNA. AVE.  
TOWSON, MD. 21204  
822-1800

- 7 -

3. There has been a substantial growth of population in the area creating a need for apartments. Land currently zoned for apartments is insufficient to meet such need.
4. Essex Community College was opened in 1967 and Franklin Square Hospital in December of 1969.
5. The Board of Education of Baltimore County intends to acquire a site on subject property for an elementary school to be operational by 1975.
6. The Department of Public Works of Baltimore County is in the process of acquiring a 50' right-of-way from subject property to Kenwood Avenue for a water transmission line. This right-of-way will be widened to 70' to accommodate a 50' road with curb and gutter prior to the time that the school becomes operational.

#### Conclusion

The requested zoning of subject property from R. 6 to RA, with a special exception for a convalescent home, should be granted because of error in the original zoning map and changes that have occurred in the neighborhood since its adoption. Development of the entire property will take seven years, and by that time all the roads shown on Petitioner's plat will be in existence. As Mr. Moore of the Department of Traffic Engineering testified, these roads will be adequate to handle the traffic to and from subject property.

Protestants objected to the proposed zoning for two reasons. First and foremost, they were afraid that the property would be developed like Fontana Village and depreciate the value of their property. Second, they were concerned about the affect apartment development would have on the school system.

With respect to the first objection, Mr. Mullan testified at

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 800  
116 W. PENNA. AVE.  
TOWSON, MD. 21204  
822-1800

- 8 -

length about the apartments he has built and which he intends to build on subject site, assuring protestants that the development would be attractive and along the lines of Valley View Apartments. It would appear that protestants will have to take Mr. Mullan at his word on this point. Under the new zoning regulations (Bill No. 100) he cannot be prevented from building apartments on the site. The only restriction will be the number of dwelling units. Furthermore, the numerous apartment projects built by the Mullan family have all been of the highest quality, viz. 3900 N. Charles Street, Baltimore City; Carrolton Apartments, Greenway and University Parkway, Baltimore City; Ambassador Apartments, 39th and Canterbury Road, Baltimore City; Ridgemede Apartments, Ridgemede Road, Baltimore City; Ridgewood Apartments, Ridgewood and Lakewood Road, Baltimore City; 11 Slade Avenue, Baltimore County; Valley View Apartments, Baltimore County; Oak Grove, Pulaski Highway and Martin Boulevard, Baltimore County; and 2 Charles Center, Baltimore City. Therefore, protestants' concerns as to the type of construction are not a valid reason for denying the zoning requested in the instant case - if such factors are ever valid.

Protestants' fears with respect to their schools are groundless. The computations of the Board of Education of Baltimore County show that development of the property in garden apartments will produce fewer elementary school students than development of the property as currently zoned, R. 6.

For the reasons stated, it is respectfully submitted that the zoning requested by Petitioner should be granted.

*Richard A. Mullan*  
Richard A. Mullan  
Attorney for Petitioner

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 800  
116 W. PENNA. AVE.  
TOWSON, MD. 21204  
822-1800

- 9 -

I HEREBY CERTIFY that a copy of the foregoing Petitioner's Brief was mailed this 7th day of October, 1970, to John J. Schuchman, Esq., Legal Building, 2611 E. Fayette Street, Baltimore, Maryland 21224.

*Richard A. Mullan*  
Richard A. Mullan

ROYSTON, MUELLER,  
THOMAS & MCLEAN  
SUITE 800  
116 W. PENNA. AVE.  
TOWSON, MD. 21204  
822-1800

- 10 -

#### ZONING DESCRIPTION R-6 TO RESIDENTIAL APARTMENTS

#71-51RX  
4B  
NE-SF

BEGINNING for the same in the center of Goldenshoe Road at a point distant 90 feet measured in a northerly direction from the center line intersection of said Goldenshoe Road with the center of Hartman Avenue as shown on the Plat of Goldenshoe Road as filed among the Land Records of Baltimore County in Plat Book 32 folio 56 said point of beginning being in the fifth line of the first parcel of that tract of land which by deed dated November 17, 1952 and recorded among the Land Records of Baltimore County in Liber GLB No. 2206 folio 327 etc. was conveyed by Bonaventure Von Paris and wife to Champion Brick Company of Baltimore County, thence leaving said line and running on or near the center of said Goldenshoe Road as proposed to be constructed the top following courses and distances north 30 degrees 00 minutes 00 seconds east 338.00 feet and north 5 degrees 00 minutes 00 seconds east 135.00 feet to the center line intersection of Delagge Road as proposed to be constructed, thence continuing said line and running on the center of Delagge Road as proposed to be constructed the two following courses and distances north 5 degrees 00 minutes 00 seconds east 82.00 feet and northerly by a line curving to the east with a radius of 800 feet for a distance of 90.00 feet, thence leaving said road and running for 11 minutes 00 seconds the two following courses and distances north 4 degrees 30 minutes east 350.00 feet and north 59 degrees 33 minutes 37 seconds east 444.61 feet to the rear lot line of property being Shady Spring Road as shown on the Plat of East Ramond Park as filed among the Land Records of Baltimore County in Plat Book 7 folio 112, thence binding on said rear lot line the four following courses and distances north 45 degrees 17 minutes 10 seconds east 70.00 feet, north 22 degrees 03 minutes 30 seconds east 360.00 feet to the south side of Von Paris Avenue 250 feet wide, north 63 degrees 02 minutes 22 seconds east crossing said Avenue 50 feet and north 22 degrees 03 minutes 22 seconds east 330.00 feet to the northernmost side of the Northeast Expressway (Bundy Highway) as shown on State Road Commission Plat No. 23135, thence binding on the outline of said Plat and Plat No. 23134 and on the southernmost side of said Expressway and the northernmost side of the Baltimore Beltway the eleven following courses and distances north 65 degrees 06 minutes 16 seconds east 79.18 feet, north 64 degrees 06 minutes 20 seconds east 134.99 feet, easterly by a line curving toward the south with a radius of 2003.92 feet for a distance of 1661.77 feet, north 8 degrees 57 minutes 12 seconds east 92.14 feet, north 0 degrees 24 minutes 48 seconds east 259.20 feet, north 28 degrees 14 minutes 09 seconds east 156.60 feet, north 16 degrees 25 minutes 50 seconds east 246.00 feet, north 5 degrees 15 minutes 16 seconds east 99.19 feet, north 26 degrees 14 minutes 25 seconds east 51.34 feet, southerly by a line curving toward the west with a radius of 5666.58 feet for a distance of 764.82 feet, and south 23 degrees 35 minutes 15 seconds east 167.16 feet to the center of the eleven or south 64 degrees 15 minutes east 1566 feet line of said first parcel, thence binding reversely on a part of said eleven or south 64 degrees 15 minutes line of said first parcel, thence binding reversely on a part of the three following courses and distances north 71 degrees 40 minutes 29 seconds east 1159.24 feet, south 17 degrees 04 minutes 40 seconds east 777.00 feet, south 16 degrees 49 minutes 40 seconds east 130.00 feet,

March 19, 1970

DAVID W. DALLAS, JR.  
CIVIL ENGINEER  
1779 OLD HANOVER RD., BALTO., MD.  
NO. 5-1422

#### ZONING DESCRIPTION EXISTING R-6 WITH PROPOSED SPECIAL EXCEPTION FOR CONVALESCENT HOME

#71-51RX

BEGINNING for the same in the center of Hartman Avenue (30 feet wide) at a point distant 350 feet or less measured in an easterly direction from the center of Shady Spring Road as shown on the Plat of East Ramond Park as filed among the Land Records of Baltimore County in Plat Book No. 7 folio 112, thence running on the projection of said Hartman Avenue in an easterly direction south 68 degrees 00 minutes 00 seconds east 432.00 feet to the center of Fordcrest Road as proposed to be constructed (60 feet wide) thence binding on the center of said proposed road the two following courses and distances southerly by a line curving toward the east with a radius of 800 feet for a distance of 335.10 feet and south 5 degrees 00 minutes 00 seconds east 82.00 feet to the center line of Delagge Road (70 feet wide) as proposed to be constructed, thence binding on the center of said proposed Delagge Road north 65 degrees 00 minutes 00 seconds east 156.19 feet to intersect the fourth line of the first parcel of that tract of land which by deed dated November 17, 1952 and recorded among the Land Records of Baltimore County in Liber GLB No. 2206 folio 327 etc. was conveyed by Bonaventure Von Paris and wife to Champion Brick Company of Baltimore County, thence binding reversely on a part of said fourth line north 19 degrees 19 minutes 40 seconds east 128.32 feet, thence leaving said line and binding on the outline of part of the second parcel of said tract of land the two following courses and distances north 62 degrees 25 minutes 10 seconds east 234.50 feet and north 16 degrees 52 minutes 00 seconds east 289.40 feet to the place of beginning.

CONTAINING 3.320 acres of land more or less.

BEING part of that tract of land which by deed dated November 17, 1952 and recorded among the Land Records of Baltimore County in Liber GLB No. 2206 folio 327 etc. was conveyed by Bonaventure Von Paris and wife to Champion Brick Company of Baltimore County.

March 19, 1970

DAVID W. DALLAS, JR.  
CIVIL ENGINEER  
1779 OLD HANOVER RD., BALTO., MD.  
NO. 5-1422

#### BALTIMORE COUNTY, MARYLAND DEPARTMENT OF TRAFFIC ENGINEERING JEFFERSON BUILDING TOWSON, MARYLAND 21204 INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardisty  
Attn: Oliver L. Myers  
FROM: C. Richard Moore  
SUBJECT: Item 259 - ZAC - April 28, 1970  
Property Owner: Joseph Mullan Company  
SW Corner Int. of Baltimore Beltway & NE Expressway  
Reclass. to RA - S.E. for Convalescent Home

Date: May 5, 1970

The subject petition is requesting a change from R6 to RA of some 59 acres. This should increase the trip density from 5,000 trips to 12,000 trips per day.

The only access at the present time is Delagge Road which was designed for R6 development. Also the intersection of B. 99e Road and Golden Ring Road can not handle the projected volumes.

*C. Richard Moore*  
C. Richard Moore  
Assistant Traffic Engineer

CRM:m

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty  
Zoning Commissioner  
Date: September 18, 1970

FROM: Mr. George E. Gavreis, Director of Planning

SUBJECT: Petition #71-51-RK. East and west sides of Goldenwood Road 90 feet north of  
Marinette Road.  
Petition for Reclassification from R-6 to R.A.  
Petition for Special Exception for a convalescent home.  
The Joseph Mullan Company - Petitioners

14th District

HEARING: Monday, September 21, 1970 (1:00 p.m.)

The Staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-6 to R.A. zoning, together with special exception for a convalescent home.

This request was on issue on the revised comprehensive zoning map approved by the Planning Board on February 11, 1970. The Board's decision at that time was for the subject property to remain in the present R-6 residential classification. This decision has been carried over on the present comprehensive zoning map approved by the Planning Board on September 10, 1970 for public hearing. These maps recommend the D.R. 5.5 classification for this property.

Previous discussion on this request centered around vehicular access to the site and school capacities within this area. In our discussion with the Bureau of Traffic Engineering, it appears that a proposal of this magnitude will more than double the present vehicular trip densities. Although Kenwood Avenue and Golden Ring Road may carry this additional vehicular capacity, it would appear that a reduction in travel time will be a discomfort to the residents of the surrounding area. It would also appear that unless Hazelwood Avenue is extended, or some other means of access to this property is constructed, Deleage Road would be impacted with all the traffic from this proposal. None of these roads is scheduled for improvement in the present Capital Improvement Program.

A development of this magnitude will also severely impact an already overcrowded elementary school facility in this area. Although McCormick Elementary is presently being constructed to help relieve this condition at Elmwood Elementary and Red House Run Elementary, we feel an additional elementary school is needed in this area. We are, therefore, in agreement with the location of the additional school site incorporated within the subject tract on the zoning map. However, due to the

Mr. Edward D. Hardesty - Page 2  
Petition #71-51-RK.

September 18, 1970

difficulties in scheduling construction of this and nearby elementary schools, this school (Shady Spring Elementary) will serve east of the Beltway for some time. It would appear that the magnitude of this development would overcrowd the other elementary school facilities until such time as money can be found to construct school facilities east of the Beltway. The overcrowded condition could last 4 to 8 years.

We are, therefore, opposed to the request from R-6 to R.A. as proposed by the developer for the reasons stated prior hereto.

The special exception for the convalescent home appears to have the same access problems as the area requested for R.A. zoning.

GEO:msh

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty  
Zoning Commissioner  
Date: April 29, 1970

FROM: Everett Road, Plans Review

SUBJECT: Item 258 - Zoning Advisory Committee Meeting, April 28, 1970  
Property Owner: Joseph Mullan Company  
Present Zoning: R-6  
Proposed Zoning: Reclass. to RA w/ S.E. for Convales. Home  
District: 14th

Petitioner to meet all applicable requirements of Baltimore County Building Code and regulations when plans are submitted. Also see Section 223.

Everett Road, Plans Review



STATE OF MARYLAND  
STATE ROADS COMMISSION  
300 WEST PRESTON STREET  
BALTIMORE, MD. 21201

RECEIVED - APR 29 1970

April 29, 1970

Mr. Edward D. Hardesty  
Zoning Commissioner  
County Office Bldg.  
Towson, Maryland 21204

Attn: Mr. C. L. Myers

Dear Mr. Hardesty:

It appears that the subject proposed development will have no adverse effects on the State Highway.

Very truly yours,

Charles Lee, Chief  
Development Engineering Section

by John C. Meyer  
Asst. Development Engineer

CLJ:trk

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

Mr. Edward D. Hardesty  
Zoning Commissioner  
Date: May 20, 1970

FROM: Richard S. Williams  
Project Planning Division  
SUBJECT: Zoning Advisory Agenda Item #258

April 28, 1970  
Joseph Mullan Company  
S/W cor. Int. of Balto. Beltway  
and N. E. Expressway

This office has reviewed the subject site plan and has the following comments:

The access to this property is not sufficient to serve a development of this magnitude. Any development of this property should include the extension of Deleage Road into Hazelwood through the acquisition of off-site right-of-way.

Any further intelligent discussion of this layout is prevented by the inaccurate topography submitted on the plan.

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Edward Hardesty  
Zoning Commissioner  
Date: May 6, 1970

ATTN: Oliver L. Myers

FROM: Elsworth R. Myers, P.E.

SUBJECT: Item 258 (10/9-1970)  
Property Owner: Joseph Mullan Company  
S/W corner Int. of Balto. Beltway and N.E. Expressway  
Present Zoning: R-6  
Proposed Zoning: Reclass. to RA w/ S.E. for Convales. Home  
District: 14th  
No. Acres: 95.99 and 3.332

The following comments are furnished in regard to the plan submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Deleage Road shall be improved as a 50-foot curbed street on a 70-foot public right-of-way within this site. As access is extremely limited, Deleage Road should be extended to Kenwood Avenue at Hazelwood Avenue by the developer to provide adequate access to this site. Fordcrest Road and the unnamed road south of Deleage Road should be 40-foot curbed streets on 60-foot public rights-of-ways within this site. Dedication of the rights-of-ways to the County at no cost will be required. The remaining interior roads are to be considered as private.

Storm Drains:

The petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problems which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the petitioner.

The Baltimore Beltway and the Kennedy Highway are State Roads. Therefore, drainage requirements as they affect these roads come under the jurisdiction of the Maryland State Roads Commission.

## BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO: Mr. Edward D. Hardesty  
Zoning Commissioner  
Date: May 1, 1970

FROM: J. J. Forrest

SUBJECT: Item 258 - Zoning Advisory Committee Meeting, April 28, 1970

258. Property Owner: Joseph Mullan Company  
Location: S/W cor. Int. of Balto. Beltway  
and N.E. Expressway  
Present Zoning: R-6  
Proposed Zoning: Reclass. to RA w/ S.E. for Convales. Home  
District: 14th  
No. Acres: 95.99 & 3.332

Public water and sewers are available.

Swimming Pool Comments: Prior to approval of a public pool on this site, two complete sets of plans and specifications of the pool and bathhouse must be submitted to the Baltimore County Department of Health for review and approval.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

Nursing Home Comments: Prior to approval of a building application complete plans and specifications of the building and type of equipment to be used for the food service operation must be submitted to the Maryland State Department of Health, Division of Food Control, for review and approval.

*J. J. Forrest*  
Chief  
Water and Sewer Section  
BUREAU OF ENVIRONMENTAL HEALTH

LJF/ca

Item 258 (10/9-1970)  
Property Owner: Joseph Mullan Company  
Date: May 6, 1970

Storm Drains: (Cont'd)

A study will be required at the time this site is developed to determine the drainage easements and structures necessary.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of topsoil.

Grading studies and sediment control drawings will be necessary to be reviewed and approved prior to the issuance of any grading or building permits.

Water and Sanitary Sewers:

Public water and sewer services are available to this site; however, when this site is developed, studies will be required to determine any reinforcement required for the water and sewer needs.

The 60-inch water transmission line proposed through this site will serve the adjacent zone of water service and cannot serve this site. However, a 50-foot utility easement for the water transmission line will be required and should be located parallel and adjacent to the south property line of this site. It is not desirable to place the water line within a road right-of-way due to site and conflict with the other service utilities.

*Elsworth R. Myers*  
Elsworth R. Myers, P.E.  
Chief, Bureau of Engineering

RND:HAM:RFP:iss

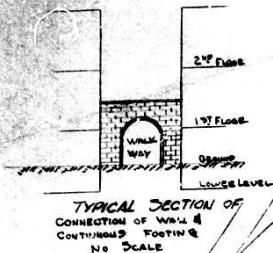
1-24 Key Sheet  
NR 1 & 5 F Part 1/4 Sheet  
16, 17, 18, 19 NR 22 & 23 Toss











KENNEDY HIGHWAY

SEC PLAT 23135

- ZONING DATA
1. GROSS ACREAGE OF TRACT 121.5201 ACRES
  2. PRESENT ZONING OF TRACT R-C WITH SPECIAL EXCEPTION FOR CONTROLLED EXCAVATION.
  3. PROPOSED ZONING
- R-A
- R-C WITH SPECIAL EXCEPTION FOR CONVALESCENT HOME 95.9941 AC
4. R-A DATA
1. ACREAGE
    1. GROSS ACREAGE 95.9941 AC.
    2. 1/2 DEC OF PERIMETER ZONE 0.6401 AC.
    3. GROSS RESIDENTIAL R-A ACREAGE 95.3540 AC.
    4. NET RESIDENTIAL R-A ACREAGE 71.5941 AC.
  2. PERMITTED NUMBER OF UNITS
    1. GROSS 90.634 AC @ 10 UNITS/AC = 906.34 UNITS
    2. NET 71.594 AC @ 10 UNITS/AC = 715.94 UNITS
    3. DESIGNED NUMBER OF APARTMENTS 1540 APTS
    4. DESIGNED DENSITY 1540 APTS / 95.994 AC = 15.94 UNITS/AC
    5. DESIGNED DENSITY 1540 APTS / 71.594 AC = 21.51 UNITS/AC
    6. DESIGNED DENSITY 1540 APTS / 95.994 AC = 15.94 UNITS/AC
    7. DESIGNED DENSITY 1540 APTS / 71.594 AC = 21.51 UNITS/AC
  3. ALL UTILITIES AVAILABLE
  4. ALL PAVING WILL COMPLY WITH DADE COUNTY SPECIFICATIONS & REGULATIONS
  5. MIN. R-A DED. SETBACKS
    - 25' FRONT YARD
    - 25' SIDE YARD
    - 30' REAR YARD

COLUMBUS AVE

BALTIMORE SEC PLAT 23304

BELTWAY

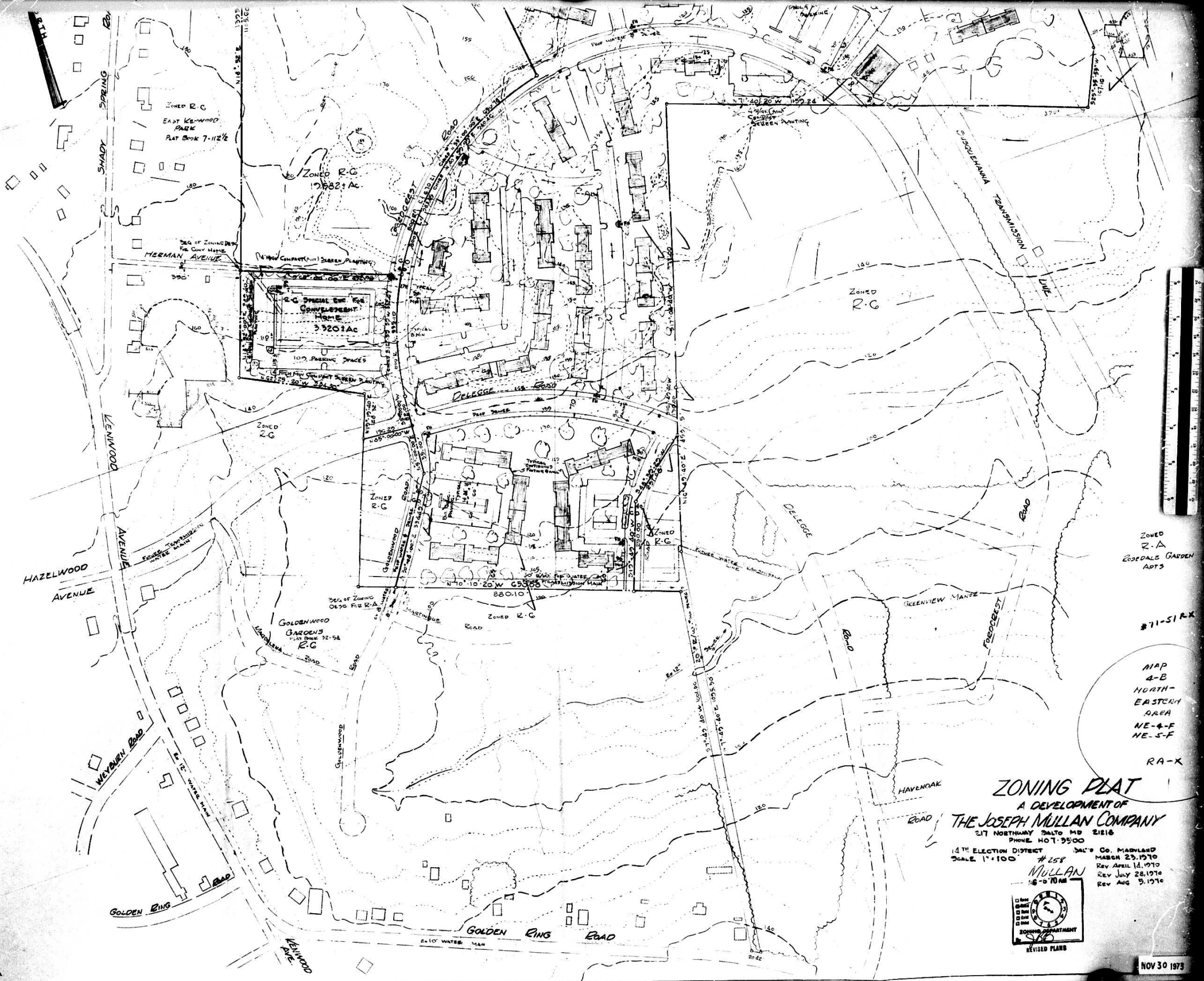
SHADY SPRING ROAD

Zoned R-C  
EAST KENWOOD  
PARK  
PLAT BOOK 7-112 1/2

Zoned R-C  
126.82 AC

SURVEYOR'S TRANSFERS





ZONED  
R-A  
EODDALS GARDEN  
APTS

#71-51RX

MAP  
4-B  
NORTH-  
EASTERN  
AREA  
NE-4-F  
NE-5-F

RA-X

**ZONING PLAT**  
A DEVELOPMENT OF  
**THE JOSEPH MULLAN COMPANY**  
217 NORTHWAY BALTO MD 21218  
PHONE HO 7-9500

14TH ELECTION DISTRICT  
SCALE 1"=100'  
#258  
MULLAN  
16-5-70 AM



BAL'S CO. MARYLAND  
MARCH 23, 1970  
REV APRIL 14, 1970  
REV JULY 28, 1970  
REV AUG 9, 1970



**ZONING DATA**

1. GROSS ACREAGE OF TRACT 121.5201 ACRES

2. PRESENT ZONING OF TRACT R-C WITH SPECIAL EXCEPTION FOR CONTROLLED EXCAVATION.

3. PROPOSED ZONING

R-A

R-C WITH SPECIAL EXCEPTION FOR CONVALESCENT HOME 3.3201 AC

4. R-A DATA

A. ACREAGE

GROSS ACREAGE 95.9941 AC.

2 1/2 BLDG OF PERIMETER ROAD 0.6401 AC.

3. GROSS RESIDENTIAL 2A ACREAGE 70.0341 AC.

4. NET RESIDENTIAL 2A ACREAGE 71.5941 AC.

B. PERMITTED NUMBER OF UNITS

1. GROSS 20,034 AC @ 10 UNITS/AC = 1546 APTS

2. NET 21,594 AC @ 10 UNITS/AC = 1048 APTS

C. DESIGNED NUMBER OF APARTMENTS

1. GROSS 1543 / 20,034 AC = 1543 APTS

2. NET 1543 / 21,594 AC = 1543 APTS

D. DESIGNED DENSITY

1. GROSS 1543 / 20,034 AC = 1543 UNITS/AC

2. NET 1543 / 21,594 AC = 1543 UNITS/AC

E. DESIGNED PARKING

1. REQUIRED PARKING 1543 SPACES

2. DESIGNED PARKING 2000 SPACES

F. ALL UTILITIES AVAILABLE

G. ALL PARKING WILL COMPLY WITH BALTO COUNTY SPECIFICATIONS

H. R-A BLDG DETRANCES

1. 20' FRONT YARD

2. 20' SIDE YARD

3. 30' REAR YARD

TYPICAL SECTION OF CONNECTION OF WALL & CONTINUOUS FOOTING  
NO SCALE

KENNEDY HIGHWAY

BALTIMORE SEC. 23.34

DELTA WAY

SUGARMAN TRANSMISSION

ZONED R-C  
EAST KENWOOD PARK  
PLAT BOOK 7-112 1/4

ZONED R-C  
126821 AC



SHADY SPRING ROAD

COLUMBUS AVE

DRIVE

CLEVELAND

WALK WAY

2nd FLOOR

1st FLOOR

LOW LEVEL

KENNEDY HIGHWAY

BALTIMORE SEC. 23.34

DELTA WAY

SUGARMAN TRANSMISSION

ZONED R-C  
EAST KENWOOD PARK  
PLAT BOOK 7-112 1/4

ZONED R-C  
126821 AC



SHADY SPRING ROAD

COLUMBUS AVE

DRIVE

CLEVELAND

WALK WAY

2nd FLOOR

1st FLOOR

LOW LEVEL