

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSION OF BALTIMORE COUNTY:
George F. Strutt and Joan B. Strutt, and
W. Giles Parker, Squidre, and Marion M. Parker
I, or we, _____ legal owner... 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... DR 3.5... zone to an DR16... zone; for the following reasons:

That there was error in the original zoning as adopted by the County Council, as fully set out in the attached Statement of Error.

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... none

Property 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 to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

See attached list

Contract purchaser _____ Legal Owner _____
Address _____ Address _____

James D. Nolan, Petitioner's Attorney
Nolan, Plumbhoff & Williams
204 W. Pennsylvania Ave.,
Towson, Maryland 21204

ORDERED By The Zoning Commissioner of Baltimore County, this 3rd day of August, 1971, 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, MD, on the 16th day of September, 1971, at 1:00 o'clock.

Henry F. LeBrun
Zoning Commissioner of Baltimore County.

(over)

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POINTS OF ERROR COMMITTED BY THE COUNTY COUNCIL IN CLASSIFYING THE SUBJECT TRACT DR3.5

The Petitioners believe that the County Council committed at least the following errors in classifying the subject 9.18 acre parcel DR3.5:

- 1.) The properties presently consist of two out-dated (one of which is gutted and abandoned) estate properties and, like the balance of the heart of Lutherville, this area and tract are in a transitional state; but the trend is definitely not to individual homes on a DR3.5 basis on this tract, or any other nearby Lutherville tract, and to so zone the property was and is error.
- 2.) All public utilities are fully available to the property in more than sufficient quantities to support DR 16 zoning, and if the Council in any way relied upon a lack of such utilities, it was error so to do.
- 3.) From a practical and realistic point of view, the subject tract is heavily, adversely affected by the College Manor Nursing Home directly across Seminary Avenue, by the nearby Baltimore County Beltway with twenty-four hour per day noise and night long lights and lighting, by the Pennsylvania Railroad main line to Harrisburg and points north, but a short distance to the west, and by the commercial and industrial activity along front streets and the railroad but a short distance to the west and, further, the property will in the very near future be adversely affected as to the construction and sale of DR3.5 homes and lots by the extension of Charles Street directly through the property, rendering DR3.5 to a further extent impractical, undesirable and clearly erroneous.

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& WILLIAMS
TOWSON, MD.

- 4) It was error for the Council, if it did, to deny DR16 zoning on the subject property on the grounds of inadequate access; since the property already enjoys good access to York Road via Seminary Avenue, to the Beltway via Seminary and Bellona Avenues, and via the same route to Charles Street; furthermore, the already good access which the property enjoys to all of these main traffic carriers, but particularly the Beltway and the Harrisburg Expressway, will be further improved to excellent access status when Charles Street is extended as a four lane, major carrier on an 80 foot right-of-way; and, finally, this alignment of Charles Street through the tract is fixed by the dedication of the right-of-way on the recorded plat of the Cardiff Apartments directly across Lincoln Avenue to the south.
- 5) That there is a need for apartments in Lutherville, which need has not been met by the Council in the preparation of the new maps, and in view of all of the qualifications of the subject tract, it was and is clear error not to meet this apartment need, in part, by placing the subject tract in a DR16 category.
- 6) That DR3.5 zoning is completely unsuitable for the subject tract for the reasons stated above, and such DR3.5 zoning is, in fact, provided for on the new maps in excessive amounts in the immediate Lutherville area, that is, the area is over-balanced by excessive DR3.5 zoning.
- 7) That if the Council failed to provide for DR 16 zoning on the grounds that it would adversely affect the area, this was and is error, as is proven by the lack of adverse effects created by the quiet, well run nearby Cardiff at Charles Apartments.

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- 8) That the Council's error in placing this property in a DR3.5 classification is in large part explained by the shrill atmosphere in which the Council was forced to conduct its deliberations for the new maps with improper pressures from the press and the public, including as to the public, actual physical threats against the life, family and property of Councilman Tyrie, in whose district the subject property lies; all of these factors absolutely insuring that Councilman Tyrie and the other Council members could not arrive at an objective and correct classification of the subject property and many other County tracts; that is to say, the Council's actions, particularly in the Third District, were conducted in an atmosphere even more hostile than "zoning by plat-site," and the DR3.5 classification of the subject property accordingly was, and is arbitrary, capricious, discriminatory, constitutory and illegal.
- 9) That it was, and is, patent error and, indeed, completely unlawful, and a denial of due process of law to downshift this property to DR3.5, in view of the fact that RA zoning had been granted to your Petitioners by the Board of Appeals in Case No. 71-70-R.
- 10) That the Council's recent action represents "mass spot zoning," and the Council's procedure was defective in the following respects:
 - a. That the Council was not acting pursuant to an adequate Master Plan as required by Section 22.12 et seq. of the Baltimore County Code, 1968 edition;
 - b. That the Council hearing, which purported to be a legally conducted, proper legislative meeting, was, in fact, not such a legal hearing as it was not conducted with proper precision, proper deliberation by the respective members of the Council, and no

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FROM THE OFFICE OF
GEORGE WILLIAM STEPHENS, JR. & ASSOCIATES, INC.
ENGINEERS
P. O. BOX # 6828, TOWSON, MD. 21204

Description to Accompany Zoning Petition
Reclassification from R-10(D.R. 3.5) to RA(D.R. 16)
South Side Seminary Avenue West of Franke Avenue. April 15, 1971

Beginning for the same on the south side of Seminary Avenue 60 feet wide at a point distant 299 feet more or less measured westerly from the centerline of Franke Avenue and running thence (1) South 14° 17' 00" West 491.37 feet to the northeast corner of a "Plat of Lincoln" dated February 29, 1952 and recorded among the Land Records of Baltimore County in Plat Book G.L.R. 17, folio 25, thence binding on the north and west sides of said plat the four following courses, viz: (2) North 67° 58' 30" West 207.67 feet (3) North 18° 20' 00" East 27.50 feet, (4) North 69° 33' 00" West 227.17 feet and (5) South 24° 52' 00" West 185.04 feet to the north side of Lincoln Avenue (ultimately 50 feet wide) thence binding on the north side of said Lincoln Avenue (6) North 71° 39' 30" West 304.77 feet, thence leaving the north side of said Lincoln Avenue and running (7) North 24° 52' 00" East 628.88 feet to the south side of above mentioned Seminary Avenue, thence binding on the south side of said Seminary Avenue (8) South 71° 39' 30" East 653.73 feet to the place of beginning.

Containing 8.54 acres of land more or less.



- findings of fact were announced as to the greater bulk of properties in question, including the subject tract.
- c. That the Council did not hold the adequate number of public hearings as required under Bill 72.
 - d. That the Council did not act with proper deliberation on the numerous properties, including the subject tract, brought to its attention, but rather under the easy guise of "legislative courtesy," blindly adopted the recommendations of each Councilman uncritically, erroneously, and illegally.
 - e. That the subject property was not properly described in the Council agenda and was treated extremely imprecisely by the Council at the time of its hearing and such imprecise and inaccurate treatment and description was and is arbitrary, capricious, and illegal; and
 - f. That the Council failed, despite the need for the same, to properly describe the properties in general which were rezoned, including the subject tract, by means of a metes and bounds description. Such failure to describe the subject tract, and other tracts, was and is erroneous, arbitrary, capricious and illegal.
11. For such other and further reasons as may be disclosed upon minute study throughout this case, further error by the Council is assigned and will be noted when and as found.

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TOWSON, MD.

George F. Strutt
Legal Owner

Joan B. Strutt
Legal Owner

Address: 701 Thornewood Court
Towson, Maryland 21204

W. Giles Parker
Legal Owner

Marion M. Parker
Legal Owner

Address: 311 Seminary Avenue
Lutherville, Maryland 21093

REASONS FOR ERROR IN ZONING MAP, APRIL, 1971

- 1.) Council failed to recognize the terrific physical changes in character of neighborhood that had taken place between adoption of 1955 zoning map and map in April, 1971.
 - A. Beltway & Extension of Charles St., to Bellona Ave.
 - B. All commercial changes at intersection of Seminary Ave., & Railroad. Citgo Station, Office Bldg.
 - C. Reclassification from R-10 to RA on property lying on opposite side of Lincoln Ave. from Parker-Strutt Property.
 - D. Office Bldg., and warehouse construction on Old Bellona Ave. (now the Beltway Ramp) C. Andrew Property.
- 2.) In log of issues prepared by Planning Staff, information given council on Parker-Strutt Property was incorrect as follows:
 - A. Property was listed as containing 4.8 acres when it actually contained 9.18.
 - B. Planning staff listed present zoning as R-10 as opposed to A which was the actual classification at time of 1971 Map adoption.
- 3.) Council by not granting Parker-Strutt request to DR-16 committed an error by failing to recognize the changes which were soon scheduled to take place in immediate neighborhood surrounding subject property such as:
 - A. Construction of Lears Furniture Store on N/W corner of Seminary Ave., & Lutherville-Riderwood Dr., which store is plainly visible from a vast portion of the Parker property. Store itself contains approximately 20,000 square feet.
 - B. Reconstruction of Beltway-Interchange with Baltimore-Harrisburg Expressway and existing Charles St.
 - C. Programmed construction of Charles St. through Lutherville to Ridgely Rd., which construction will place this tract on corner of Charles St. & Seminary Ave.
 - D. Construction just west of subject property, a garden apartment by Julio Bros., on N/S Seminary Ave.
- 4.) Fact that Parker-Strutt property on N/S is adjacent to Institutional use (College Manor Nursing Home) and by Cardiff-at-Charles Apts., on portion of southside, also on east property line a yet undeveloped tract owned by College Manor Nursing Home also has a special exception for a Nursing Home.

S. E.C. #2242 (2)

Henry F. LeBrun
Henry F. LeBrun

ZONING FILE NO. 72-59-R

PETITION FOR RECLASSIFICATION
 FROM D.R. 3.5 TO D.R. 16
 5/5 Seminary Avenue, 299'
 W. of Franke Avenue
 9th District (3rd District)
 Central Sector

GEORGE F. TRUTT, et al
 PETITIONERS
 NO. 72-59-R

NATHANIEL F. PIERCE and
 DIANNE PIERCE, his wife and
 GLENN C. ROSENQUIST and
 PATRICIA B. ROSENQUIST, his wife*
 PROTESTANTS

IN THE
 CIRCUIT COURT
 FOR
 BALTIMORE COUNTY

MISCELLANEOUS CASE: 5115
 DOCKET: 9
 FOLIO: 335

MEMORANDUM OPINION AND ORDER

This is an appeal from a decision of the County Board of Appeals of Baltimore County, dated August 13, 1973, granting a reclassification of the subject property from D.R. 3.5 to D.R. 16. Originally the petition was denied by the Zoning Commissioner by an Order dated March 6, 1972. The Petitioners are George F. Trutt, Joan B. Trutt, W. Giles Parker and Marion M. Parker, who filed a joint zoning petition covering two contiguous tracts located on the south side of Seminary Avenue, two hundred and ninety-nine (299) feet west of Franke Avenue, in the Ninth Election District of Baltimore County. Each couple owns one tract with the two tracts totalling 9.18 acres. Appellants-Protestants, Nathaniel F. Pierce, Dianne Pierce, Glenn C. Rosenquist and Patricia B. Rosenquist, contend that the Board's actions were erroneous and illegal.

Petitioners-Appellees previously filed for reclassification for the property in Case #71-70-R in their first attempt to achieve apartment zoning. The prior case paralleled

this case in that the Zoning Commissioner denied that request while the Board of Appeals reversed. The first decision was appealed to this Court but was subsequently dismissed for lack of prosecution by the Protestants. The reason for the second petition and appeal is that five days after the Order of the Board of Appeals went into effect granting the D.R. 16 zoning as to the first petition, the Baltimore County Council on March 24, 1971, adopted the county-wide comprehensive zoning maps which classified the subject property as D.R. 3.5. Thus, the Board's Order was nullified.

The second petition was filed with the Zoning Commissioner on August 3, 1971, less than six months from the day of adoption of the new zoning maps by the County Council. The petition stated that the reason for the request for reclassification was "that there was error in the original zoning as adopted by the County Council" and was accompanied by a Statement of Error setting forth the various allegations of error committed by the County Council.

The subject property is located in the area of Baltimore County known as Lutherville, which is basically residential in nature with sparse peripheral commercial development. By the said zoning maps adopted in 1971, all property east of the railroad tracks over to I-83 was classified D.R. 5.5. This clearly shows the recognition of the Council of the residential nature of the area and an attempt to preserve same. Only a small area, 1.76 acres, located on the northern border, was zoned for apartment use by the adopted zoning maps. The Trutt-Parker property has 633 feet of frontage on the south side of Seminary Avenue which

faces the College Manor Nursing Home, a 150 bed senior citizen residence, located on the north side of Seminary Avenue. About 305 feet of the northern portion of the premises front Lincoln Avenue. Cardiff Charles Apartments, built in 1967, are located on the opposite side of Lincoln Avenue, being further south of the subject property and set back some 100 feet from Lincoln Avenue. On the Parker tract there is located a large country mansion, a tenant house and a two-car garage with an adjoining shop. The improvement that existed on the Trutt property, an old mansion, has been razed.

The entire tract is located, as described above, in a low density residential area, the surrounding properties being zoned D.R. 3.5, for the most part with many homes in the immediate vicinity occupying large tracts of land. It should also be noted that part of Lutherville, including the subject property, was designated an Historic District in December, 1972, by the State of Maryland and the Federal Government National Register of Historic Sites and Places.

The Zoning Commissioner in his Order of March 6, 1972, in denying the reclassification, stated that granting of the petition would be "detrimental to the health, safety, and welfare of the community, including but not limited to the fact that the number of units proposed could overcrowd and overcrowd the schools in the area xxxxx." To support the denial, it was also recognized that if the reclassification were allowed, the resulting traffic would overcrowd the existing network of roads which through testimony were shown to be already overloaded.

The Court of Appeals has specifically defined many times the scope of review of this Court in zoning appeals. These principles were set forth in C.C. Haldeman v. Board of County Commissioners of Howard County, et al, 253 Md. 298 (1969), where the Court through Judge Singley stated:

"We have often repeated the principles here applicable: courts have no power to rezone and may not substitute their judgment for that of the expertise of the zoning authority. Kirkman vs. Montgomery County Council, 251 Md. 273, 7 A.2d 255 (1968); Bosley vs. Hospital for Consumptives, 246 Md. 197, 227 A.2d 46 (1957); Board of County Comm'rs for Prince George's County vs. Fair, 242 Md. 315, 218 A.2d 923 (1966). It has long been settled that the zoning authority's determination is correct if there were such legally sufficient evidence as would make the question fairly debatable. Ark Red-Mix Concrete Corp. vs. Smith, 251 Md. 1, 746 A.2d 220 (1968); Mayor and City Council of Greenbelt vs. Bd. of County Comm'rs for Prince George's County, 247 Md. 670, 234 A.2d 140 (1967); Agneslane, Inc. vs. Lucas, 247 Md. 612, 233 A.2d 757 (1967). Further, the one who attacks the determination made by the authority must show that it was arbitrary, unreasonable or capricious. Kirkman vs. Montgomery County Council, supra; Agneslane, Inc. vs. Lucas, supra; Bosley vs. Hospital for Consumptives, supra; Mayor & City Council of Baltimore vs. Saperco, 230 Md. 291, 185 A.2d 864 (1962)."

The burden is upon the Appellants-Protestants to prove to this Court that the Board's actions were arbitrary, unreasonable or capricious. The thrust of Appellants' argument, to show the illegality of the Board's action, is that the Petitioners failed to prove error in the zoning maps as adopted by the County Council. At the hearing before the Board, the burden was Petitioners to establish a strong case of error, not the Appellants to justify the correctness of the adopted zoning maps. Petitioners burden of proof as to

this is heavy, there being a strong presumption of the correctness of original zoning and of comprehensive zoning. Stratakis v. Beachamp, 268 Md. 643, 304 A.2d 244 (1973). What the Court of Appeals said in Stratakis and recently repeated in Trainer v. Lipchin, 269 Md. 667, 673 (1973), is most applicable to the case at hand:

"To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced. Rockville v. Hanley, 268 Md. 469, 302 A.2d 45 (1973); and cases cited therein. Since as we have also said this burden is onerous, Cabin John v. Montgomery County, 259 Md. 661, 271 A.2d 174 (1970) and cases cited therein, the task confronting appellants, whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one. 268 Md. 652-53 (emphasis in original)."

The Trainer case involved an attack on the same zoning maps, dealing especially with the area of Lutherville discussed above which was zoned for apartment use by the maps.

Petitioners burden of proof has been made more onerous in this particular case, since error cannot be established by evidence of a change of character of the neighborhood, leaving Petitioners the task of proving a strong case of mistake. The filing of this petition was within six months of the adoption of the County-wide comprehensive zoning maps, thereby making Section 22.22 (j) of the Baltimore County Code applicable. By this statute, no reclassification may be granted on the basis of change of character of the neighborhood for a period of one year after the adoption of a zoning map pertaining to the property desired to be reclassified.

The Board in its Order states that Petitioners overcame the onerous burden of proving error in the comprehensive zoning maps. It is noted by the Board that the subject property was listed as a live zoning issue in the Log of Zoning Issues, published for use at the public hearings for reviewing contemplated zoning changes prior to the adoption of the zoning map. This Court is hard pressed to understand the significance of this to show error in light of the fact that it was evidently not the only property over which there was a zoning controversy. Controversy does not necessarily equate with error. Along this line, error in listing the property as 4.8 acres instead of 9.18 acres, and as R-10 zone instead of R-A zone does not show that the Council committed error in adopting the maps and the zoning accorded to the subject area by same. No evidence was presented by Petitioners to show that listing errors were coupled with other misunderstandings by the Council. It could easily be conjectured that no matter what size the property was listed as, the Council would have continued its trend to zone the entire area as D.R. 3.5 or D.R. 5.5. Therefore, this Court believes there is no evidence on the record to support the Board's conclusion that "the County Council not only would have, but should have, adopted D.R. 16 zoning for the subject land if the facts had been presented properly to it."

The Board also states that the Council should have given weight to the change of character of the Lutherville area prior to the adoption of the zoning maps. Although the reclassification could not be granted on this ground, supra, evidence was admitted by the Board to show the change of

character of Lutherville prior to the adoption of the maps. Once again the Board has made a bold assertion unsupported by the evidence. The evidence presented to the Board neither establishes nor refutes the proposition that the County Council gave weight to this variable. There being no evidence either way, this Court finds that it was not a fairly debatable issue, and does not support the allegation of error.

Another alleged error that the County Council supposedly made, as argued by Petitioners, was that they failed to take into consideration the effects the proposed Charles Street Avenue Extension would have on the area. Even though not considered a prime issue before the Board, extensive testimony was presented on the subject. No direct plans have been established by Baltimore County for the improvement of this road, although proposals and plans have been discussed over the years. The only definite steps towards construction are allegedly the denial of building permits for the subject property and the refusal to process a record plat for the property, unless an eighty (80) foot right-of-way across the southwest corner of the tract is reserved for the "proposed" extension. The fact that the property could possibly be cut by the extension was recognized as merely that by the Commissioner. Petitioners vehemently carried the argument to the Board where a sympathetic ear was found. In that no evidence has been produced showing concrete plans for the construction of the extension, especially the lack of a definite time period for commencement, this Court finds that no consideration should have been made of this evidence as the issue was not fairly debatable. Trainer v. Lipchin, 269 Md. 617, 674.

Although Petitioners produced a voluminous amount of testimony and evidence at the hearings before the Board, taken singularly or cumulatively, none overcomes the onerous burden to disprove the presumption of correctness of the comprehensive zoning maps. "In other words, the evidence produced to show error in the comprehensive zoning of March 24, 1971, was insufficient to make the issue fairly debatable." Trainer v. Lipchin, supra.

For the above reasons, it is this 26 day of March, 1974, ORDERED by the Circuit Court for Baltimore County, that the decision of the County Board of Appeals is hereby **REVERSED** and this appeal by Protestants is hereby **GRANTED**.

H. Kemp MacDaniel
 H. KEMP MACDANIEL
 JUDGE

Copy to:
 Anne Kay Kraser, Attorney-at-Law
 James D. Nolan, Esq.
 County Board of Appeals (Zoning)
 William H. Adkins, II, Director, Adm. Office of the Courts
 Eugene Creed, Administrator

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 3.5 to D.R. 16 : COUNTY BOARD OF APPEALS
S/S Seminary Avenue, 299' : OF
W. of Francke Avenue : BALTIMORE COUNTY
9th District (8th District) :
Central Sector :
George F. Strutt, et al :
Petitioners : No. 72-59-R

OPINION

This case is a twice told tale to appear before the County Board of Appeals. The first time around was in case #71-70, which was decided on March 19, 1971. The instant case, second time around, comes de novo to the Board on an appeal by the Petitioners from an Order of the Zoning Commissioner, dated March 6, 1972, denying the requested petition.

The Petitioners herein seek a change in zoning classification from D.R. 3.5 (Density Residential, 3.5 dwelling units per acre) to D.R. 16 (Density Residential, 16 dwelling units per acre). Similarly, the prior case, #71-70-R, first time around, was a petition to reclassify the subject land to apartment zoning. The Zoning Commissioner denied the petition in both cases, but was reversed in the first case by the Board of Appeals which granted the petition. Protestants then appealed the Board's decision to the Circuit Court, but later their appeal was dismissed by the Court because protestors failed to pursue the appeal. Therefore, the D.R. 16 classification granted by the Board on March 19, 1971 remained in effect until the Baltimore County Council classified it as D.R. 3.5 on March 24, 1971, upon adoption of the new zoning map.

The Petitioners claim that for the County Council to so zone the property constitutes "error" in comprehensive rezoning and is the basis for this case. The Board permitted testimony into the record regarding "change" in the character of the neighborhood since more than one year had elapsed between the adoption of the new zoning map on March 24, 1971, and the start of this de novo case before the County Board of Appeals on October 31, 1972. However, on interpreting the applicable statute, Section 22.22(j) of the County Code, the County Solicitor is of the opinion that the one year rule runs from the date of adoption of the zoning map to the filing date of a zoning petition with the Zoning Commissioner. The instant petition was filed August 3, 1971, less than one year after the

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map was adopted. Therefore, testimony regarding change in the character of the neighborhood is given no weight in the following decision except as it may apply to the Petitioners' claim that the County Council should have considered, as pertinent, those changes that had occurred in the neighborhood prior to the adoption of the map as valid reasons for not placing the subject property in a D.R. 3.5 zoning category. Section 22.22(j) of the Baltimore County Code states:

"No zoning reclassification of property shall, for a period of one year after a zoning map applicable thereto may by an ordinance of the county council have been adopted, be granted by the zoning commissioner or board of appeals on the ground that the character of the neighborhood has changed."

The subject property (see plat, Petitioners' Exhibit #2) is located on Seminary Avenue in Lutherville, Eighth Election District of Baltimore County, Maryland. Its location description and surroundings are adequately described in the Board's Opinion in case #71-70-R, a copy of which is in evidence in the instant case as Petitioners' Exhibit #3. Therefore, for the sake of brevity, this information will not be repeated here except to state that the vandalized house described on the Strutt property has been razed, and that the surrounding zoning, which had been titled "R-10" under the then existing zoning classifications, is now known as "D.R. 3.5" under the new zoning classifications now in effect. If successful in their petition, the Petitioners plan to construct 132 two-bedroom garden type apartments on their 9.18 gross acres of land.

There was considerable testimony given pro and con forecasting the probable resulting impact that the proposed use would have on individuals and on the community. The Board is convinced, by the testimony, that the proposed use would not tend to overload the schools, overcrowd the land, create traffic congestion on the local streets, or be detrimental to Protestants' property values. Early in the hearing it was stipulated that utilities were no problem. Later, the Protestants' own expert witness generally agreed this to be true, particularly in view of corrective steps and reinforcements that are being made to the Jones Falls sewer interceptor and rerouting of sewage flows.

The Protestants developed through photographic and undisputed testimony as to the unique Victorian age character of the old houses in Lutherville, Circa 1850-1900,

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and told of their success in having the area declared an historic district. They acknowledged that there were many modern single family houses, some multiple family houses, a garden type apartment complex and a nursing home within the neighborhood, and also, that there were peripheral neighborhood commercial establishments and uses. They admitted that the Historic Society has no control over the disposition or use of any property in Lutherville, and that a razing of Petitioner Parker's house or a change in use of the Petitioners' property, would not invalidate the historic district designation awarded to old Lutherville.

A large old stucco on frame building, three stories high, base size estimated at 70 feet by 200 feet, is directly across Seminary Avenue from the subject property. Formerly known as the Maryland College for Women, it is now a 150 bed old people's nursing home known as College Manor. One of the protesting parties stated that he would have no objection if this facility were converted to apartments to house 150 residents, yet he was opposed to constructing apartments on the subject property.

Mr. Rodd Wheaton of Silver Spring, Maryland, who is an Architectural Historian of the National Park Service and who prepared the historic survey of Lutherville (Protestants' Exhibit R), testified on behalf of the Protestants that the College Manor nursing home use and architecture is very compatible with the neighborhood. It was his opinion that no apartments whatsoever constructed on the subject site could be compatible with the neighborhood, "unless they were underground". However, he was unable to justify such a statement when confronted with the supposition that the subject proposed apartments could use the same architectural style as the College Manor nursing home. The Board believes that a garden type apartment complex on the subject land certainly could be architecturally compatible with the neighborhood. Petitioner Strutt is a well-known and respected builder in Baltimore County. He has built numerous fine houses and has been given an award for saving trees in the process, as cited in the testimony. His building projects have actually enhanced many areas and communities.

The real test to be decided in this case, however, is whether or not the County Council erred in assigning D.R. 3.5 zoning to the subject property when it adopted

George F. Strutt, et al - #72-59-R

4.

the new zoning map on March 24, 1971. Specifically, in this respect there was testimony that the subject property was listed as a live zoning issue in the Log of Zoning Issues, published for use at the public hearings for reviewing contemplated zoning changes prior to the adoption of the zoning map. Petitioners' Exhibit #4 shows that the subject property was incorrectly described in the Log of Issues, Item C-32, as being in an existing R-10 zone when actually it was in an R-A zone, and that the area was listed as 4.8 acres when actually it was 9.18 acres. Petitioners claim that the County Council relied on this information and adopted what it thought was the status quo zoning on the subject property. The Board agrees with this presumption and believes that the County Council not only would have, but should have, adopted D.R. 16 zoning for the subject land if the facts had been presented properly to it. The Board also believes that the County Council should have given great weight to the physical changes in the character of Lutherville that have occurred in the past few years. While not a compelling issue, the County Council also should have considered the impact that the proposed extension of Charles Street through the subject property would have on it and on the community. The Baltimore County Traffic Engineer is promoting the acceleration of fruition of this extension because he believes it is needed.

The Board is satisfied that granting the petitioned D.R. 16 is proper zoning for the subject property as it is located between the Cardiff Charles Apartments, 150 feet south of the subject, and the College Manor nursing home on Seminary Avenue, directly across the street from the subject, and will ultimately bound on a section of Charles Street extended.

For these reasons, and from all of the testimony and evidence presented, the Board concludes that the Petitioners have overcome the burden of proving error in comprehensive rezoning; that the petitioned reclassification is proper, and that the granting of it will not result in any detriment to the general welfare of the community involved. Therefore, the Board hereby grants the requested petition.

George F. Strutt, et al - #72-59-R

5.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 13th day of August, 1973, by the County Board of Appeals, ORDERED that the reclassification from D.R. 3.5 to D.R. 16 petitioned for, be and the same is hereby GRANTED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slowik, Chairman

Walter A. Ritter, Jr.

John A. Miller

RE: PETITION FOR RECLASSIFICATION : IN THE
from D.R. 3.5 to D.R. 16 : CIRCUIT COURT
S/S Seminary Avenue, 299' : OF
W. of Francke Avenue : BALTIMORE COUNTY
9th District (8th District) :
Central Sector :
George F. Strutt, et al :
Petitioners : MISC. CASE NO. 5115
No. 72-59-R

Motion For Extension Of Time
For Filing Of Record

Appellants Nathaniel F. Pierce and Diame Pierce, his wife, and Glenn C. Rosenquist and Patricia Rosenquist, his wife, move for an extension of sixty days in order to file the record in the above captioned case. The grounds of the motion are as follows:

1. The case before the Board of Appeals of Baltimore County was heard over a period of several days, resulting in a voluminous record.
2. Due to a recent illness, the Reporter, G. Leonard Perkins, has requested that Counsel for Appellants seek an extension of time in order that the record be transcribed.
3. An extension of sixty days, from October 14, 1973, the date the record is due in this Honorable Court, to December 13, 1973, would be appropriate in view of the circumstances noted above.

Anne Kay Kramer
Counsel for Appellants
Wiltwood Road
Stevensson, Md. 21153
Tel: 486-2069

I HEREBY CERTIFY that a copy of the foregoing Motion was mailed this 14th day of October, 1973, to the Board of Appeals of Baltimore County, 111 West Chesapeake Avenue, Towson, Md.; 21204, and James D. Nolan, Esq., and Newton A. Williams; Esq.; 204 W. Pennsylvania Avenue, Towson, Md., 21204.

Anne Kay Kramer

RE: PETITION FOR RECLASSIFICATION : IN THE
from D.R. 3.5 to D.R. 16 : CIRCUIT COURT
S/S Seminary Avenue, 299' : OF
W. of Francke Avenue : BALTIMORE COUNTY
9th District (8th District) :
Central Sector :
George F. Strutt, et al :
Petitioners : MISC. CASE NO. 5115
No. 72-59-R

ORDER

ORDERED this 14th day of October, 1973, that the time for filing the record in the above entitled case is hereby extended for a period of sixty days, from October 14, 1973 to December 13, 1973.

Judge

Rec'd 10/14/73
11:55 AM

RE: PETITION FOR RECLASSIFICATION IN THE
FROM D.R. 3.5 TO D.R. 16 CIRCUIT COURT
S/S Seminary Avenue, 299' W. OF Francke Avenue OF
9th District (8th District) OF
Central Sector BALTIMORE COUNTY
George F. Strutt, et al Misc. Appeal:
Petitioners Case No:
Case # 72-59-R

Petition For Appeal

Protestant Appellants Glenn Rosenquist and Patricia Rosenquist, his wife and Nathaniel Pierce and Diane Pierce, his wife, file this Petition for Appeal from the decision of the Board of Appeals of Baltimore County (hereinafter referred to as "Board") for the following reasons:

1. Protestant-Appellants are aggrieved and will be adversely affected by the decision of the Board in the above entitled case.

2. Petitioner M. Giles Parker, has been the minority member of the Board of Appeals for many years. Protestant-Appellants' Counsel's objection to Mr. Parker's appearance before the remaining regular Board members and the alternate Board member was overruled by the Board. In addition, Counsel for Petitioner, M. Giles Parker, presented a resolution adopted by the Baltimore County Council, reporting to show approval of the Petitioner, M. Giles Parker, to appear before his own Board. Said resolution was illegal and insufficient in law in its attempt to overcome any bias in favor of said Petitioner. It is Protestant-Appellants' position that the

appearance of M. Giles Parker before the Board and testimony as an expert witness before the Board jeopardized their right to a fair and impartial hearing.

3. The Petitioner-Appellee filed his case before the Board on August 3, 1971, within one year of the Comprehensive County-wide Zoning Map Adoption of March 24, 1971. The only legal issue before the Board then was whether or not the Council committed error in designating Petitioner-Appellee's property D.R. 3.5 in that Comprehensive Map adoption. The Board, however, erroneously permitted Petitioner-Appellee to present evidence based on "change in the neighborhood" in addition to the presentation of evidence based on "mistake" or "error".

4. The Board, despite evidence to the contrary, used bootstrap arguments to conclude that the reclassification of the property would not adversely affect public facilities, such as schools, and sewer facilities.

5. The Board deliberately misinterpreted the statements made by Protestant-Appellants' witnesses concerning the College Manor Nursing Home directly across from the subject tract to equate a nursing home situated on eleven acres and occupied by 150 persons as being equal to 150 apartments thereby concluding that the proposed 132 apartments on the subject 9.18 acre site are a suitable use.

6. The Board erroneously concluded from the testimony by Protestant Appellants' expert witness that architectural compatibility, instead of density, was the real thrust of the opposition to said reclassification.

7. The Board, without any evidence therefor, erroneously concluded that the Council had failed to note the true acreage of the tract and the March 24, 1971 reclassification of the tract by the Board from R-10 to R-16.

8. The Board without any evidence, expressed its belief erroneously that the Council failed to give sufficient weight to the physical and land use changes within the community known as Lutherville. The Board failed to state what these changes were and also failed to note how long it had been since their occurrence.

9. The Board presumed, erroneously, that the Council "should have considered the impact of the proposed extension of Charles Street through the subject property," although the evidence showed that the "proposed" extension of Charles Street is just that, and no more. The Court of Appeals has stated often that reclassification based on "proposed" roads is legally insufficient.

10. The Board, in its Opinion, without any evidence before it, made the statement that "the Baltimore County Traffic Engineer is promoting the acceleration of fruition of this extension (of Charles Street)," and "that the subject tract will then ultimately bind on a section of Charles Street."

11. And for such other and further reasons as may be presented at the hearing on said appeal.

Anne Kay Kramer
Attorney for Protestant-Appellants
Wiltonwood Road
Stevenson, Maryland 21153
486-2069

I HEREBY CERTIFY that on this 14th day of September, 1973, a copy of the foregoing Petition For Appeal was mailed to James D. Nolan, Esq., and Newton A. Williams, Esq., 204 West Pennsylvania Avenue, Towson, Maryland, 21204, and to the County Board of Appeals, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland, 21204.

Anne Kay Kramer
Attorney for Protestant-Appellants
Wiltonwood Road
Stevenson, Maryland 21153
486-2069

69345 RE: PETITION FOR RECLASSIFICATION BEFORE THE
S/S OF SEMINARY AVENUE, 299' W. OF DEPUTY ZONING COMM.
FRANCKE AVENUE - 8th DISTRICT, OF BALTIMORE COUNTY
GEORGE F. STRUTT, et al - PETITIONERS NO. 72-59-R
NO. 72-59-R (ITEM NO. 11) (ITEM NO. 11)

ORDER FOR APPEAL

Mr. Deputy Zoning Commissioner:

Please enter an Appeal to the County Board of Appeals from your Order of March 6, 1971, and each and every part thereof, denying the requested reclassification on behalf of all of the Petitioners herein, George F. Strutt, et al., parties thereby aggrieved.

James D. Nolan
Nolan, Plumbo and Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21204

I HEREBY CERTIFY that on this 20th day of March, 1972 a copy of the foregoing Order for Appeal was mailed to John W. Hessian, III, Esquire, 102 W. Pennsylvania Avenue, Towson, Maryland 21204.

James D. Nolan

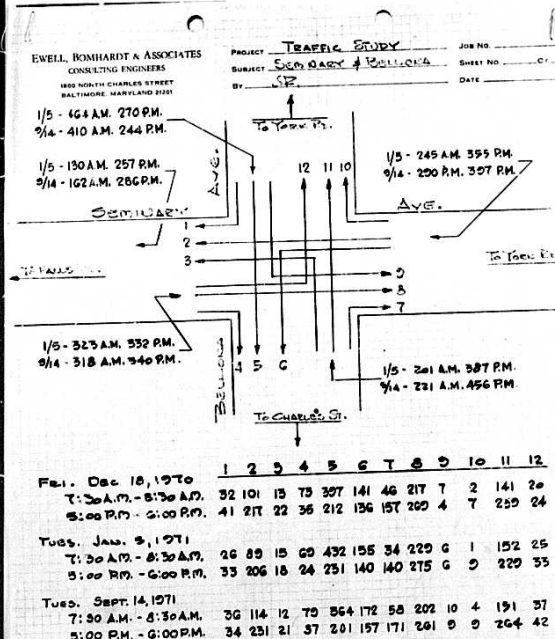
Map adopted 11/14 1955
9+ acres 130 apt. units

- 1) S/W corner of Francke to Seminary Ave. corner: Madison S. Skerman reclassification from R-10 to R-16 granted 2/22/54 now occupied by City case # 5541 X
- 2) S/W corner Seminary Ave. front lot corner Helen M. Witham reclassified from R-10 to R-16 granted 2/24/55 now occupied by small city greenery case # 4445
- 3) Collin Ave. just opposite subject corner: J. Clyde Anderson reclassification from R-10 to R-16 granted 1/10/57 now occupied by 4 office & warehouse combination buildings - case # 3890
- 4) Behind 7/8 corner of Seminary & Front Avenues. corner block to H. Wellsberger reclassification from R-10 to R-16 granted on 1/15/55 now occupied by 2 story city with street office above case # 4647
- 5) S/W corner of Seminary & Front Avenues. corner Cardiff - at Charles Apartments reclassified from R-10 to R-16 granted on 1/15/55 now occupied by Cardiff - at Charles Garden Apartments case # 6578 & # 5726

all of these changes are within rights of subject property

College Manor 2242 sp Nursing Home

r.c. Pet # 4



LINE NO.	SECTION	SP. NO.	LOC. OF SP.	SP. NO.	LOC. OF SP.	DATE	TIME	NO. OF VEH.	NO. OF TRUCKS	NO. OF BUSES	NO. OF MOTORCYCLES	NO. OF BICYCLES	NO. OF PEDESTRIANS	NO. OF OTHER
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MAY 15 1974

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 16, 1971

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21284

MEMBERS
OLIVER L. MYERS
Chairman
BUREAU OF ENGINEERING
DEPARTMENT OF TRAFFIC ENGINEERING
STATE ROADS COMMISSION
BUREAU OF FIRE PREVENTION
HEALTH DEPARTMENT
PROJECT PLANNING
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL DEVELOPMENT

Mr. George E. Gavrellis
Director
Office of Planning and Zoning
301 Jefferson Building
Towson, Maryland 21284

RE: Item 11 (April - October Cycle 1971)
Property Owner: George F. Strutt, et al
Location: S/S of Seminary Avenue, W of
Francis Avenue
Present Zoning: R-10 (D.R.3,5)
Proposed Zoning: R.A. (D.R.16)
District: 8th Sector Control
No. Acreft: 8.54

Dear Mr. Gavrellis:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is presently improved with several dwellings in very poor repair twenty (20) to forty (40) years of age. The properties to the east, south, west and southwest are improved with dwellings ten (10) to forty (40) years of age in good repair. The property to the north is improved with an existing convalescent home. Access to the site is by means of Lincoln Avenue and Seminary Avenue. Lincoln Avenue is an existing macadam road with no curb and gutter. Seminary Avenue is partially improved by concrete curb and gutter.

BUREAU OF ENGINEERING:

Highways:

Seminary Avenue is a State Road; therefore, all improvements, intersections and entrances on this road will be subject to State Roads Commission requirements.

Lincoln Avenue is an existing macadam road which is proposed to be improved as a 30 foot minimum closed roadway section within a 50 foot minimum right-of-way.

Charles Street Avenue is proposed to be extended through this property generally as indicated on the subject plat, and is proposed to be constructed as a 50 foot closed roadway section within a 70 foot minimum right-of-way.

Item 11

- 2 -

The Petitioner, or his engineer, should contact the Chief of the Street, Road and Bridge Design Group of this office to obtain specific details in regard to the proposed highway construction planned for Charles Street Avenue and Lincoln Avenue. Although highway improvements may not be required in connection with the proposed development of this property, dedication of high-way right-of-way and granting of reversible slope easements will be required.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the subject plan; however, a storm drainage study and facilities will be required in connection with the development of this property in accordance with Baltimore County standards.

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 problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Seminary Avenue is a State Road. Therefore, drainage requirements as they affect the road come under the Jurisdiction of the Maryland State Roads Commission.

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 top soil.

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

Sanitary Sewer and Water:

Public sanitary sewerage and water supply is available to serve this property.

STATE ROADS COMMISSION:

The subject plan indicates entrance channelization that is generally acceptable to the State Roads Commission. However, the existing entrances must be eliminated.

The proposed entrance will be subject to State Roads Commission approval and permit.

Item 11

- 3 -

DEPARTMENT OF TRAFFIC ENGINEERING:

The subject petition is requesting a change from D.R. 3.5 to D.R.16. This petition was reviewed as Item 71-70 and the following comment remains valid. This proposal should increase the trip density from 120 to 1100 trips per day. The subject petition is within the York Road Corridor which at the present time is at capacity. This increased trip density can be expected only to compound the problem.

FIRE PREVENTION BUREAU:

Fire hydrants for the proposed site are required and shall be in accordance with Baltimore County Standards. The hydrants shall be located at 500 feet intervals.

A second means of access is required for the site.

Minimum width to the roads through site shall be 30 feet to assure passage of Fire Department equipment.

a. When pull-in parking is designed for both sides of a roadway, the minimum distance from curb to curb of the parking area shall be 64 feet.

b. Pull-in parking on one side only, the distance from curb to curb shall be 44 feet.

The owner shall be required to comply with all applicable requirements of the 101 Life Safety Code, 1967 Edition, and D-1 Fire Prevention Code when construction plans are submitted for approval.

DEPARTMENT OF HEALTH:

Public water and sewer are available to this site.

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.

BOARD OF EDUCATION:

From the existing zoning we could expect seventeen (17) elementary pupils while from a change to garden type apartments we could expect approximately thirty (30) pupils. A change to townhouse type apartments could yield as much as sixty-one (61) pupils.

Item 11

- 4 -

Schools servicing this area: (From September 22, 1970 enrollment)

	Capacity	Enrollment	%
Lutherville Elementary	720	807	+ 87
Towson Junior High	1050	1236	+ 186
Towson Senior High	1810	2066	+ 256

Future Construction	Status	Capacity	Est. to Open
Lech Paven Senior High	Underway	1120	9/72

* To give partial relief to Park Lane Senior High, Dalany Senior High, and Towson Senior High.

PROJECT PLANNING DIVISION:

This office has reviewed the subject site plan and offers the following comments:
Interior details and compliance with Section 504 of the Baltimore County Zoning Regulations will be commented on at a later date.

ZONING ADMINISTRATION DIVISION:

It appears by the foregoing comments that a tremendous amount of traffic will be generated by the proposed D.R.16 zoning. Also the zoning would tend to compound the problem of road capacity and school capacity which exists at the present time. This property is located in the York Road Corridor and any additional density will compound any traffic and school problem which exists. It might be pointed out that the Petitioner will be required to undergo extensive redemolition to the layout of his building since all buildings in a D.R.16 Zone must be setback at least seventy-five (75) feet from the zone line. This would apply to the three (3) buildings which are directly bordering Seminary Avenue.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS
Chairman

CC: Me

cc: Mr. Edward D. Hardisty
Zoning Commissioner

James D. Nolan, Engineer
204 W. Pennsylvania Avenue
Towson, Maryland 21284

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

June 11, 1970

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21284

MEMBERS
OLIVER L. MYERS
Chairman
BUREAU OF ENGINEERING
DEPARTMENT OF TRAFFIC ENGINEERING
STATE ROADS COMMISSION
BUREAU OF FIRE PREVENTION
HEALTH DEPARTMENT
PROJECT PLANNING
BUILDING DEPARTMENT
BOARD OF EDUCATION
ZONING ADMINISTRATION
INDUSTRIAL DEVELOPMENT

James D. Nolan, Esq.
Nolan, Plunhoff & Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21284

RE: Type of Hearing: Reclassification
from an R-10 zone to an RA zone
Location: S/S of Seminary Avenue,
300' W of Francis Avenue
Committee Meeting of April 21, 1970
Petitioners: George F. Strutt, et al
8th District
Item 248

Dear Sirs:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is presently improved with two dwellings and several out buildings. The properties to the west and east are improved with dwellings, 20 to 50 years of age, in excellent repair. An additional property to the south is improved with apartments which has a buffer strip between the apartments and Lincoln Avenue. The property to the north is improved with a convalescent home. Seminary Avenue and Lincoln Avenue are not improved with concrete curb and gutter.

BUREAU OF ENGINEERING:

Highways:

Seminary Avenue is a State road; therefore, all improvements intersections, and entrances on this road will be subject to State Roads Commission requirements.

Lincoln Avenue is an existing road which shall ultimately be improved as a 30-foot curbed street on a 50-foot right-of-way. Right-of-way dedication will be required.

Charles Street Avenue will extend through this site as a curbed street on an 80-foot right-of-way and is to be dedicated to the County.

James D. Nolan, Esq.
Nolan, Plunhoff & Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21284
Item 248

- 2 - June 11, 1970

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 problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the petitioner.

Seminary Avenue is a State road. Therefore, drainage requirements as they affect the road come under the Jurisdiction of the Maryland State Roads Commission.

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 top soil.

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 sanitary sewer services are available to serve this site.

PROJECT PLANNING DIVISION:

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

- 1) 4' high compact screen planting must be provided as per Section 409 of the Baltimore County Zoning Regulations
- 2) The layout should be revised to eliminate the front and back parking on the two center buildings.

DEPT. OF TRAFFIC ENGINEERING:

The subject petition is requesting a change from R10 to RA of 9.18 acres. This proposal should increase the trip density from 120 to 1,100 trips per day. The subject petition is within the York Road corridor, which, at the present time, is at capacity. This increased trip density can be expected only to compound the problem.

James D. Nolan, Esq.
Nolan, Plunhoff & Williams
204 W. Pennsylvania Avenue
Towson, Maryland 21284
Item 248

- 4 - June 11, 1970

STATE ROADS COMMISSION: (Continued)

The plan must be revised prior to a hearing date being assigned.

Access to Seminary Avenue will be subject to State Roads Commission approval and permit.

ZONING ADMINISTRATION:

This office is withholding a hearing date until such time as revised plans are submitted in accordance with State Road comments.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

DLH:JD
Enc.

BALTIMORE COUNTY BOARD OF EDUCATION

ZONING ADVISORY COMMITTEE REPORT

OF 6/22/70 4-23 (11th Session)

Petitioner: G. F. Strutt, et al
Location: S/S Seminary Ave, W of Francis Ave

District: 8

Present Zoning: R-10 (15)

Proposed Zoning: RA (15)

No. of Acres: 9.18

Comments: From the existing zoning we could expect 17 elementary pupils while from a change to garden type apartments we could expect approximately 30 pupils. A change to townhouse type apartments could yield as much as 61 pupils.

Schools servicing this area: (From Sept 22, 1970 enrollment)

	Capacity	Enroll	%
Lutherville Ele	720	807	+ 87
Towson Junior H	1050	1236	+ 186
Towson Sr	1810	2066	+ 256

Future Construction	Status	Capacity	Est. to Open
Lech Paven Sr H	Underway	1120	9/72

* To give partial relief to Park Lane Sr, Dalany Sr, & Towson Sr

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers Date: May 14, 1971
 FROM: Ian J. Forrest
 SUBJECT: Item 11

11. Property Owner: George F. Strutt, et al
 Location: S/S of Seminary Ave., W. of Francke Ave.
 Present Zoning: R-10 (D.R. 3.5)
 Proposed Zoning: R.A. (D.R. 16)
 District: 8th Sector: Central
 No. Acres: 8.54

Public water and sewer are available to this site.

Air Pollution Comment: 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.

[Signature]
 Chief
 Water and Sewer Section
 BUREAU OF ENVIRONMENTAL HEALTH

IJF/wan

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. Edward D. Hardesty
 TO: Zoning Commissioner Date: May 11, 1971
 FROM: Project Planning Division
 SUBJECT: Zoning Advisory Agenda Item #11

April 27, 1971
 George F. Strutt, et al
 S/S of Seminary Ave., W. of Francke Avenue

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

Interior details and compliance with Section 504 of the Baltimore County Zoning Regulations will be commented on at a later date.

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF TRAFFIC ENGINEERING
 JEFFERSON BUILDING
 TOWSON, MARYLAND 21284
 INTER-OFFICE CORRESPONDENCE

TO: Edward D. Hardesty
 Attn: Oliver L. Myers Date: May 11, 1971
 FROM: C. Richard Moore
 SUBJECT: Item 11 - Cycle Zoning
 Property Owner: George F. Strutt, et al
 Seminary Avenue west of Francke Avenue
 R 10 (DR 3.5) to R.A. (DR 16)

The subject petition is requesting a change from DR 3.5 to DR 16. This petition was reviewed as Item 7-70 and the following comment remains valid. This proposal should increase the trip density from 320 to 1100 trips per day. The subject petition is within the York Road Corridor which at the present time is at capacity. This increased trip density can be expected only to compound the problem.

[Signature]
 C. Richard Moore
 Assistant Traffic Engineer

CRH:nr

TO: Mr. Edward D. Hardesty, Zoning Commissioner Date: 5/10/71
 Attn: Mr. Myers
 FROM: Planning Division
 Fire Prevention Bureau
 SUBJECT: Property Owner:
 George F. Strutt, et al

Location: S/S of Seminary Avenue, W. of Francke Avenue

Item # 11
 Fire hydrants for the proposed site are required and shall be in accordance with Baltimore County Standards. The hydrants shall be located at 500 Ft. intervals.

A second means of access is required for the site.

Minimum width to the roads through site shall be 30 feet to assure passage of Fire Department equipment.

A. When pull-in parking is designed for both sides of a roadway, the minimum distance from curb to curb of the parking area shall be 64 feet.

B. Pull-in parking on one side only, the distance from curb to curb shall be 44 feet.

[Signature]
 St. Thomas Kelly

The owner shall be required to comply with all applicable requirements of the 101 Life Safety Code, 1967 Edition, and the Fire Prevention Code when construction plans are submitted for approval.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Edward Hardesty Date: MAY 7, 1971
 ATTN: Oliver L. Myers
 FROM: Kilsnoth N. Diver, P.E.
 SUBJECT: Item #11 (April - October Cycle 1971)
 Property Owner: George F. Strutt, et al
 Location: S/S of Seminary Ave., W. of Francke Ave.
 Present Zoning: R-10 (D.R. 3.5)
 Proposed Zoning: R.A. (D.R. 16)
 District: 8th Sector: Central
 No. Acres: 8.54

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

Highways:

Seminary Avenue is a State Road; therefore, all improvements, intersections and entrances on this road will be subject to State Roads Commission requirements.

Lincoln Avenue is an existing macadam road which is proposed to be improved as a 30-foot minimum closed roadway section within a 50-foot minimum right-of-way.

Charles Street Avenue is proposed to be extended through this property, as indicated on the subject plat, and is proposed to be constructed as a 50-foot closed roadway section within a 70-foot minimum right-of-way.

The Petitioner, or his engineer, should contact the Chief of the Street, Road and Bridge Design Group of this office to obtain specific details in regard to the proposed highway construction plans for Charles Street Avenue and Lincoln Avenue. Although highway improvements may not be required in connection with the proposed development of this property, dedication of highway right-of-way and granting of revertible slope easements will be required.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the subject plan; however, a storm drainage study and facilities will be required in connection with the development of this property in accordance with Baltimore County standards.

Item #11 (April - October Cycle 1971)
 Property Owner: George F. Strutt, et al
 Page 2
 May 7, 1971

Storm Drains: (Cont'd)

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

Seminary Avenue is a State Road. Therefore, drainage requirements as they affect the road come under the jurisdiction of the Maryland State Roads Commission.

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 top soil.

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

Sanitary Sewer and Water:

Public sanitary sewerage and water supply is available to serve this property.

[Signature]
 KILSNOTH N. DIVER, P.E.
 Chief, Bureau of Engineering

END/DAM:RDD:iss
 Key Sheet: S-5E
 Position: Sheets: 45 and 46 NW 3
 Topo: NW 12

STATE OF MARYLAND
 STATE ROADS COMMISSION
 300 WEST FREDSON STREET
 BALTIMORE, MD. 21201
 APRIL 29, 1971

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

Re: Item 11
 Z. A. C. Meeting
 April 27, 1971
 Owner: George F. Strutt, et al
 Location: S/S of Seminary Avenue (Route 131)
 West of Francke Ave.
 Present Zoning: R-10 (D.R. 3.5)
 Proposed Zoning: R.A. (D.R. 16)
 District: 8th Sector
 Central
 No. Acres: 8.54

Dear Mr. Hardesty:

The subject plan indicates entrance channelization that is generally acceptable to the State Roads Commission. However, the existing entrances must be eliminated.

The proposed entrance will be subject to State Roads Commission approval and permit.

Very truly yours,
 Charles Lee, Chief
 Development Engineering Section
 John E. Meyers (PL)
 Asst. Development Engineer

CLJ:Drbk

CERTIFICATE OF POSTING
 ZONING DEPARTMENT OF BALTIMORE COUNTY
 Towson, Maryland

District: 972 Date of Posting: APRIL 1, 1972
 Posted for: APPEAL
 Petitioner: GEORGE F. STRUTT
 Location of property: S/S SEMINARY AVE. 379 FT. W. OF FRANCKE AVE.
 Location of Sign: S/S SEMINARY AVE. 325 FT. W. OF FRANCKE AVE. @ N/S OF LINCOLN AVE. 375 FT. W. OF FRANCKE AVE.
 Remarks:
 Posted by: Charles N. Diver Date of return: APRIL 10, 1972

OFFICE OF
THE TOWSON TIMES

TOWSON, MD. 21286 August 30, 1971

THIS IS TO CERTIFY, that the annexed advertisement of
The Zoning Commissioner of Baltimore County

was inserted in THE TOWSON TIMES, a weekly newspaper published
in Baltimore County, Maryland, once a week for One ~~month~~
week before the 30th day of Aug., 1971 that is to say, the same
was inserted in the issue of August 26, 1971.

STROMBERG PUBLICATIONS, Inc.

By: *Ruth Morgan*

CERTIFICATE OF PUBLICATION

TOWSON, MD. August 26, 1971

THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., ~~once a week~~
on one time ~~before the 16th~~
day of September, 1971, the ~~first~~ publication
appearing on the 26th day of August
1971.

THE JEFFERSONIAN,

Manager.

Cost of Advertisement, \$.....

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *9th* Date of Posting: *AUG. 28, 1971*
Posted for: *RECLASSIFICATION*
Petitioner: *GEORGE F. STRUTT*
Location of property: *S/S SEMINARY AVE. 299 FT. W. OF FRANCKE AVE.*
Location of Sign: *7 1/2 SEMINARY AVE. 320 FT. W. OF FRANCKE AVE. @ 7 1/2 SEMINARY AVE. 400 FT. W. OF FRANCKE AVE. N/S LINGWOOD AVE. 400 FT. W. OF FRANCKE AVE.*
Remarks: *(Charles H. Nolan)*
Posted by: *(Charles H. Nolan)* Date of return: *SEPT. 3 - 1971*

PETITION MAPPING PROGRESS SHEET

FUNCTION	Web Map		Original		Duplicate		Tracing		GDD Sheet	
	date	by	date	by	date	by	date	by	date	by
Descriptions checked and outline plotted on map										
Petition number added to outline										
Denied										
Granted by ZC, BA, CC, CA										
Reviewed by: <i>JBBS</i>	Revised Plans: Change in outline or description Yes ___ No ___ Map # _____									

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: *9th* Date of Posting: *AUG. 26, 1971*
Posted for: *RECLASSIFICATION*
Petitioner: *GEORGE F. STRUTT*
Location of property: *S/S OF SEMINARY AVE. 299 FT. W. OF FRANCKE AVE.*
Location of Sign: *7 1/2 SEMINARY AVE. 320 FT. W. OF FRANCKE AVE. @ 7 1/2 SEMINARY AVE. 400 FT. W. OF FRANCKE AVE. N/S LINGWOOD AVE. 400 FT. W. OF FRANCKE AVE.*
Posted by: *(Charles H. Nolan)* Date of return: *SEPT. 7 - 1971*

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing
this 2nd day of August 1971
(Signature)
Petitioner: *George F. Strutt, et al*
Petitioner's Attorney: *James B. Nolan* Reviewed by: *(Signature)*
1st Fish of Advisory Committee

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

INVOICE No. 70606 DATE: *April 21, 1971*
To: *George F. Strutt, Plaintiff and William S/S of Francke Ave. 299 W. Francke Ave. Towson, Md. 21286*
Being Rep. of Baltimore County
DEBIT TO ACCOUNT NO. *89-622* TOTAL AMOUNT *\$25.00*
CREDIT QUANTITY *56.00*
Position for Reclassification for George F. Strutt, et al

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

INVOICE No. 74048 DATE: *3/20/71*
To: *Mr. Anne Kay Kerner 771 W. Redwood Street Baltimore, Md.*
Being Rep. of Baltimore County
DEBIT TO ACCOUNT NO. *01-712* TOTAL AMOUNT *\$ 2.00*
CREDIT QUANTITY *56.00*
Copies of documents from Zoning File #72-59-2

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

INVOICE No. 74064 DATE: *9/15/70*
To: *Mr. Anne Kay Kerner 771 W. Redwood Street Baltimore, Md. 21204*
Being Rep. of Baltimore County
DEBIT TO ACCOUNT NO. *01-712* TOTAL AMOUNT *\$ 21.00*
CREDIT QUANTITY *56.00*
Cost of certified documents in Case No. 72-59-2
George F. Strutt, et al 5/5 Seminary Ave. 299 W. of Francke Ave. 7th District, Central Section

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE
Revenue Division
COURT HOUSE
TOWSON, MARYLAND 21204

INVOICE No. 84959 DATE: *9/16/71*
To: *Misses. Nolan, Plaintiff & Williams, 204 West Pennsylvania Avenue Towson, Maryland 21286*
Being Rep. of Baltimore County
DEBIT TO ACCOUNT NO. *89-668* TOTAL AMOUNT *\$18.25*
CREDIT QUANTITY *56.00*
Cost of advertising and posting property of George Strutt No. 72-18-1

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 5877
DATE: *JANUARY 9, 1971* ACCOUNT: *01-662*
AMOUNT: *\$10.00*
DISTRIBUTION: WHITE - CASHIER, PINK - AGENCY, YELLOW - CUSTOMER
Newton A. Williams, Esquire
Cost of Posting of an Appeal for Case No. 72-59-R
S/S of Seminary Avenue, 299' W of Francke Avenue - 9th District
George F. Strutt, et al - Petitioners

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 2111
DATE: *March 20, 1972* ACCOUNT: *88-662-01*
AMOUNT: *\$70.00*
DISTRIBUTION: WHITE - CASHIER, PINK - AGENCY, YELLOW - CUSTOMER
No. 72-59-R - Appeal costs - property of Geo. R. Strutt, et al, S/S Seminary Ave. W. Francke Ave.
Jas. D. Nolan, Esq.

EX. ZONING R10 (DR.35)

SP EXC- 2242 (1)

SEMINARY AVENUE

AVENUE

AVENUE
FRANCKE AVENUE

EX ZONING R10 (DR.35)

SP EXC- 2242 (2)

EX. ZONING R10 (DR.35)

EX. USE - RESIDENTIAL

OFFICE COPY

EX. ZONING R10 (DR.35)

EX. USE - RESIDENTIAL

PLAT OF "LINCOLN"
S.L.B. NET 7 folio 23

LINCOLN AVENUE

AVENUE

EX. ZONING R10 (DR.35)

EX. USE - RESIDENTIAL

EXISTING ZONING	R10 (DR.35)
PROPOSED ZONING	RA (DR.16)
GROSS AREA	9.18 ACRES ±
UNITS PERMITTED (14/AC)	146
UNITS SHOWN	132 (ALL TWO BEDROOM APTS)
PARKING REQUIRED (1.53/UNIT)	202
PARKING PROVIDED	204
OPEN SPACE REQUIRED (15%)	1.38 AC.
OPEN SPACE PROVIDED	1.55 AC.
MAXIMUM HEIGHT OF PROPOSED BUILDINGS	- 50 FT.

PLAT TO ACCOMPANY ZONING PETITION
 RECLASSIFICATION FROM R10 (DR.35) TO RA (DR.16)
 EIGHTH DISTRICT BALTIMORE COUNTY, MARYLAND
 SCALE: 1"=50' APRIL 3, 1970

GEORGE WILLIAM STEPHENS, JR.
 AND ASSOCIATES, INC.
 ENGINEERS
 303 ALLEGREY AVE
 TOWSON 4, MARYLAND



Revised: June 24, 1970 - County Comments
 Revised: April 15, 1971 - New maps

NOTE: ALL EXISTING BUILDINGS ON
 TRACT TO BE REMOVED.

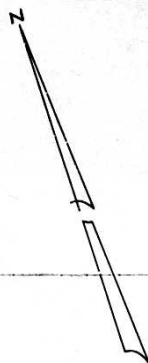


EX. ZONING R-10 (DR. 3.5)

SP Exc- 2242 (1)

SEMINARY AVENUE

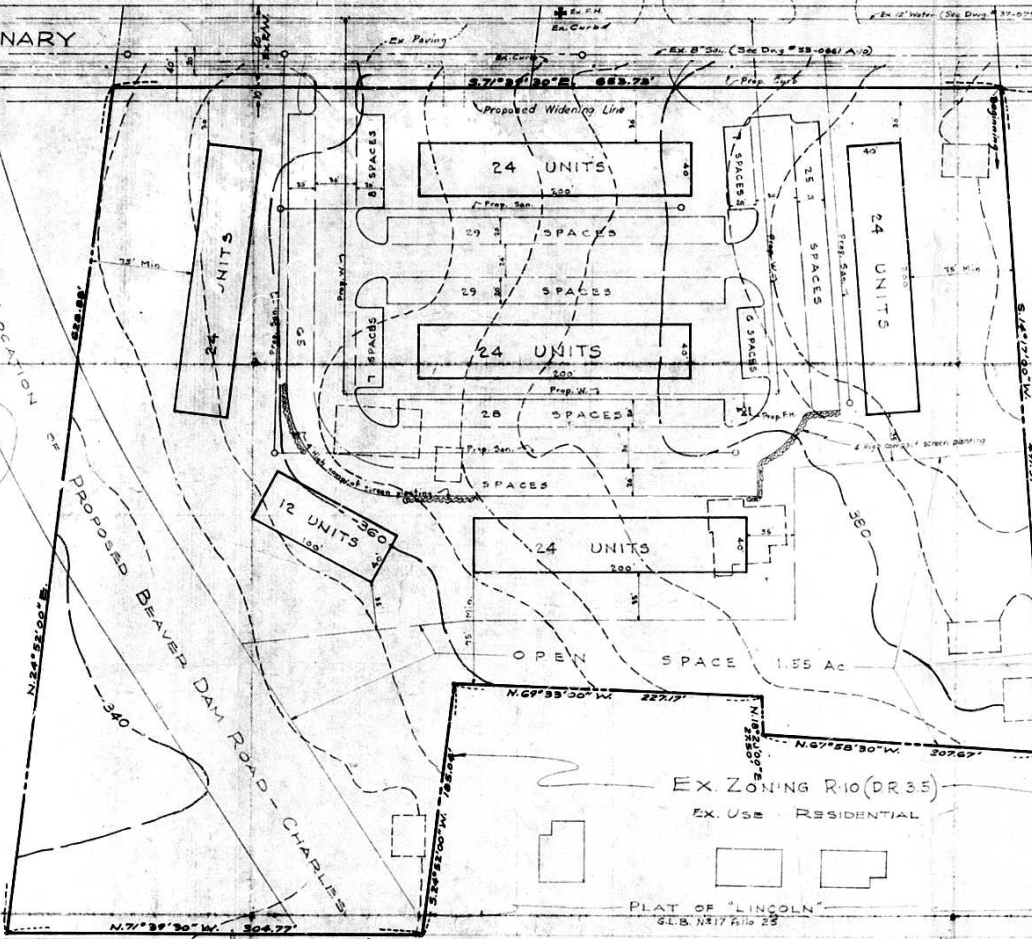
AVENUE



APPROXIMATE LOCATION OF

EX. ZONING R-10 (DR. 3.5)

EX. USE - RESIDENTIAL



EX. ZONING R-10 (DR. 3.5)

SP Exc- 2242 (2)

EX. ZONING R-10 (DR. 3.5)

EX. USE - RESIDENTIAL

PLAT OF "LINCOLN"

LINCOLN AVENUE

AVENUE

FRANCKE AVENUE

EX. ZONING R-10 (DR. 3.5)

EX. USE - RESIDENTIAL

EXISTING ZONING	R-10 (DR. 3.5)
PROPOSED ZONING	RA (DR. 16)
GROSS AREA	9.78 ACRES ±
UNITS PERMITTED (16/AC)	146
UNITS SHOWN	132 (ALL TWO BEDRM. 1 ARTS)
PARKING REQUIRED (153/UNIT)	202
PARKING PROVIDED	204
OPEN SPACE REQUIRED (15%)	1.38 AC.
OPEN SPACE PROVIDED	1.55 AC.
MAXIMUM HEIGHT OF PROPOSED BUILDINGS	30 FT.

NOTE: ALL EXISTING BUILDINGS ON TRACT TO BE REMOVED.

PLAT TO ACCOMPANY ZONING PETITION
RECLASSIFICATION FROM R-10 (DR. 3.5) TO RA (DR. 16)
EIGHTH DISTRICT
BALTIMORE COUNTY, MARYLAND
SCALE: 1"=450'
APRIL 3, 1970

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALL SHERRY AVE.
TOWSON, MARYLAND



Revised: June 24, 1970 - Council Comments
Revised: April 15, 1971 - New map

Map 30
UW 12-A
"A"
4/3/71



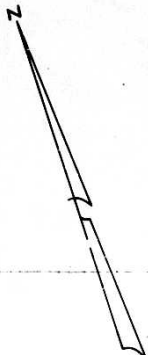
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EX. ZONING R-10 (DR.3.5)

SP. EXC- 2212 (1)

SEMINARY AVENUE

AVENUE



APPROXIMATE LOCATION OF PROPOSED BEAVER DAM ROAD - CHARLES STREET AVENUE EXTENDED

EX. ZONING R-10 (DR.3.5)
EX. USE - RESIDENTIAL

EX. ZONING R-10 (DR.3.5)
SP. EXC- 2242 (2)

FRANCKE AVENUE

EX. ZONING R-10 (DR.3.5)
EX. USE - RESIDENTIAL

PLAT OF "LINCOLN"
G.L.B. N°17 folio 25

LINCOLN AVENUE

AVENUE

CLARK AVENUE

EX. ZONING R-10 (DR.3.5)

EX. USE - RESIDENTIAL

EXISTING ZONING	R-10 (DR.3.5)
PROPOSED ZONING	RA (DR.16)
GROSS AREA	9.18 ACRES±
UNITS PERMITTED (14/AC)	146
UNITS SHOWN	132 (ALL TWO BEDROOM APTS)
PARKING REQUIRED (1.53/UNIT)	202
PARKING PROVIDED	204
OPEN SPACE REQUIRED (15%)	1.38 AC.
OPEN SPACE PROVIDED	1.55 AC.
MAXIMUM HEIGHT OF PROPOSED BUILDINGS	50 FT.

PLAT TO ACCOMPANY ZONING PETITION
RECLASSIFICATION FROM R-10 (DR.3.5) TO RA (DR.16)
EIGHTH DISTRICT
BALTIMORE COUNTY, MARYLAND
SCALE: 1"=50'
APRIL 3, 1970

GEORGE WILLIAM STEPHENS, JR.
AND ASSOCIATES, INC.
ENGINEERS
303 ALLEGHENY AVE.
TIMONON, MARYLAND



Revised: June 24, 1970 - County Comments
Revised: April 15, 1971 - New map

NOTE: ALL EXISTING BUILDINGS ON TRACT TO BE REMOVED.

