

72065  
1/4c  
3/18/72

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

73-572  
#37

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:  
Mannes F. Greenberg, Esq., Executor of the Estate of Joseph W. Shapiro  
I, or we, Israel D. Shapiro, 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 D.R. 1 zone to an D.R. 16 zone; for the following reasons:

- (1) In classifying the property D.R. 1, the Council committed errors as set out on the attached exhibit, which is incorporated by reference herein; and
- (2) Substantial changes have occurred in the neighborhood so as to alter its character since the property was so classified by the Council, and set out on the attached exhibit, which is incorporated by reference herein.

See attached description and (3) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use herein described property, for N.A.

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, and 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 of Baltimore County.

Israel D. Shapiro Petitioner  
Mannes F. Greenberg Executor of the Estate of Joseph W. Shapiro  
Joseph S. Kaufman Esq. Attorney  
James D. Nolan Esq. Attorney  
Joseph S. Kaufman Esq. Attorney  
James D. Nolan Esq. Attorney

ORDERED BY The Zoning Commissioner of Baltimore County, this 17th day of July, 1972, 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 the public hearing be had before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 21st day of September, 1972, at 10:00 o'clock A.M.

Joseph S. Kaufman  
Zoning Commissioner of Baltimore County

(over)



## DESCRIPTION

27.065 ACRE PARCEL, NORTH SIDE OF OLD COURT ROAD, EAST OF STEVENSON ROAD, THIRD FLECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

This Description is for DR-16 Zoning

Beginning for the same at a point in the center of Old Court Road, at the distance of 3957 feet, more or less, measured northeasterly along the center line of said Old Court Road from the intersection of said center line and the center line of Stevenson Road, said beginning point being at the beginning of the seventh line of the land described in the deed to Joseph W. Shapiro and recorded among the Land Records of Baltimore County in Liber W. J. R. 3948, page 439, running thence and binding on the seventh and eighth lines of said land, (1) N 16° 39' 35" W 2240.62 feet, thence binding on the southeast right of way line of the Baltimore Beltway as shown on State Roads Commission of Maryland Plat No. 17799, three courses: (2) N 70° 29' 55" E 43.18 feet, (3) N 56° 55' 10" E 403.45 feet, and (4) N 62° 27' 19" E 140.68 feet, thence binding on the twelfth line of said land, (5) S 15° 13' 25" E 2125.25 feet, thence binding on the center line of said Old Court Road, six

72065  
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3/20/72

# COUNTY OF ERROR COMMITTED BY THE COUNTY COUNCIL IN CLASSIFYING THE PROPERTY D. R. 1, AND CHANGES IN THE NEIGHBORHOOD

The Petitioners state that the County Council committed at least the following errors in classifying the subject property D. R. 1:

- 1.) As can be seen by viewing Pikesville Zoning Map 2C, the County Council completely failed to place any significant new D. R. 16 areas on the Pikesville Map south of the Baltimore County Beltway and east of Reisterstown Road, most particularly in the sector between Park Heights Avenue and Green Spring Avenue, and it was error not to do so, particularly in view of the unfulfilled public need for such fine apartments in this area.
- 2.) The fact that all area utilities are available to the site, and are adequate for greater densities, coupled with the fact that this tract has the Baltimore County Beltway as its long northern border, as well as the fact that this tract is readily accessible to the Beltway via either Park Heights Avenue or Green Spring Avenue respectively from Old Court Road, renders the imposition of D. R. 1 zoning a definite error on the part of the County Council.
- 3.) The presence of the Beltway coupled with the large M. H. - I. M. zone placed by the Council but a short distance to the South further renders D. R. 1 zoning an error by the Council.
- 4.) Other Council errors are hereby assigned, and upon discovery following minute study, will be noted.
- 5.) That the Council erred as to the proper classification of the subject tract is understandable in view of the handicaps under

WJW:impl J.O. #63135 March 28, 1972



which the County Council labored, including, but not only, the amount of time available versus the magnitude of the task, a largely hostile public and press, as well as the lack of a validly adopted Master Plan for the County, but these factors should not be allowed to deny these property owners proper zoning on their land.

As to substantial changes which have altered the character of this neighborhood since the Council studied the property and last classified it, the following are noted:

- 1.) A continuing upward growth of daily traffic on the Beltway past the site, rendering D. R. 1 zoning more and more inappropriate.
- 2.) The expansion of the neighboring apartment area to the west of the subject property and to the north of the Beth Tfiloh Congregation, also renders D. R. 1 zoning more and more inappropriate on the subject tract, as well as denoting the unfulfilled area need for fine garden apartments at the practical density of D. R. 16.
- 3.) Such other and further neighborhood changes as will be disclosed by a minute study of the area are hereby assigned, and they will be developed in full at the time of the hearing hereon.

Respectfully submitted,

Joseph S. Kaufman  
Joseph S. Kaufman  
James D. Nolan  
James D. Nolan, Attorney for the Property Owners

# PETITION FOR RECLASSIFICATION 3rd DISTRICT

ZONING: From D.R. 1 to D.R. 16 Zone.  
 LOCATION: North side of Old Court Road 3957 feet East of Stevenson Road.  
 DATE & TIME: THURSDAY, SEPTEMBER 21st, 1972 at 10:00 A.M.  
 PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing: Present Zoning: D.R. 1 Proposed Zoning: D.R. 16 All that parcel of land in the Third District of Baltimore County

Being the property of Israel D. Shapiro and the Estate of Joseph W. Shapiro, as shown on plat plan filed with the Zoning Department. Hearing Date: Thursday, September 21, 1972 at 10:00 A.M. Public Hearing Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Md.

BY ORDER OF  
S. ERIC SILVERMAN  
ZONING COMMISSIONER OF  
BALTIMORE COUNTY

MATZ, CHILDS & ASSOCIATES 1020 CROMWELL BRIDGE ROAD BALTIMORE, MARYLAND 21204  
 322 NORTH STONESTREET AVENUE JOCVILLE, MARYLAND 20850  
 DESIGNED BY RLS SUBJECT Shapiro Property - Old Court Road  
 CHECKED BY WJW DATE 3/20/72 WATER ESTIMATE 10.63135 SHEET 1 OF 1

WATER for APARTMENTS  
 555 L.F. 8" Main C @ 15¢/ft = \$ 8,325.00  
 805 L.F. 10" Main C @ 27¢/ft = 21,795.00  
 Total = 30,120.00  
 Less Returnable Revenue of (1700 L.F. @ 5.00/ft) = 10,435.00  
 Leaving Deficit of \$ 19,685.00  
 Sanitary Sewer 3200 L.F. 8" Main C @ 30¢/ft = \$ 96,000.00  
 Less Returnable Revenue of (1700 L.F. @ 5.67/ft) = 11,335.00  
 Leaving Deficit of \$ 84,665.00  
 Total Deficit of \$ 104,350.00  
 Number of Apartments = 372  
 Cost Per Unit of \$ 280.51 / Unit

DR & LAYOUT  
 TOTAL of 21 Lots  
 WATER  
 805 L.F. 10" Main C @ 27¢/ft = \$ 21,795.00  
 200 L.F. 4" Main C @ 2¢/ft = 400.00  
 Total = 22,195.00  
 Less Returnable Revenue (4200 L.F. @ 5.00/ft) = 21,000.00  
 Leaving Deficit of \$ 1,195.00  
 Sanitary Sewer 6400 L.F. 8" Main C @ 30¢/ft = \$ 192,000.00  
 Less Returnable Revenue (4200 L.F. @ 5.67/ft) = 23,814.00  
 Leaving Deficit of \$ 168,186.00  
 \* If 11 lots have Septic Systems then there is 2020 L.F. 8" Main C @ 30¢/ft = \$ 60,600.00

MATZ, CHILDS & ASSOCIATES 1020 CROMWELL BRIDGE ROAD BALTIMORE, MARYLAND 21204  
 322 NORTH STONESTREET AVENUE JOCVILLE, MARYLAND 20850  
 DESIGNED BY RLS SUBJECT Shapiro Property  
 CHECKED BY WJW DATE 3/20/72 WATER ESTIMATE 10.63135 SHEET 2 OF 2

Less Returnable Revenue of (2240 L.F. @ 6.67/ft) = \$ 14,940.00  
 Leaving a Deficit of \$ 23,660.00  
 Cost Per Lot - Method N# 1 (Total of \$ 100,200.00) = \$ 3,006.10 / Lot  
 Cost Per Lot - Method N# 2 (Total of \$ 90,500.00) = \$ 7,611.00 / Lot  
 Cost Per Lot for those with water & private sewer = \$ 4783.00 / Lot

Bd. copy Part 6 - Shapiro

Table with columns: ISSUE NO., DATE, SPONSOR, OWNER OR ORGANIZATION, LOCATION OF PROPERTY, ZONING, PERMITS, PLANNING BOARD RECOMMENDATION, and COMMENTS. Contains multiple entries for various properties in Baltimore.

CAPACITY ANALYSIS
LOCATION: Park Heights Avenue south of Old Court Road (New)
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 24'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 1750; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns 1.05; From Table 6.5 on Page 141: Adjustment Factor for left turns 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 1700 x 1.14 x 1.25 x 1.05 x 1.00 x 1.00 x 1.00 = 2400.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 1400 x 1.78 = 2500.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

CAPACITY ANALYSIS
LOCATION: Old East Park east of Stevenson Road
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 15'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 1300; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns 1.00; From Table 6.5 on Page 141: Adjustment Factor for left turns 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 1000 x 1.14 x 1.25 x 1.00 x 1.00 x 1.00 x 1.00 = 1400.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 1400 x 1.78 = 2500.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

CAPACITY ANALYSIS
LOCATION: Stevenson Road south of Old Court Road
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 20'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 1300; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns 1.00; From Table 6.5 on Page 141: Adjustment Factor for left turns 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 1400 x 1.14 x 1.25 x 1.00 x 1.00 x 1.00 x 1.00 = 2000.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 1400 x 1.78 = 2500.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

CAPACITY ANALYSIS
LOCATION: Motherhead Left Turn Lane Park Heights Avenue at Old Court Road (New)
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 12'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 800; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns 1.00; From Table 6.5 on Page 141: Adjustment Factor for left turns 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 800 x 1.14 x 1.25 x 1.00 x 1.00 x 1.00 x 1.00 = 1100.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 800 x 1.78 = 1424.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

CAPACITY ANALYSIS
LOCATION: Old Court Road east end west of Park Heights Avenue (New)
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 24'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 1700; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns 1.05; From Table 6.5 on Page 141: Adjustment Factor for left turns 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 1700 x 1.14 x 1.25 x 1.05 x 1.00 x 1.00 x 1.00 = 2400.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 1700 x 1.78 = 3026.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

CAPACITY ANALYSIS
LOCATION: Old Court Road east end west of Park Heights Avenue (New)
TYPE OF AREA (check one)
Urban one-way street with no parking; Urban one-way street with parking on one side; Urban one-way street with parking on both sides; Urban two-way street with no parking; Urban two-way street with parking; Rural two-way highway with no parking; Rural two-way highway with parking.
Curb-to-division line approach width: 24'
Lead Factor: 0.3
From A: Approach Volume (per hour of green) 1700; Peak Hour Factor 0.87; Adjustment for Peak Hour Factor 1.14; Adjustment for location 1.25; G/C 0.3.
From Table 6.4 on Page 140: Adjustment Factor for right turns RTL 1.05; From Table 6.5 on Page 141: Adjustment Factor for left turns LTL 1.00; From Table 6.6 on Page 142: Adjustment Factor for trucks 1.00; From Figure(s) 6.11 - 6.14 on Page(s) 143 - 145: Adjustment Factor for Bus Stops 1.00.
Capacity - One Way: B x C x D x E x F x G x H x I = 1700 x 1.14 x 1.25 x 1.05 x 1.00 x 1.00 x 1.00 = 2400.
Capacity - Two Way: Directional Distribution 50; Adjustment Factor for DD 1.78; J x K = 1700 x 1.78 = 3026.
NOTE: For Load Factor 0.3.
Reference: Highway Capacity Manual, 1965; National Academy of Sciences; Highway Research Board Special Report 87.

Petition for Reclassification BEFORE THE A/S of Old Court Road, 3957'E of Stevenson Road Third District Israel D. Shapiro, et al OF BALTIMORE COUNTY Petitioners No. 73-57-R (Item No. 27)

ORDER FOR PARTIAL APPEAL Mr. Commissioner: On behalf of the Petitioner Israel D. Shapiro, please enter a partial appeal to the County Board of Appeals from only those portions of the Order dated August 28, 1973, denying the requested D. R. 16 on the subject tract in the above proceeding.

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

I HEREBY CERTIFY that on this 21st day of September, 1973, a copy of the foregoing ORDER FOR PARTIAL APPEAL was mailed to Arnold Fleischmann, Esquire, 102 West Pennsylvania Avenue, Towson, Maryland 21204, and J. Mayer Willen, Esquire, 222 East Baltimore Street, Baltimore, Maryland 21202.

SEP 21 1973 AM ZONING DEPARTMENT James D. Nolan

ISRAEL D. SHAPIRO, ET AL  
N/S Old Court Rd. 3957' E. Stevenson Rd.  
D.R. 1 to D.R. 16

#73-57-R  
3rd District  
27.065 acres

July 17, 1972 Petition filed  
Aug. 28, 1973 Z.C. granted D.R. 10.5 in lieu of D.R. 16  
Sept. 20 Appealed to C.B. of A. by Protestants  
" 21 " " " Petitioners (Partial Appeal)  
Nov. 4, 1974 Majority of Board DENIED reclassification  
4 Dissenting Opinion by W. Giles Parker  
" 26 Order for Appeal filed in the Circuit Court (File #5442)  
Dec. 20 Motion to Extend Time for Filing Record (extended to 2/14/75)  
Feb. 14, 1975 Record of proceedings filed in the Circuit Court  
Jan. 20, 1978 Dismissed by court for lack of prosecution (Md. Rule 530)

RE: PETITION FOR RECLASSIFICATION : IN THE  
from D.R. 1 to D.R. 16 zone : CIRCUIT COURT  
N/S of Old Court Road 3957' : FOR BALTIMORE COUNTY  
E of Stevenson Road  
3rd District : AT LAW  
Israel D. Shapiro : Misc. Docket No. 9  
Owner-Petitioner : Folio No. 498  
: File No. 5442

ORDER EXTENDING TIME FOR  
TRANSMISSION OF RECORD

Upon the foregoing Motion to Extend Time for Transmission of Record, and affidavits thereon, and pursuant to the provisions of Maryland Rule 57.b., it is hereby

ORDERED by the Circuit Court for Baltimore County, that the time for the transmission of the record in these proceedings, including the transcript of testimony and all exhibits, is hereby extended through and including February 14, 1975, 1975.

*51 Lester J. Banutt*  
JUDGE

CONSENT is hereby given for passage of an Order for Extension of Time for Transmission of Record as requested in the attached Motion.

*Arnold Fleischmann*  
Arnold Fleischmann  
Attorney for Protestants  
102 W. Pennsylvania Ave.  
Towson, Maryland 21204  
296-1434

*James D. Nolan*  
James D. Nolan  
Attorney for Petitioners  
204 W. Pennsylvania Ave.  
Towson, Maryland 21204  
823-7800

LAW OFFICES  
NOLAN, FLEISCHMANN  
& WILLIAMS  
TOWSON, MD.

CIGONE, J. MISCELLANEOUS  
No. 5442 LAW Docket Misc. 9 Folio 498

CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION FOR RECLASSIFICATION  
from D.R. 1 to D.R. 16  
North side of Old Court Road,  
3,957' East of Stevenson Road  
3rd District

Joseph S. Kaufman  
James D. Nolan  
Towson, Md. 21204

ISRAEL D. SHAPIRO  
Owner-Petitioner

No.

DATE	CLERK'S MEMORANDUM	NO.
11/26/74	Applicant's Order for Appeal from the decision of the County Board of Appeals of Baltimore County rec'd and fd.	1
11/26/74	Applicant's Appeal Petition fd.	2
11/27/74	Certificate of Notice fd.	3
12/20/74	Appellant's Motion to Extend Time for Transmission of Record and Order of Court extending time through and including February 14, 1975 fd. (LLB)	4
2/11/75	Answer of Board of Appeals of Baltimore County and Transcript of Record fd.	5
3/10/75	Appellees Answer to Petition on Appeal fd.	6
8/11/75	Transcripts of Record fd. (4 volumes will be found in Jim Rotzbach's office. Folding door cupboard)	7
8/26/75	Petitioner-Appellant's Memorandum on Appeal fd.	8
9/17/75	Memorandum of Petitioner's Appellees' Memorandum on Appeal	9

RE: PETITION FOR RECLASSIFICATION : BEFORE  
from D.R. 1 to D.R. 16 : COUNTY BOARD OF APPEALS  
N/S of Old Court Road, 3957' : OF  
E. of Stevenson Road, : BALTIMORE COUNTY  
3rd District :  
Israel D. Shapiro and :  
Mannes F. Greenberg, Esq., :  
Executor of the Estate of :  
Joseph W. Shapiro : No. 73-57-R

OPINION

This case comes before the Board on an appeal from an Order of the Zoning Commission which granted a reclassification for the subject property. This property is located in the Third Election District of Baltimore County, same being on the north side of Old Court Road approximately 3957 feet east of Stevenson Road. The subject property is an elongated rectangle consisting of approximately 27.065 acres. At present the property is vacant and unimproved. The existing zoning is D.R. 1 in its entirety and the petition requests that this entire property be reclassified to D.R. 16. If this petition be granted, the Petitioner proposes to construct approximately 372 garden type apartments. The proposal is set out in detail on Petitioner's Exhibit #2, which is a plot of the subject property prepared by Matz, Childs and Associates on behalf of the property owner. Succinctly, the issue before this Board is whether or not the County Council erred at the time of the adoption of the land use map for this area in March of 1971, or whether there has been substantial change in the character of the neighborhood to warrant the requested reclassification. The burden is upon the Petitioner to prove to this Board that one or the other of this error and/or change criteria has been met.

The Petitioner's presentation was comprehensive and consisted of five witnesses who presented testimony and evidence to this Board. The initial witness was the Petitioner himself, Israel D. Shapiro, who briefly told the Board of the history of this property in his family and that if the petition be granted his potential joint venturer in this development would be Gordon Sugar, the developer of the existing garden apartments which abut approximately one-half of the western side of the subject property.

The second witness was Richard Smith, a civil engineer for Matz, Childs and Associates. Mr. Smith detailed how the property would obtain public utilities, including sewer and water, and also how the storm water situation would be handled.

No.

5442

RE: PETITION FOR RECLASSIFICATION : IN THE  
from D.R. 1 to D.R. 16 zone : CIRCUIT COURT  
N/S of Old Court Road 3957' : FOR BALTIMORE COUNTY  
E of Stevenson Road  
3rd District : AT LAW  
Israel D. Shapiro : Misc. Docket No. 9  
Owner-Petitioner : Folio No. 498  
: File No. 5442

MOTION TO EXTEND TIME FOR TRANSMISSION OF RECORD

The Appellant, ISRAEL D. SHAPIRO, legal owner, by James D. Nolan and Nolan, Plumhoff and Williams, his attorneys, moves pursuant to Maryland Rule 57.b., that the time for transmission of the record by the County Board of Appeals be extended up to and including Monday, January 27, 1975. The grounds of the Motion are as follows:

1. The 30-day period prescribed by Maryland Rule 57.a. for filing the record in this action, including the transcript, in this Honorable Court expires on Friday, December 27, 1974.
2. That the proceedings in this matter before the County Board of Appeals were quite lengthy, and, furthermore, the Reporter for the Board has advised that additional time will be required for the preparation of the lengthy transcript and exhibits in these proceedings beyond the present due date set out in Paragraph One hereof.
3. That the additional time requested will not prejudice either side in these proceedings, but will allow for a more deliberate and less hurried preparation of the lengthy and voluminous transcript heretofore, and, thus, the ends of justice will be better served.
4. Movant therefore respectfully requests additional time to have the record, including the transcript, transmitted to this Honorable Court, namely, until Friday, February 14, 1975.

Shapiro - #73-57-R

A traffic expert presented in great detail testimony concerning the existing traffic at and near the subject property, and the potential impact of additional traffic that might be generated by the proposed development if the petition be granted.

The fourth witness for the Petitioner was Philip E. Klein, a well recognized real estate expert. Mr. Klein described the neighborhood, potentially impacted by the subject property, as being bounded on the west by Park Heights Avenue, on the north by the Beltway, on the east by Greenspring Avenue, and on the south by the Arundel quarry. Describing this neighborhood, Mr. Klein told the Board that immediately west of the subject property, along the Old Court Road frontage, is an approximate 35 acre tract improved by the Beth Tfilah auditorium and synagogue, this consisting of several large structures and parking lots for three or four hundred cars in one instance, and seven-fifty to eight hundred cars in another instance. The Temple seats about fifteen hundred, and the Sagner Auditorium seats approximately another nine hundred and fifty people. Mr. Klein also told the Board that this congregation operates a complete parochial school on this tract. The previously mentioned garden apartments, known as Stevenson Village, abut the balance of the western line of the subject property as same proceeds northerly to its abutment with the right-of-way of the Baltimore County Beltway. These apartments were developed by Gordon Sugar and enjoy one hundred percent occupancy with a waiting list. The rent range is up to \$360 per month. To the east of the subject property is a large farm estate, known as the France property. The Petitioner, Mr. Shapiro, owns another fifty-two acre tract immediately across Old Court Road from the subject property. Elsewhere, easterly along Old Court Road, are five or six other estate type homes as Old Court Road proceeds toward Greenspring Avenue. To support an argument of change since March of 1971, Mr. Klein cited the physical completion of the Stevenson Village apartment; the newly constructed road pattern and interchange at Old Court Road and Park Heights Avenue (approximately two-thirds to one mile southwest of the subject property), and thirdly, the general increase in demand for apartments in this area. As to reasons in the mind of Mr. Klein for error on the part of the County Council in March of 1971, Mr. Klein cited the failure of the Council to recognize this demand for apartments in the western and

STATE OF MARYLAND, COUNTY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 13th day of December, 1974, before me, the subscriber, a Notary Public of the State of Maryland in and for the County aforesaid, personally appeared ISRAEL D. SHAPIRO, legal owner who made oath in due form of law that the matters and facts set forth in the above Motion are true to the best of his knowledge, information and belief.

*James D. Nolan*  
Notary Public

I HEREBY CERTIFY, that on this 20th day of December, 1974, a copy of the foregoing MOTION TO EXTEND TIME FOR TRANSMISSION OF RECORD AND ORDER thereon was mailed to ARNOLD FLEISCHMANN, ESQUIRE, 102 West Pennsylvania Avenue, Towson, Maryland 21204, attorney for the protestants.

*James D. Nolan*

Shapiro - #73-57-R

northwestern areas which, in his opinion, was evident at the time of the adoption of the map. Secondly, in Mr. Klein's opinion, the Council failed to consider the shape of the subject property and the incident difficulty in developing same because of this elongated rectangular shape, and thirdly, Mr. Klein felt that the proximity to the Beltway and to the large Beth Tfilah complex were reasons to cite the Council for error in not zoning the subject property for apartments in 1971. Mr. Klein said that, in his mind, the large France property should have been the transition area and not this relatively small rectangular subject property.

Upon cross-examination, Mr. Klein seemingly indicated that the thrust of this case was error and not change, as he felt that frankly there had been no dramatic change in the area since the adoption of the maps. Mr. Klein also pointed out that it might be feasible to develop the subject property economically in other uses with the density considerably less than that proposed in the subject instance. Mr. Klein acknowledged that in fact with the existing zoning of D.R. 1, the property could support twenty-seven townhouses and that same conceivably could be economically developed.

The last witness for the Petitioner was Bernard Willemain, a land planner and zoning consultant, who has appeared many times before this Board, principally on behalf of petitioners. Basically, Mr. Willemain agreed with the neighborhood description of Mr. Klein with the exception that he would be inclined to extend the western area to Park Heights Avenue, including the Dumbarton community, and stated that he felt at this juncture perhaps that Dumbarton represented the end of the subject neighborhood and the beginning of a neighborhood west of the subject property. Mr. Willemain stated unequivocally that he felt that the Council erred when they failed to consider the size, the shape, and the precise location of the subject property within this neighborhood. This witness stated that the Stevenson Village apartment complex has had no adverse effect on the surrounding neighborhood, nor would the development of the subject property; as garden apartments adversely affect surrounding property interests.

The Protestants' case was presented to the Board through a total of eleven witnesses. Some of these were experts; others were interested parties from the surrounding

neighborhood. Without excluding the significance of many reasons cited, the primary reason that the neighborhood residents are opposing this petition is traffic.

Richard Moore, a traffic engineer and expert employed in the Department of Traffic Engineering of Baltimore County, testified in opposition to the granting of this petition. A summary of his opinion is contained in his comments that pertain to this case, which are included in the subject file and dated April 28, 1972. In addition, Mr. Moore noted that there are now no plans by the State Highway Administration to widen Old Court Road and any widening of any portions of this road would be by specific developers on the lands abutting this roadway would be improved. Mr. Moore noted that such widening by developers is of no great benefit as it would not improve the overall capacity of Old Court Road.

Norman E. Gerber, the Chief of the Community Planning Division of the Office of Planning and Zoning, also testified in opposition to the granting of this petition. Mr. Gerber noted that both the Planning staff and the Planning Board recommended the retention of D.R. 1 for the subject property. The comments of the Planning Board are included in the file of the subject case as Item 27, said comments being dated 6/15/72. Mr. Gerber noted that, in his opinion, increased density of the subject property was not in keeping with the characteristics of this neighborhood, nor with the ability of the County to provide ancillary services for such high density development and, therefore, such density increase would not, in his opinion, be for the good of the general welfare of this area. Mr. Gerber commented that, in his opinion, the D.R. 16 zoning on the rear of the Beth Tfiloh land was unique, and provided for a unique community need in conjunction with the synagogue complex. Same was not to be considered a normal land use but rather a special use fitted particularly for a church and/or synagogue utilization. Hence, he saw no rhyme nor reason to the argument that these apartments would have any particular significance on the future land use of immediately surrounding properties. He stated that, in his judgment, there have been no changes of substantial character in this neighborhood since the time of the adoption of the use map. Mr. Gerber noted that the plans for the improvement for the

RE: PETITION FOR RECLASSIFICATION : BEFORE  
from D.R. 1 to D.R. 16 : COUNTY BOARD OF APPEALS  
N/S of Old Court Road 3957' :  
E. of Stevenson Road :  
3rd District : OF  
Israel D. Shapiro and : BALTIMORE COUNTY  
Mannes F. Greenberg, Esq. :  
Executor of the Estate of : No. 73-57-R  
Joseph W. Shapiro :  
: : : : :  
: : : : :  
: : : : :

DISSENTING OPINION

This member of the Board of Appeals dissents from the decision of the majority.

The resume of testimony in the majority opinion is quite extensive and I can find no fault with the statement of facts as far as it goes; however, the majority has completely ignored previous decisions of this Board and of the Court of Appeals on neighboring, and indeed contiguous, properties, i.e. those involved in the Beth Tfiloh case (our No. 63-78-RX), (No. 255, Sept. Term, 1965, in the Court of Appeals), and Finney v. Hall (our case No. 63-100-RX), 241 Md. 224, in the Court of Appeals.

The subject property in the Shapiro case is, as stated by the majority, an elongated rectangle with low frontage on Old Court Road, but extending a long distance abutting the property of Beth Tfiloh and the apartments adjoining it all the way to the Baltimore County Beltway; and I have no hesitation in saying that had the subject property been included in the application for rezoning in the Beth Tfiloh case, it would have been included at that time. The present property is in effect a logical extension of the uses next door, i.e. synagogue, school and attractive garden apartments, and would be an ideal transition zone to the large open areas of the France estate to the east along Old Court Road. It is completely illogical to expect the subject property to be developed under a D.R. 1 classification calling for sixty to eighty thousand dollar homes immediately adjoining the activities on the Beth Tfiloh tract. The reader is referred to the excellent opinions from the Court of Appeals in the two cases mentioned above respectively by Judge McWilliams and Judge Barnes.

It must be pointed out that the owners of the France estate were among the protestants in the previous case, but at the hearing in this case evidence was presented that they no longer have any objection to the proposed development of the Shapiro property.

Park Heights-Old Court Road Intersection were known to the County Council prior to the adoption of the use map, and he further cited the opinions of the Planning staff and the Planning Board in their recommendations to the Council prior to the adoption of said map and the D.R. 1 zoning upon the subject property. Because Bill #100 allows a variety of residential home design and character, Mr. Gerber felt that there was no incompatibility existent in the subject case where the D.R. 1 zoning of the subject property abutted the D.R. 16 zoning of Stevenson Village.

Herbert Davis, a well recognized real estate expert, testified on behalf of the Protestants in opposition to the granting of this petition. Mr. Davis defined the neighborhood in about the same manner as had Mr. Willmain and Mr. Klein. Mr. Davis pointed out that through the clustering principle allowed in Bill #100, that the property could be developed in D.R. 1, and that the clustering principle could be well utilized to buffer any adverse effects that the Beltway and the Stevenson Village-Beth Tfiloh complex might bring to the subject property, or frankly vice-versa as far as land use is concerned. Mr. Davis briefly went into the economics of developing the subject property in D.R. 1 classification, and his conclusion was that the property, particularly through the use of the clustering principle could be economically developed.

Paul Marks, an architect and a designated member of the American Institute of Architects, testified as an expert planner on behalf of the Protestants. Without specifically detailing his testimony, same was of interest to the Board and did describe the good possibility of developing the subject property in a D.R. 1 density, and with said development being of a seemingly desirable and marketable nature. Interestingly, Mr. Marks pointed out that, in his judgment, there was no reason to buffer the subject property nor any single family development thereon from the existing Beth Tfiloh complex, nor from the Stevenson Village development in that Beth Tfiloh contained a series of very handsomely constructed improvements, and that the Stevenson Village garden type apartments were of high quality and represented no detrimental factor to the surrounding lands.

George E. Frangas, a consulting engineer, added additional testimony on behalf of the Protestants, specifically concerning traffic.

Israel D. Shapiro, et al - No. 73-57-R. 2.

In my opinion the Circuit Court was in error by zoning the subject property D.R. 1 at the time of the use map adoption substantially for the reasons stated by Mr. Philip Klein and Mr. Bernard Willmain, both well recognized experts in this field. This property is ideally situated for the transition area between the synagogue and the school, and the large lot development to the east, and at the very least should have been zoned D.R. 10.5 if not D.R. 16 as requested, and from observation it should be clear that the proposed development could be of no harm to property values or any other way to the quality of life in this community.

I therefore would have affirmed the action of the Zoning Commissioner and granted the petition for rezoning in this case.

*W. Giles Parker*  
W. Giles Parker

Dated: November 4, 1974

If this petition is to be successful, the Petitioner must prove to this Board that the Council erred at the time of the adoption of the use map and/or that there has been substantial change in the character of the neighborhood since the adoption of said map. There is a strong presumption of correctness in original zoning and the burden to be met by the Petitioner is an onerous one. It is the judgment of this Board that this burden in this instance has not been met and there is not sufficient evidence and testimony to warrant the reclassification of the subject property as petitioned. In the mind of this Board, there is not evidence of error nor is there evidence of substantial change in the character of the neighborhood to warrant the requested reclassification. This Board has carefully and in detail reviewed the testimony and evidence presented. As to the Petitioner's argument for error, the Board frankly is unimpressed. There is nothing in the record that clearly sets forth any information that was not nor could not have been in the minds of the Council when they adopted a D.R. 1 classification for this property in March of 1971. Certainly, the Beltway was an existing factor, and the Beth Tfiloh complex and the Stevenson Village apartments were elements well known to the Council in 1971. The argument by the Petitioner concerning the failure of the Council to recognize apartment demand is very questionable and vague, and could not be the foundation for the finding of specific error in the subject case. The fact that public sewer might be physically available in the near future, and that the subject property is within the urban-rural demarcation line, and in fact next door to an existing garden apartment complex, in no way demands that the subject property itself be classified D.R. 16. To adopt such a philosophy would tend to exclude development of residential units in densities less than D.R. 16. Likewise, in the minds of this Board, the Petitioner's arguments as to substantial changes in the character of the neighborhood do not meet the test. The fact that the Stevenson Village apartments were physically completed after the day of the maps is really not evidence of substantial change, especially considering their long time planning. The completion of the new road systems at Old Court Road and Park Heights Avenue, which is at least two-thirds to one mile away from the subject property, is not a change of substantial character as some might directly affect the land utilization of the subject property.

RE: PETITION FOR RECLASSIFICATION : IN THE  
from D.R. 1 to D.R. 16 : CIRCUIT COURT  
N/S of Old Court Road 3957' :  
E. of Stevenson Road :  
3rd District : FOR  
Israel D. Shapiro and : BALTIMORE COUNTY  
Mannes F. Greenberg, Esq. :  
Executor of the Estate of : AT LAW  
Joseph W. Shapiro :  
Petitioners-Appellants : Misc. Docket No. 9  
Zoning File No. 73-57-R : Folio No. 498  
: File No. 5442  
: :

ANSWER TO ORDER OF APPEAL TO CIRCUIT COURT FOR BALTIMORE COUNTY AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND BOARD OF APPEALS OF BALTIMORE COUNTY

MR. CLERK:

Please file, s.c.

Edith T. Eisenhart, Administrative Secretary  
County Board of Appeals of Baltimore County

cc: Joseph S. Kaufman, Esq.  
James D. Nolan, Esq.  
Arnold Fleischmann, Esq.

The Board will not attempt to further detail the testimony and evidence in this case but suffice it to say that, in the judgment of the majority of this Board, the Petitioner has not met the burden required and the petition shall be denied. The majority of the Board finds that there is no evidence of error and/or substantial change in the character of the neighborhood to warrant the reclassification of the subject property as petitioned.

In conclusion, the majority of the Board will issue an Order that reverses the findings of the Zoning Commissioner and said Order shall deny the requested petition.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 4th day of November, 1974, by the majority of the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

*Walter A. Reiter, Jr.*  
Walter A. Reiter, Jr., Chairman  
*Robert L. Gilland*  
Robert L. Gilland

RE: PETITION FOR RECLASSIFICATION : IN THE  
from D.R. 1 to D.R. 16 same : CIRCUIT COURT  
N/S of Old Court Road 3957' :  
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: File No. 5442  
: :

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Walter A. Reiter, Jr., W. Giles Parker and Robert L. Gilland, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

- No. 73-57-R
- Apr. 6, 1972 Letter from James D. Nolan, Esquire to Mr. Eric S. DiNenno, Zoning Commissioner, advising that this property is owned by Israel D. Shapiro
  - May 8 Comments of Baltimore County Zoning Advisory Committee filed
  - July 17 Petition of Israel D. Shapiro and Mannes F. Greenberg, Esquire, Executor of the Estate of Joseph W. Shapiro for reclassification from D.R. 1 to D.R. 16 on property located on the north side of Old Court Road, 3957 feet east of Stevenson Road, 3rd District - filed
  - " 17 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for September 21, 1972 at 10:00 a.m.
  - Aug. 31 Certificate of Publication in newspaper - filed
  - Sept. 15 Certificate of Posting of property - filed
  - " 21 At 10:00 a.m. hearing held on petition by Zoning Commissioner - case held sub curia
  - Aug. 26, 1974 Order of Zoning Commissioner granting reclassification to D.R. 10.5 in lieu of D.R. 16
  - Sept. 20 Order of Appeal to County Board of Appeals from Order of Zoning Commissioner filed by Arnold Fleischmann, Esquire, attorney for protestants
  - " 21 Order for Partial Appeal to County Board of Appeals from Order of Zoning Commissioner filed by James D. Nolan, Esquire, attorney for petitioners



MOTION TO DISMISS APPEAL OF PETITIONERS

Annita France, et al, Protestants, by Arnold Fleischmann and John A. Austin, their attorneys, respectfully move that the appeal filed on behalf of Petitioners, Israel D. Shapiro, et al, from the ruling of the Zoning Commissioner of Baltimore County concerning the subject property, be dismissed and as grounds therefore, state the following:

That the Petitioners' Appeal is Only a Partial Appeal. That an appeal was noted by the Petitioners, Israel D. Shapiro, et al, only from that portion of the ruling of the Zoning Commissioner which denied the request of the Petitioners that the zoning on the subject property be increased from D. R. 1 zone to a D. R. 1.6 zone. Petitioners did not take an appeal from any of the other aspects of the Zoning Commissioner's decision which increased the zoning from D. R. 1 to a D. R. 10.5 zone. Such a partial appeal is not authorized by the Rules and Regulations of the Board of Appeals of Baltimore County and should not be considered by the Board in such a form. Although Section 501.7 of the Baltimore County Zoning Regulations gives this Board the power to consider, in whole or in part, the decision of the Zoning Commissioner, there is no authorization for the taking of an appeal in part. By noting an appeal in this fashion, Petitioners seek to have the Board consider issues which were not dealt with by the Commissioner's decision, and, as such, should not be accepted by the Board.

1. Failure to meet the need for apartments in this general vicinity.
2. Shape of the property does not lend itself aesthetically to the very expensive homes that would be necessary due to the sewer extension.
3. Close proximity of the Beth Tfiloh synagogue, which is located to the west of the property.
4. Close proximity to the apartment development, of which is a higher elevation than the subject property.

It was further his opinion, that if the parcel was developed as single family dwellings, one street would be constructed down the center of the property with houses on both sides. Aesthetically, this is not desirable.

According to Mr. Klein, there was substantial change in the character of the neighborhood, namely:

1. Physical change in the apartments being constructed to the west.
2. Improvements and channelization Old Court Road, Park Heights Avenue and the Stevenson Road intersection, which has been under construction.
3. Anticipated extension of the Metropolitan Transit System into the area.

Mr. Klein stated that it should be noted that if the Petitioner were basing his case strictly on change, it would not, in his opinion, be enough to justify the Reclassification. He further felt that there were additional factors of error on the Comprehensive Zoning Map, as adopted on March 24, 1971. Said factors included the elevation of the property and its topography with the Beltway, constituting a sound factor with noise emanating from the Baltimore County Beltway and making it less conducive to individual homes. It was also his feeling that the Baltimore County Council should have considered the size and shape of the subject property in relation to the adjoining properties. He stated that the property to the east, known as "the France" property, consisting of approximately two hundred (200) acres, has more feasibility of development than the subject property and that the D.R. 1.6 zoning line (the west boundary line of the

For all of the above reasons, Protestants respectfully request that the Board not consider the appeal of the Petitioner and that said appeal be dismissed.

Arnold Fleischmann  
Arnold Fleischmann

John A. Austin  
John A. Austin  
Suite 305, Alex Brown Building  
102 West Pennsylvania Avenue  
Towson, Maryland 21204  
296-1434  
Attorneys for Protestants

I HEREBY CERTIFY that on this 29th day of April, 1974, a copy of the foregoing Motion to Dismiss Appeal of Petitioner was mailed to Joseph S. Kaufman, Esquire, 1215-30 Maryland National Bank Building, Baltimore, Maryland, 21202, and to James D. Nolan, Esquire, 204 W. Pennsylvania Avenue, Towson, Maryland, 21204, Attorneys for Petitioner.

John A. Austin  
John A. Austin

subject property) should have been extended to the easternmost boundary line of the subject property. In summation, Mr. Klein indicated that in his opinion, if the subject property were developed at D. R. 1.6 density units, it would not have a detrimental effect on the neighborhood or the adjoining area.

Mr. Bernard Willemain, a qualified land planner, testified on the behalf of the Petitioner. After a basic description of the property and surrounding area, he concluded that the Comprehensive Zoning Map, as adopted on March 24, 1971, was in error in classifying the subject tract as D. R. 1 zoning. Mr. Willemain cited the following reasons as error:

1. The development of the adjoining Beth Tfiloh property, the apartment development, and its proximity to the subject property.
2. The increase in density would make the property economically feasible for development.
3. The noise factor of the development.

In his opinion, the only properties affected by the subject Reclassification would be the apartment development to the west and the France property to the east.

Residents of the area, in protest of the subject Petition, testified that the traffic on Old Court Road was heavy in both directions and the safety of their children was utmost in their minds.

Mr. J. Mayer Willen, President, Coordinating Council of Improvement Associations, Incorporated, testified as to the amount of traffic on Old Post Drive and its increase since the construction of the apartments. He stated that the intersection of Old Court Road, Stevenson Lane, and Park Heights Avenue was advertised for construction of the intersection preceded the adoption of the Comprehensive Zoning Map. The Baltimore Council had taken the subject property into consideration and, therefore, was not in error in classifying it as D. R. 1.6 zoning. He expounded on the possibility of a domino effect of requests for Reclassifications in the area if the subject Petition was granted.

Mr. James D. Dixon, III, President of the Old Court-Greenspring Improvement Association and also a realtor, testified on behalf of his

The Petitioners request a Reclassification from a D. R. 1 Zone to a D. R. 1.6 Zone for a parcel of property located on the north side of Old Court Road, three thousand, nine hundred and fifty-seven (3,957) feet east of Stevenson Road, in the Third Election District of Baltimore County, and containing 27.665 acres of land, more or less.

Evidence on behalf of the Petitioners indicated that the subject tract was acquired in 1962 and, according to the Petitioners, cannot be economically developed into single family dwellings due to the shape of the lot.

Mr. Richard L. Smith, a qualified engineer, testified that the subject tract has rolling topography and is adjoined by the Baltimore County Beltway. To the west of the subject tract are garden type apartments. To the east is a large undeveloped tract of land and to the south, Old Court Road. The subject property has a thirty (30) foot grade to the Baltimore County Beltway. Water and sewer facilities are available and sufficient. Mr. Smith stated that the northern part of the property would be served by the Slaughterhouse branch interceptor, which has been in existence for approximately six (6) years and is in excellent condition. The southern portion of the property would be served by the Moores Run Interceptor.

Mr. John Erdman, a qualified traffic engineer, indicated that there would be no access to the Baltimore County Beltway from the site. Access to the subject property would be twofold, namely, Old Court Road on the north and an extension of Old Post Drive to the west. He stated that he was in agreement with the Zoning Advisory Committee comments of the Department of Traffic

improvement association. He stated that he was opposed to higher density zoning because it would have a detrimental effect on the other undeveloped lands, and also claimed the domino effect and the increase in traffic. Upon cross-examination by counsel for the Petitioner, Mr. Dixon indicated that he would, as a commercial realtor, attempt to get the highest and best use for the subject property.

Mr. Erwin L. Greenberg, President of the Dumbarton Improvement Association, testified as to the overcrowded condition conditions in the schools of the area.

Mrs. Rosalce Davidson, a resident of the area for four (4) years, indicated that the character of the neighborhood is one of a beautiful residential area. She was opposed to any change in the area except for what is presently zoned.

The Zoning Commissioner is aware of two (2) decisions made by the Maryland Court of Appeals pertaining to properties in this immediate area, namely, Beth Tfiloh vs. Blum, 242 Md. 84, concerning the adjoining property to the west, and France vs. Shapiro, 248 Md. 335, concerning the subject property.

The Maryland Court of Appeals ruled on the matter of Beth Tfiloh vs. Blum in 1965, and found that there had been a substantial change in the character in the neighborhood since the adoption of the Comprehensive Zoning Map applicable to that area. This map was adopted in 1957, and cited more specifically the construction of the Baltimore County Beltway and its impact upon this general vicinity.

However, in deciding France vs. Shapiro, the Maryland Court of Appeals, in 1968, found that there had not been a substantial change in the character of the subject area. The Maryland Court of Appeals did not decide the issue of original error in the Comprehensive Zoning Map and in his opinion stated:

"It is not necessary to pass on this issue of mistake in original zoning and we make no holding to it."

In this particular case, testimony has indicated the possibility of error in the classification of the subject property as D. R. 1 on the Comprehensive

Engineering in that the subject property, if zoned D. R. 1.6, would produce approximately thirty-two hundred (3200) trips per day. He further stated that Old Post Drive was designed as a collector road for traffic emanating from various neighborhoods. He cited, as an important element in support of the Petition, the changes and improvements made to the intersections of Old Court Road, Stevenson Road and Park Heights Avenue, which is approximately three-quarters (3/4) of a mile to the southwest of the subject property. Mr. Erdman presented data as to the peak hours, number of trips per day presently handled, and the number of vehicles that would use this intersection when the construction is completed. He indicated that the improvement to this intersection could and would adequately handle any new traffic that may be produced from the subject property inasmuch as the adjoining roadways are not utilized to their fullest capacity.

Mr. Philip Klein, a qualified real estate appraiser and consultant, testified that the subject property is a long narrow lot. He contended that twenty-five (25) per cent of the property to the south flows into a different drainage area. Mr. Klein further stated that the remaining seventy-five (75) per cent of the property, to the north, would require a sewerage extension if developed into single family dwelling units. This extension to the Slaughterhouse branch interceptor would have to be constructed under the Baltimore County Beltway to the north side of the property and would be both very expensive and unreasonable. Mr. Klein indicated that the topography is such, that a large portion of the subject property is level with the Baltimore Beltway. Due to the close proximity of the subject property to the Baltimore Beltway, it would make the development of single family dwellings impractical. Furthermore, the subject property is physically lower than the apartment development to the west. In Mr. Klein's opinion, the Comprehensive Zoning Map, as adopted on March 24, 1971, was in error in classifying the subject property as D. R. 1. He cited the following as reasons for error:

Zoning Map, as adopted on March 24, 1971. The question of a change in the character of the neighborhood was not as heavily dependent upon by the Petitioner as was in the France and Beth Tfiloh cases. The Zoning Commissioner is very cognizant of the apprehension of local residents as to the development of the subject property at the full density of D. R. 1.6, but of course, at all times in deciding these matters, the rights of all parties must be considered. It is a possibility that the subject property could be developed into single family dwellings as encouraged by the Protestants. The economic feasibility becomes a factor in this matter, although it is not a prime factor. It is evident that the subject property can be served with adequate water and sewer facilities, as the new Slaughterhouse branch interceptor has been constructed within the last six (6) years.

As to the traffic, it is anticipated that Old Court Road will be widened, as indicated by the State Highway Administration comments to the Zoning Advisory Committee. These comments reflect a proposed right-of-way of eighty (80) feet on Old Court Road and paving of forty-eight (48) feet. The improvement in channelization of the intersection of Old Court Road, Park Heights Avenue, and Stevenson Road should relieve any problems which would be anticipated from traffic emanating from the subject property. It is also anticipated that Old Post Road would be continued into the property and be used as a collector road for this area. The increase in trip density can be considered a factor of the D. R. 1.6 zoning, as requested, if granted. Problems could occur in trip density on both Old Court Road and Old Post Road.

The establishment of Bill No. 100, effective April 1, 1971, commonly known as "density zoning," has created a new concept in residential living. It is a concept which enables the development of land into any type of housing unit so desired, so long as it meets the density requirements of that particular parcel of property and all other applicable subdivision and zoning regulations. The subject property is unique inasmuch as it is a narrow shaped property,

ORDER RECEIVED FOR FILING  
DATE August 29, 1974  
BY John P. Shaw, et al

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bounded on one (1) side by a large tract of land known as the France property. The Maryland Court of Appeals indicated in the France case that the western-most line of the subject property should be the line drawn for apartment development and single family dwelling development. It must be noted that this case was heard and decided in January, 1968, prior to the adoption of Bill No. 100.

It is the opinion of the Zoning Commissioner that a good planning concept of a transitional area should be created in this situation. It is a fact that the Maryland Court of Appeals ruled that there was no substantial change in the character of the area to warrant a Reclassification in 1968. But it did not rule on the question of error. We are now borne with a new situation and a different set of substantive requirements, namely, Bill No. 100. There was error in the original zoning (Comprehensive Zoning Map of March 24, 1971) in not establishing a buffer between the high intensity use to the west and the large undeveloped France tract to the east.

For the foregoing reasons, the subject Petition should be granted but not to the full density as requested, inasmuch as it is the intention of the Zoning Commissioner to establish the subject property as a buffer of a less intense use than the Beth Tfiloh property, but yet a more intense use than presently zoned.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 24<sup>th</sup> day of August, 1973, that the herein described property or area should be and the same is hereby reclassified from a D. R. 1 Zone to a L. R. 10.5 zone, from and after the date of this Order subject to the approval of a site plan by the State Highway Administration, Department of Public Works, and the Office of Planning and Zoning.

*[Signature]*  
Zoning Commissioner of  
Baltimore County

-7-

SCHEDULE A

Dumbarton - Stevenson Civic and Improvement Association, Inc.  
Coordinating Council of Improvement Associations, Inc.  
Dumbarton Improvement Association, Inc.  
Midfield Improvement Association  
Old Court - Greenspring Improvement Association, Inc.

RE: PETITION FOR RECLASSIFICATION  
N/S of Old Court Road, 3957  
E of Stevenson Road - 3rd District  
Israel D. Shapiro, et al  
Petitioners  
No. 73-57-R (Item No. 27)

BEFORE THE  
ZONING COMMISSIONER  
OF  
BALTIMORE COUNTY

SUPPLEMENTARY NOTICE OF APPEAL

MR. ZONING COMMISSIONER:

Please note an Appeal in the above entitled case to the County Board of Appeals of Baltimore County on behalf of Annita France, George M. Shriver, Corbin C. Cogswell, Jr., David W. Kornblatt, J. Mayer Willen, Stanford Rothschild, Douglas Dixon, Richard Rynd and all others who appeared in protest at the hearings before the Zoning Commissioner whose names appear on Schedule A attached hereto and made part hereof as if fully set forth herein, protestants, taxpayers and parties aggrieved by the decision of the Zoning Commissioner dated August 28, 1973.

The appeal fee in the sum of \$70.00 was enclosed with the original Notice of Appeal.

*[Signature]*  
Arnold Fleischmann  
Suite 505  
102 West Pennsylvania Avenue  
Towson, Maryland 21204  
296-1434  
Attorney for Appellants

THIS IS TO CERTIFY that a copy of the foregoing Notice of Appeal was mailed, postage prepaid, this 25th day of September, 1973, to James Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for Petitioners.



*[Signature]*  
Arnold Fleischmann

SCHEDULE A

J. Mayer Willen  
Bernice Lebow  
Mrs. Herbert Siegel  
Mrs. Sydney Lippman  
Arnold Brown  
Mrs. Stanley Hoffman  
Mrs. Daniel Reicher  
Samuel I. Rotter  
Mrs. Norma Cooper  
Mrs. Sylvan Offit  
Leslie Cohen  
Alan Eisenberg  
Rosalie Rosenzweig  
Barbara J. Blitz  
Carl Shapiro  
Lloyd G. Towlen  
Sanford Singer  
Ronald Coplon  
Phyllis Solpanik  
Daniel Caplan  
Sam Cooperman  
Ben Rivkin  
Mr. & Mrs. Sidney H. Aiken  
Louis J. Shuttoff  
Elaine Chester  
Ethel Goldman  
Maurice Wilner  
Helen Miller  
Gerry Fox  
Mr. & Mrs. Richard Schapiro  
Mr. & Mrs. Sidney Navianky  
Mr. & Mrs. Sidney Blum  
Mr. & Mrs. Albert Moss  
Mr. & Mrs. Eugene Silberman  
Mr. & Mrs. Sol Oidick  
Martin S. Himeless  
Betty Jean Himeless  
Patsy K. Gilbert  
Stephany E. Gilbert  
Dr. Harold H. Gilbert  
Dr. & Mrs. Milton Gluck  
Mr. & Mrs. Leonard Pondfield  
Mr. & Mrs. Edward Patz  
Mr. & Mrs. Bernard Amernick  
Mr. & Mrs. Irving Ceiler  
Dr. & Mrs. Isidore Shorofsky  
Mr. & Mrs. Sylvan Chorney  
Mr. & Mrs. Benno Hurwitz  
Mr. & Mrs. Leonard Whitehouse  
Fay & Ben Golditch  
Mrs. Ellen Haskin  
Harold L. Goldberg  
Sally H. Goldberg  
Leonard Stape  
Irvin R. Kessler  
Eva Tucker  
Harold Sussman  
Melvir H. Rosenzweig  
Mrs. M. Weiss  
Mrs. Martin Meyerson

RE: PETITION FOR RECLASSIFICATION  
1/3 of Old Court Road, 3957  
E of Stevenson Road - 3rd District  
Israel D. Shapiro, et al  
Petitioners  
No. 73-57-R (Item No. 27)

BEFORE THE  
ZONING COMMISSIONER  
OF  
BALTIMORE COUNTY

NOTICE OF APPEAL

MR. ZONING COMMISSIONER:

Please note an Appeal in the above entitled case to the County Board of Appeals of Baltimore County on behalf of Annita France, George M. Shriver, Corbin C. Cogswell, Jr., David W. Kornblatt, J. Mayer Willen, Stanford Rothschild, Douglas Dixon, Richard Rynd and all others who appeared in protest at the hearings before the Zoning Commissioner, protestants, taxpayers and parties aggrieved by the decision of the Zoning Commissioner dated August 28, 1973.

The appeal fee in the sum of \$70.00 is enclosed.



*[Signature]*  
Arnold Fleischmann  
Suite 505  
102 West Pennsylvania Avenue  
Towson, Maryland 21204  
296-1434  
Attorney for Appellants

THIS IS TO CERTIFY that a copy of the foregoing Notice of Appeal was mailed, postage prepaid, this 19th day of September, 1973, to James Nolan, Esquire, 204 West Pennsylvania Avenue, Towson, Maryland, 21204, Attorney for Petitioners.

*[Signature]*  
Arnold Fleischmann

SCHEDULE A

Mrs. Robert Sandler  
Mrs. Arnold Finkelstein  
Mr. Louis Friedman  
Mr. Alvin Tamras  
Mrs. Ethel Tamras  
Herta Hubert  
Leo Hubert  
Mr. and Mrs. William S. Heller

84 BETH TFILOH v. BLUM  
Syllabus [242 Md.]

As the majority was printed out, cross-examination is permitted before the Board of Appeals of Baltimore County, and there is no suggestion in the opinion in *first Term*, that this practice would be denied by the Board, or that cross-examination was a constitutional right. In my opinion, the opinion in *O'Brien* correctly states the applicable law. We should approve and follow it.

BETH TFILOH CONGREGATION OF BALTIMORE CITY v. BALTIMORE CO. [No. 255, September Term, 1965.]

*Zoning—Baltimore County—Reasoning To Residential Apartments—Treatment Of, By County Board Of Appeals, Held To Be Fairly Debatable And Not Set Aside—Changes In Conditions.* The action by the Baltimore County Board of Appeals in reclassifying the lands involved in the present case from R.20 and R.40 (in essence, one family) to R.A. (residence, apartment) was held to be fairly debatable and neither arbitrary, unreasonable nor capricious. In reaching its conclusion this Court relied upon the case of *Finney v. Hall*, 241 Md. 224, which involved property less than a mile from the land involved here, and in which the Court exercised attention, inter alia, to the construction of the Beltway as the most important change in the neighborhood, and also stated that the increase in public water supply and sewer facilities similarly were substantial changes since the adoption of the comprehensive zoning map. pp. 85-90

*Decided March 29, 1966.*  
Appeal from the Circuit Court for Baltimore County (KIRKIN, J.).  
Petition by Sidney Blum and others for appeal from a decision of the Baltimore County Board of Appeals in granting a zoning reclassification upon land owned by the Beth Tfiloh Congregation of Baltimore City. From an order reversing the decision of the Board, Beth Tfiloh appeals.

Reversed. The case was Barnes and McEdward C. C whom was Arnless

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Unless former briefs zoning in the briefs without however, the fan fall into place as its, he was true 530 (1966). The to the east of it 3rd Election Di Baltimore Belve same in each ra same witness ( The Board of A; the same reason Circuit Court for eddy enough, al months ago (2 F of Appeals until a For many ye Tfiloh Congreg tion of Baltimre 800 contributing 2000 families. It a community est recent years man

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DATE August 28, 1973  
BY *[Signature]*

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Opinion of the Court.  
Reversed. The costs to be paid by the appellas.  
The cause was argued before HAMMOND, HORSKY, MARSH, DANBERG and McWILLIAMS, JJ.  
W. Lee Harrison with whom was Helen J. Sykes on the brief, for the appellas.  
Edward C. Cvekley, Jr., and J. Elmer Weikich, Jr., with whom was Arnold Fitzhmann on the brief, for the appellas.  
McWILLIAMS, J., delivered the opinion of the Court. HAMMOND, J., concurs in the result.

Unless forewarned, no Maryland lawyer whose practice embraces zoning matters would be able to read this opinion and the facts without experiencing a feeling of déjà vu. Eventually, however, the familiar names, places, and principles of law would fall into place and the reader then would realize that, in reality, he was reading *Fitzney v. Halle*, 241 Md. 224, 216 A. 2d 530 (1966). The property in the case at bar is less than a mile to the east of the Halle property. Both properties are in the 3rd Election District of Baltimore County and both about the Baltimore Beltway. The zoning classification sought was the same in each case. The same attorneys opposed each other. The same witnesses (with minor exceptions) testified in both cases. The Board of Appeals removed both properties for substantially the same reasons. In each case there were appeals first to the Circuit Court for Baltimore County and then to this Court. And, oddly enough, although our decision in *Halle* was filed several months ago (2 February 1966), it was not heard by the Board of Appeals until about a month after the instant case.

For many years the focal point of the activities of the Beth Tfiloh Congregation was its synagogue in the Forest Park section of Baltimore City. It is an Orthodox congregation with 800 contributing members but actually ministering to about 2,000 families. In addition to the synagogue there is a school, a community center and (at another location) a cemetery. In recent years many members of the congregation have migrated

Opinion of the Court.  
to the suburbs. Most of them have settled in the 3rd Election District of Baltimore County. As Rabbi Rosenblatt put it, "every week people are moving away from us." To serve the needs of those who had already moved and as well the needs of those who will surely follow it was decided to move the synagogue and its associated activities to Baltimore County. The necessary land was purchased in 1951. Containing 57.25 acres it extends north from Old Court Road to the Beltway. Immediately adjoining to the west is the extension known as Dumbarton Heights. The land along the eastern boundary is undeveloped.

Proceeding with dispatch the congregation engaged the services of Morris Lapidus, a distinguished American architect with an international reputation. He was directed to design a synagogue complex consisting of a sanctuary, a school, a social center, a library, and housing complex. At first he was asked to suggest how the property might be utilized, in respect of housing, within the existing zoning (residential), which he did, but later on it was decided that the optimum use of the land required apartments, both high rise and low rise.  
On 21 March 1963 the congregation entered into a contract of sale with a Maryland corporation named The Two Hills Development Company, which is the alter ego of Gordon E. Sugar, the developer of Dumbarton Heights. This rather unorthodox agreement provides for the sale of the northernmost 20 acres (the subject matter of this appeal) of the property. The synagogue complex, now under construction, is on the southernmost 37.25 acres. The purchase price is stated to be \$480,000, but this is subject to escalation depending on the number of apartment units ultimately permitted to be constructed. Sugar is required to employ Morris Lapidus as his architect and Matz, Childs & Associates (also employed by the congregation) as his engineers. Sugar is required also to give members of the congregation a limited priority over the general public in the leasing of the apartments. The agreement contains many other limitations and restrictions all of which are calculated to insure the strongest compatibility between the apartment complex and the synagogue complex in respect of roads, streets, water, sanitary sewers, storm drains, utilities, location of buildings, architectural design, and building materials.

[242 Md.  
84]  
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On 21 March 1963 the congregation entered into a contract of sale with a Maryland corporation named The Two Hills Development Company, which is the alter ego of Gordon E. Sugar, the developer of Dumbarton Heights. This rather unorthodox agreement provides for the sale of the northernmost 20 acres (the subject matter of this appeal) of the property. The synagogue complex, now under construction, is on the southernmost 37.25 acres. The purchase price is stated to be \$480,000, but this is subject to escalation depending on the number of apartment units ultimately permitted to be constructed. Sugar is required to employ Morris Lapidus as his architect and Matz, Childs & Associates (also employed by the congregation) as his engineers. Sugar is required also to give members of the congregation a limited priority over the general public in the leasing of the apartments. The agreement contains many other limitations and restrictions all of which are calculated to insure the strongest compatibility between the apartment complex and the synagogue complex in respect of roads, streets, water, sanitary sewers, storm drains, utilities, location of buildings, architectural design, and building materials.

Opinion of the Court.  
As required by the contract, the congregation sought to have the zoning classification of the 20 acre parcel changed from R-20 and R-40 (residence, one family) to R.A. (residence, apartment). Application was also made for a special exception to construct a "high-rise" (elevator type) apartment building. On 25 September 1963 the Zoning Commissioner denied both the request for reclassification and the application for the special exception. Prompt appeals to the Board of Appeals were entered. On 17 and 18 March and on 29 April 1964 the Board heard the testimony of a number of witnesses and on 25 June 1964 its decision was filed. The rezoning was granted but a special exception was denied.

In his testimony before the Board, Rabbi Herman N. Neuberger, the director of Ner Israel Rabbinical College, pointed out that the adherents of Orthodox Judaism, such as the members of the Beth Tfiloh Congregation, are guided in their religion and in their communal and private lives by the codes expressed in the Shulchan Aruch, Orach Chayim and that one of the rules embodied therein prohibits riding to the synagogue on the Sabbath and the high holidays. Rabbi Rosenblatt testified that, while obedience to the rule, held in high regard by Orthodox Jews, was impossible for a great many of his people, to be were many who would happily abide by it if they could live within practical walking distance of the synagogue. He observed that "the people who love the synagogue most and love to attend regularly are mostly retired and many \* \* \* are not well. \* \* \* If they had living quarters right near the synagogue it would be a godsend to them." However, he added, the building of individual homes on the property, under R-20 and R-40 zoning, would provide living quarters for so few that it could not be considered a solution of the problem. "The only way [he concluded] is having high rise apartments \* \* \* right near the synagogue."  
We think, at least as far as the case at bar is concerned, that the plans for the high rise apartment building have been abandoned since there is no appeal from Judge Raine's affirmance of the Board's denial of the application. At the time of the hearing before the Board, Mr. Lapidus contemplated a high rise building containing 144 units and a group of garden type low rise buildings containing 216 units. It would appear

Opinion of the Court.  
that at least 60 to 70 additional low rise units can be built in the area initially set aside for the high rise building. Appelles complain that the reclassification of the property to R.A. would enable the congregation to provide quarters for 850 persons whereas under the present zoning only a maximum of 103 can be accommodated. But this, of course, is precisely what motivates Rabbi Rosenblatt and his congregation because as they see it 850 persons waiting to services in the synagogue is a greater good than a mere 100 or so living the same thing.  
Based on testimony much the same as the testimony produced in *Halle*, and by virtually the same witnesses, the Board of Appeals found "that there have been extensive changes in the neighborhood not the least of which are those connected with the development of homes, the construction of synagogues and schools (not only Beth Tfiloh but others as well), the personal availability of water, [and] the opening of the Beltway together with its access roads \* \* \*." (Emphasis supplied). The Board cited as additional evidence of change in the character of the neighborhood "the needs and desires of the Beth Tfiloh Congregation to accommodate its members."

Judge Raine, in his opinion, indicated that the appeal had given him a great deal of trouble and after concluding "that the decision of the \* \* \* Board \* \* \* should be reversed \* \* \* [he] confessed [ed] that the matter \* \* \* [was] not free from doubt. \* \* \*." He recognized that there had been "an extension of utility lines for water and sewage into the area" but, although he said he was aware of our holding in *Rohde v. County Board*, 233 Md. 259, 199 A. 2d 216 (1964), it seemed to him "that this \* \* \* [was] not sufficient evidence of a change. \* \* \* It makes it possible [he continued] to use the particular property in a way that was not hitherto possible, but certainly, on the surface, it does not change the character of the neighborhood." He concluded that the Beltway "certainly did have a real impact on the property. \* \* \* [and that it] has changed the entire Baltimore County from the standpoint of living arrangements." Its impact on shopping arrangements, he added, was "terrible" and finally that "it has revolutionized all types of transportation. \* \* \*." But, he said "I do not believe that from a legal point of view that this is the kind of

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Opinion of the Court.  
change that the Court of Appeals talks about when they say that change must be present in order to justify reclassification." Judge Raine concluded his opinion by expressing the hope that this Court "might some day" hand down a "real definitive ruling" on "what the real effect is of water and sewer extension \* \* \* and the Beltway on zoning." His closing sentence reminds us (as if we need reminding) that "these cases are constantly plaguing the courts and the position of the trial court is certainly not a happy one."  
Whether Judge Raine, on 14 June 1965, the day he filed his sole opinion, was right or wrong, in the light of decisions then extant, is a question which, we are pleased to observe, need not be answered. We believe, however, that he might have reached a different conclusion if, at that time, our decision in *Halle* had been available to him. We think Judge Barnes, who wrote the Court's opinion in *Halle*, provided the "definitive ruling" Judge Raine hoped for. In respect of the Beltway he said:

"The first and the most important change in the neighborhood \* \* \* was the construction of the Beltway."  
\* \* \*

"The construction of the Beltway was a far more extensive and important change in conditions, which would make the reclassification fairly debatable, than was the change in conditions resulting from the changes in construction and extension of Stevenson's Lane involved in *Jaber Corp. v. Rodgers Forge Community Ass'n* [236 Md. 106, 202 A. 2d 612 (1964)]. \* \* \* [S] [Stevenson's Lane] construction did not have nearly the profound effect on the *Jaber* property as the construction of the Beltway had on the subject property and the improvement and extension of Stevenson Lane did not result in a highway comparable to the Beltway in the extent of traffic. \* \* \* If necessarily follows that we should hold that the construction of the Beltway was an important change in conditions in the case at bar, and we so hold." 241 Md. at 237-38. (Emphasis supplied).

HAMMOND, J., concurs in the result.

Opinion of the Court.  
In respect of the increase in water and sewer facilities, Judge Barnes went on to say:  
"Another substantial change in the area since the adoption of the comprehensive zoning map was in regard to sewer facilities."  
\* \* \*

"Then too, there has been a substantial change in the public water supply." *Id.* at 239. (Emphasis supplied).  
While the Beltway and the extended sewer and water services impinge on the Beth Tfiloh property in a manner somewhat different from the Halle property, we think, is nonetheless substantial. The Board of Appeals cited as additional evidence of changes in the neighborhood "the needs and desires of the Beth Tfiloh Congregation to accommodate its members." However relevant and probative this evidence may be, the court below made no mention of it and we do not find it necessary to do so. Since what we said in *Halle*, *supra*, seems especially applicable here, we think its repetition is pertinent:

"Because of the changes in conditions mentioned we cannot say that the reclassification 'as no fairly debatable. It follows that the action of the Board in reclassifying the subject property was not arbitrary, unreasonable or capricious and \* \* \* action by the Board should be affirmed." *Id.* at 241.  
There was much argument in the briefs (and orally) on the question of error in the comprehensive rezoning of 1957. The Board of Appeals found there was such an error. Judge Raine, on his point, held to the contrary. Since it is unnecessary for us to do so we reach no conclusion in this regard.  
The order of the trial court will be reversed and the appellas will pay the costs.

Order reversed. Costs to be paid by appellas.

HAMMOND, J., concurs in the result.

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BALTIMORE COUNTY  
ZONING ADVISORY COMMITTEE



PETITION AND SITE PLAN  
EVALUATION COMMENTS

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 8, 1972

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

Re: Reclassification Petition  
3rd Zoning Cycle  
Item 27  
Mannes F. Greenbers, Executor  
Estate of Joseph W. Shapiro

Dear Mr. Nolan:

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

The subject property is located on the north side of Old Court Road approximately 3957 feet east of Stevenson Road in the Third District of Baltimore County. The property actually runs between Old Court Road and the south side of the Baltimore Beltway and is adjacent to a Synagogue and Church School that front on Old Court Road and the Chizuk Amuno Garden Apartments are also on the west side of this site. The property to the south is developed as large lot residential homes and the property to the east is vacant farm land. There is no curb and gutter existing along Old Court Road at this location.

Although the subject petition is accepted for filing, the following information must be shown on revised plans prior to the hearing. Locate all structures on adjacent properties within 200 feet of the subject property. Indicate on the location plan the nearest elementary school, junior high school and senior high school. Indicate the existing fire hydrants within 500 feet of this site. There are several apartment buildings shown that are greater than 300 feet in length, these must be reduced to meet the 300 foot requirement. This will necessitate a complete revision of the site plan, a reduction in the number of units.

Very truly yours,  
OLIVER L. MYERS, Chairman  
JOHN J. DILLON, III, Zoning Tech. II



**Baltimore County, Maryland**  
**Department of Public Works**  
 COUNTY OFFICE BUILDING  
 TOWSON, MARYLAND 21284

Division of Engineering  
 ELLSWORTH H. DIVER, P. E. CHIEF

April 20, 1972

Mr. Oliver L. Myers, Chairman  
 Zoning Advisory Committee  
 County Office Building  
 Towson, Maryland 21204

Re: Item #27 (Cycle April - October 1972)  
 Property Owner: Estate of Joseph W. Shapiro  
 N & S/S Old Post Rd., 1000' E. of Winter Set Rd.  
 Present Zoning: D.R. 1  
 Proposed Zoning: Reclassification to D.R. 16  
 District: 3rd No. Acres: 27.065 acres

Dear Mr. Myers:

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 item.

Highways:

Old Court Road and the Baltimore Beltway are both State Roads; therefore, all improvements, intersections, entrances and drainage which affects these roads will be subject to State Highway Administration requirements.

Old Post Drive is an existing road that will be extended through this site as an ultimate 36-foot curbed road with a 40-foot right-of-way and shall be the Petitioner's full cost responsibility for its design and construction.

Storm Drains:

In accordance with the drainage policy for this type development, the Petitioner is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Petitioner's cost responsibilities include the acquiring of easements and rights-of-way - both on-site and off-site - including the use of the County of the rights-of-way. Preparation of all construction, rights-of-way and easement drawings including engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Petitioner.

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating nuisances or damages to adjacent properties, especially by the concentration of surface water. 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.

Mr. Oliver L. Myers, Chairman  
 Zoning Advisory Committee  
 Page 2  
 April 20, 1972

Re: Item #27 (Cycle April - October 1972)

Storm Drains: (cont'd)

The Petitioner shall provide a minimum 10-foot drainage and utility easement along all bordering property lines which are not adjacent to County rights-of-way or storm drain reservations unless a similar easement has previously been provided along the property lines of the adjacent subdivision. If an easement less than 10 feet in width has previously been provided along any bordering property line within an adjacent subdivision, an additional easement to provide for a minimum width of 10 feet shall be provided along that property line within this subdivision.

Sediment Control:

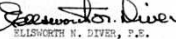
Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Water:

There is an existing 16-inch water main in Old Court Road and an existing 8-inch water main in Old Post Drive, both of which will have to be extended for the road frontage of the site.

Sanitary Sewer:

A portion of this site may be served by extending a sewer line in Old Court Road approximately 400 feet to the existing sewer at Lightfoot Drive. The remaining area could be served via an off-site sewer extension to the existing 8-inch sewer under the Beltway approximately 1,500 feet east of this site.

Very truly yours,  
  
 ELLSWORTH H. DIVER, P.E.  
 Chief, Bureau of Engineering

END:RAM:CLM:SS

C-101 Key Sheet  
 N 9 E Topo Sheet  
 33 & 34 NW 17 & 18 Position Sheets

**BALTIMORE COUNTY, MARYLAND**  
 JEFFERSON BUILDING TOWSON, MARYLAND 21204

**DEPARTMENT OF TRAFFIC ENGINEERING**

EUGENE J. CLIFFORD, P.E. CHIEF  
 Wm. T. MELSER DEPUTY TRAFFIC ENGINEER

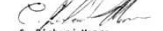
April 28, 1972

Mr. Oliver L. Myers  
 Chairman  
 Zoning Advisory Committee  
 County Office Building  
 Towson, Maryland 21204

Re: Cycle Zoning 111  
 Item 27 - ZAC - 4-4-72  
 Property Owner: Estate of Joseph W. Shapiro  
 Old Post Road E. of Winter Set Road  
 Reclassification to DR 16 - District 3

Dear Mr. Myers:

The subject petition is requesting a change from DR 1 to DR 16. This should increase the trip density from 270 to 3200 trips a day. This increased trip density can only be expected to create problems on Old Post Drive, which was originally designed for low density development and Old Court Road, which presently has capacity problems with its intersection at Stevenson Road.

Very truly yours,  
  
 C. Richard Moore  
 Assistant Traffic Engineer

CLM:mr

**STATE HIGHWAY ADMINISTRATION**

300 WEST PRESTON STREET  
 BALTIMORE, MD. 21201  
 APR 16, 1972

Mr. S. Eric Dimenna  
 Zoning Commissioner  
 Attn: Mr. O.L. Myers

Re: Z.A.C. Meeting  
 Reclassification  
 Items Estate of Joseph  
 W. Shapiro  
 N & S/S Old Post Rd  
 1000' E of Winter Set Rd

Dear Mr. Dimenna:

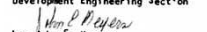
There is inadequate stopping sight distance at the proposed entrance due to the vertical and horizontal alignment of Old Court Road to the east, however if the highway is straightened as indicated on the plan and the frontage is graded back, sight distance should be adequate.

The plan indicate a proposed highway width of 42'. This is planned as a 48' section.

The proposed right of way is 80' and not 60' as indicated on the plan.

The plan must ultimately be revised.

The entrance will be subject to approval and permit from the State Highway Administration.

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

CL-JH-ss

**Baltimore County Fire Department**

J. Austin Deitz  
 Chief



Towson, Maryland 21204

473-7316

April 17, 1972


Office of Planning and Zoning  
 Baltimore County Office Building  
 Towson, Maryland 21204  
 ATT: Mr. Oliver L. Myers, Chairman  
 Zoning Advisory Committee

RE: Property Owner: Estate of Joseph W. Shapiro  
 Location: N & S/S Old Post Road, 1000' E of Winter Set Road  
 Item No. 27 Zoning Agenda April 4, 1972

Gentlemen:

Pursuant to your request, the referenced property have been surveyed by this Bureau and the comments below marked with an "x" are amicable and required to be corrected or incorporated into the final plans for the property.

- (X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 500 feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead-end condition shown at \_\_\_\_\_ EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- ( ) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "The Life Safety Code", 1970 Edition prior to occupancy.
- ( ) 6. Site plans are approved as drawn.
- ( ) 7. The Fire Prevention Bureau has no comments at this time.

Reviewed by:  J. Austin Deitz, Chief  
 Planning Group  
 Social Inspection Division  
 Fire Prevention Bureau

**BALTIMORE COUNTY, MARYLAND**  
**DEPARTMENT OF HEALTH**

JEFFERSON BUILDING  
 TOWSON, MARYLAND 21204

April 17, 1972

DONALD J. ROOP, M.D., M.P.H.  
 DEPUTY STATE AND COUNTY HEALTH OFFICER

Mr. Oliver L. Myers, Chairman  
 Zoning Advisory Committee  
 Office of Planning & Zoning  
 Baltimore County Office Bldg.  
 Towson, Maryland 21204

Dear Mr. Myers:

Comments on Item 27, Zoning Advisory Committee Meeting, April 17, are as follows:


Property Owner: Estate of Joseph W. Shapiro  
 Location: N & S/S Old Post Road, 1000' E of Winter Set Road  
 Present Zoning: D.R.1  
 Proposed Zoning: Reclassification to D.R. 16  
 District: 3  
 No. Acres: 27.065

Metropolitan water and sewer are available to the site.

Air Pollution Comments: The building or buildings on the site may be subject to a permit to construct and a permit to operate any and all fuel burning and processing equipment. Additional information may be obtained from the Division of Air Pollution and Industrial Hygiene, Baltimore County Department of Health.

Shopping Center and Apartment House Comments: Approval for a shopping center or apartment house is based upon owner responsibility for the collection, storage and disposal of refuse in accordance with Health Department requirements.

Very truly yours,

  
 DONALD J. ROOP  
 Water and Sewer Section  
 Division of Sanitary Engineering  
 BUREAU OF ENVIRONMENTAL SERVICES

JS:sm

GEORGE E. GAVRELIS  
 Director  
 Jefferson Building  
 Suite 301  
 Towson, Md. 21204  
 474-3311



S. ERIC DIMENNA  
 Zoning Commissioner  
 County Office Building  
 111 W. Chesapeake Ave.  
 Towson, Md. 21284  
 474-3331

**BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING**

May 1, 1972

Mr. Oliver L. Myers, Chairman  
 Zoning Advisory Committee  
 Office of Planning and Zoning  
 Baltimore County Office Building  
 Towson, Maryland 21204

Dear Mr. Myers:

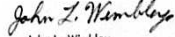
Comments on Item 27, Zoning Advisory Committee Meeting, April 4, 1972, are as follows:

Property Owner: Estate of Joseph W. Shapiro  
 Location: N/ & S/S Old Post Road, 1000' E of Winter Set Road  
 Present Zoning: D.R.1  
 Proposed Zoning: Reclassification to D.R.16  
 District: 3  
 No. Acres: 27.065 acres

Since the right of way of Old Court Road is to be 80 feet in width the plan would have to be revised to show the required setback along Old Court Road.

If the property is granted a D.R.16 classification, the site plan must be revised to meet all of the requirements of section 504 of the Zoning Regulations.

Very truly yours,

  
 John L. Wimbley  
 Sanitarian II  
 Project Planning Division  
 Office of Planning and Zoning

JLW:rh

**BOARD OF EDUCATION  
 OF BALTIMORE COUNTY**

ITSM #27

TOWSON, MARYLAND - 21204

Property Owner Estate of Jos. W. Shapiro  
 District 3  
 Present Zoning DR 1  
 Proposed Zoning DR 16  
 No. Acres 27.065

Schools servicing this area are:

	Cap.	Enroll.	%
Fort Garrison Elem.	515	561	+16
Pikesville Junior	1220	1317	+97
Pikesville Senior	1320	1438	+118

The area as currently zoned could yield approximately 7 elementary pupils, 8 junior high pupils and 10 senior high pupils. A change to DR 16 could result in a yield of approximately 98 elementary pupils, 53 junior high pupils and 15 senior high pupils. The apartment yield is based on the highest possible yield since no bedroom breakdown is shown on the plat submitted. The 3 bedroom apartments at Millbrook Park, Pickwick, Bonnie Ridge and Warren Park were used as samples.

H. EMBLE PARKS, President  
 EUGENE C. HECK, Vice President  
 MRS. MARGARET L. BERRY

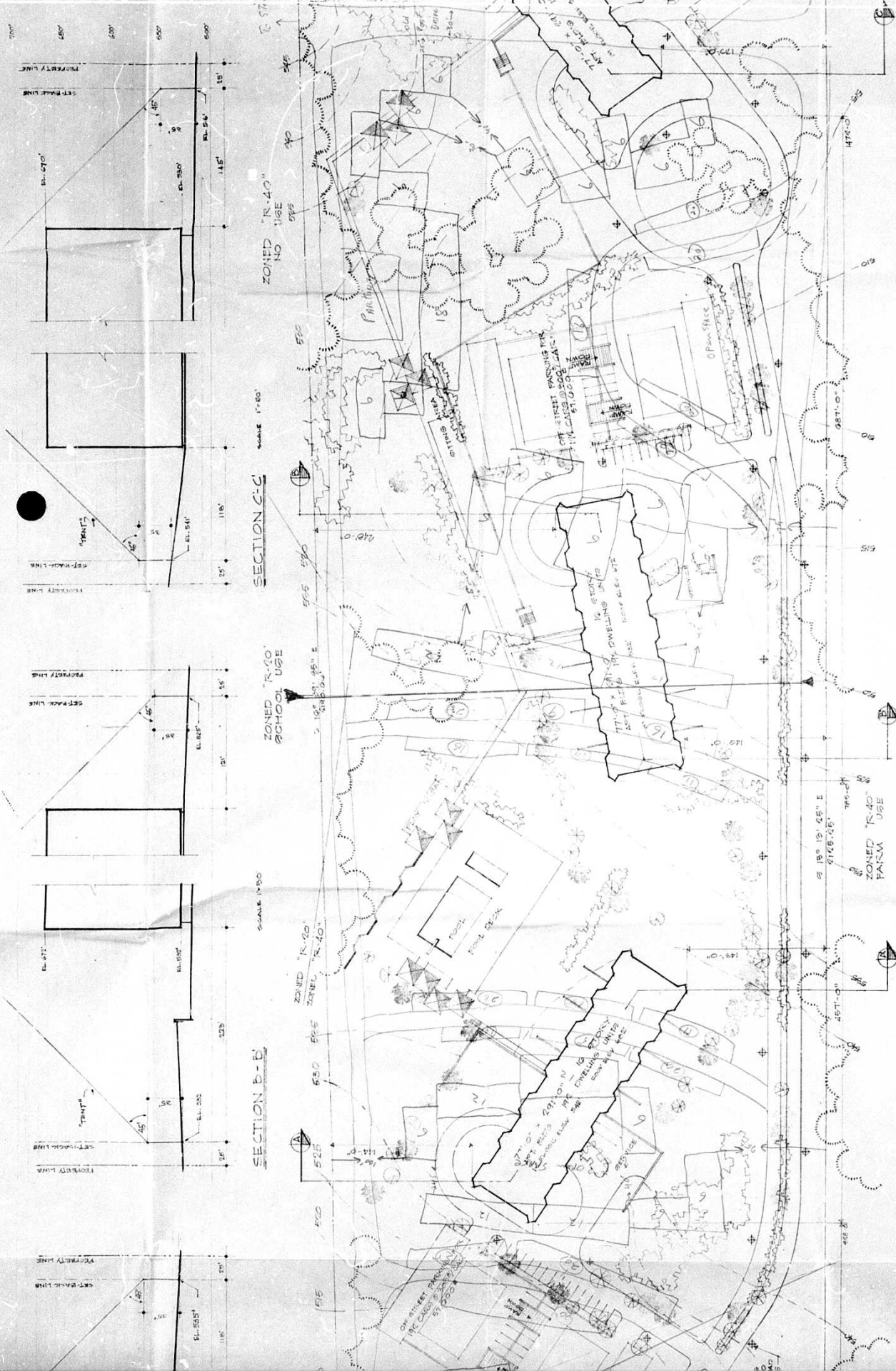
MRS. JOHN M. CROCKER  
 JOSEPH M. HIGGINS  
 ALVIN LEBECK

T. BAYARD WILLIAMS, JR.  
 RICHARD W. TRACY, V.M.D.  
 MRS. RICHARD K. MURPHY









**SECTION C-C** SCALE 1"=60'

**SECTION B-B** SCALE 1"=60'

**SECTION A-A** SCALE 1"=60'

**SECTION D-D** SCALE 1"=60'

**SECTION E-E** SCALE 1"=60'

**SECTION F-F** SCALE 1"=60'

**GENERAL NOTES:**  
 (1) TOTAL ACRES OF TRACT BEING 27,000 AC.  
 (2) PRESENT ZONING OF PROPERTY IS R-40 & R-10  
 (3) PROPOSED ZONING OF PROPERTY IS R-20  
 (4) DENSITY CALCULATION:  
 A. NET DENSITY PER ACRE (18 x 225) = 4,050  
 B. NET DENSITY PER ACRE (18 x 225) = 4,050  
 C. PROPOSED DENSITY PER ACRE (20 x 225) = 4,500  
 D. PROPOSED OFF-STREET PARKING (4,500) @ 15% UNITS

# of Density Units allowed 4125  
 OFF ST Parking (proposed) 360  
 " " (current) 560  
 Required off-street parking (4,050 - 360) = 3,690 units  
 (current) 4,500 units

Marta Childs & Assoc. 1030 Greenwell Road 2100  
 63135 by PLS  
 PLS 2/17/72



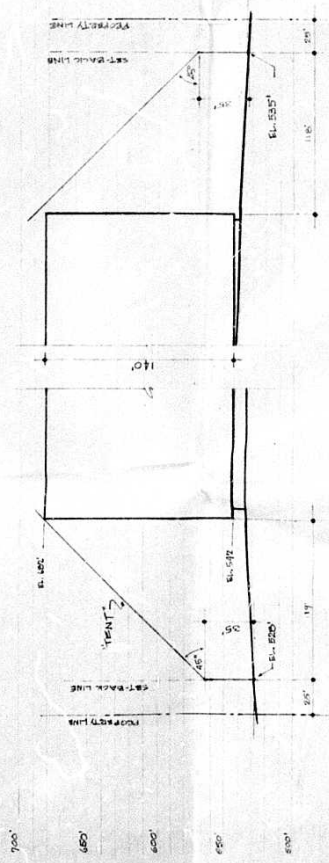
1/14/60

15

EAST OF STEUBENSON ROAD  
 BALTIMORE COUNTY, MD

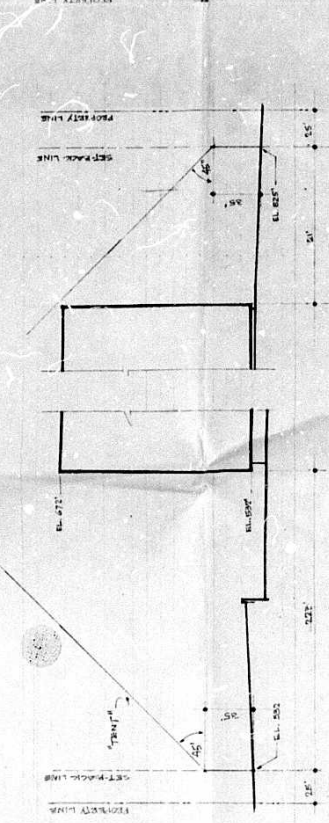
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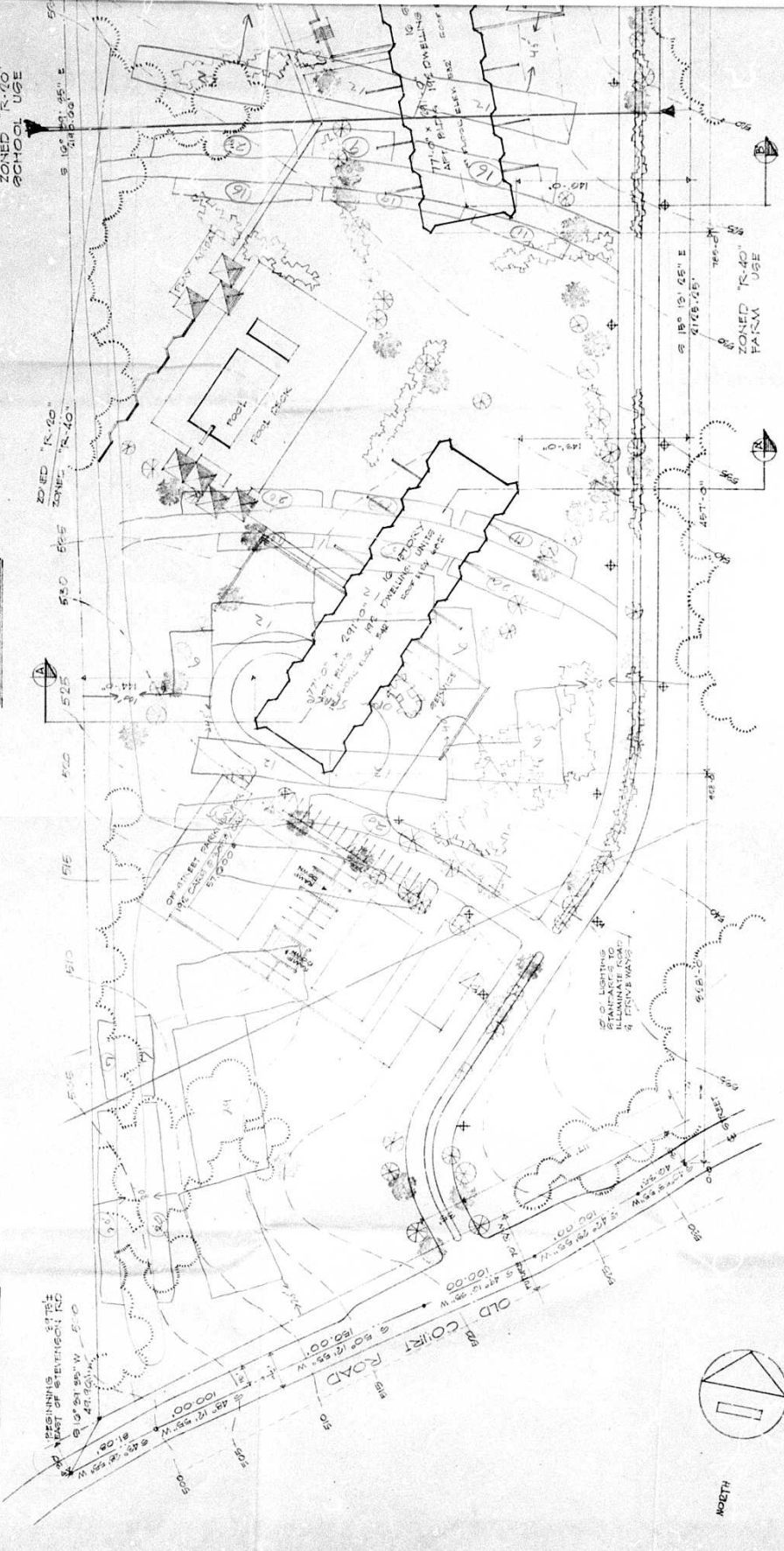
SECTION A-A

SCALE 1"=50'



SECTION B-B

SCALE 1"=50'



PLOT PLAN  
SCALE 1"=50'  
AREA 27,000 SQUARE FEET

VICINITY MAP: ROAD 3870' EAST OF STEVENSON ROAD  
HARRISBURG COUNTY, MD

GENERAL NOTES:

- 1. TOTAL AREA OF TRACT BEING SURVEYED IS 27,000 SQ. FT.
- 2. PRESENT ZONING OF PROPERTY IS R-10 & R-40.
- 3. PROPOSED ZONING OF PROPERTY IS R-40.
- 4. PRELIMINARY CALCULATIONS FOR PROPOSED ZONING.
- 5. A NET PLANTY MATERIALS (10% OF TOTAL AREA) SHALL BE PROVIDED FOR THE PROPOSED DEVELOPMENT.
- 6. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" UNITS.
- 7. ALL UTILITIES SHALL BE DEEPENED TO A MINIMUM OF 48" UNITS.
- 8. PROPOSED DEVELOPMENT SHALL BE IN ACCORDANCE WITH THE ZONING ORDINANCES OF HARRISBURG COUNTY, MD.

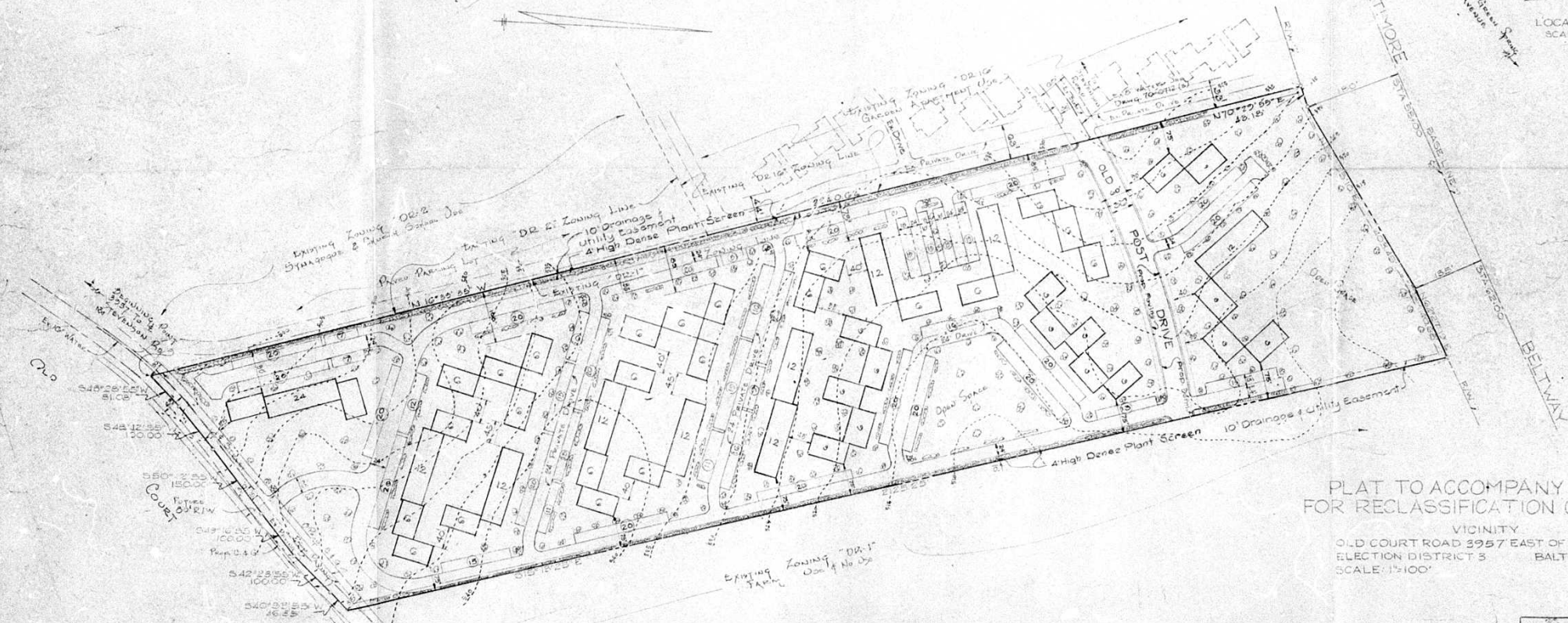
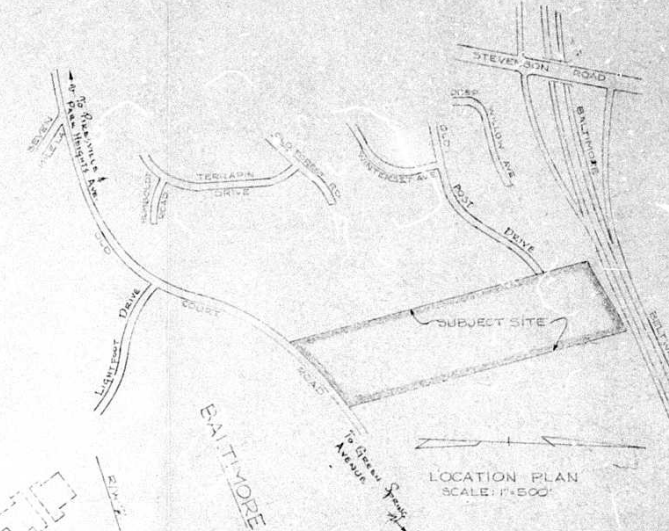
# of Density Units allowed 412  
 off ST. Parking (approx) 260  
 " " (approx) 64  
 " " (approx) 64  
 " " (approx) 4,500 (calculated 20,065)  
 Proposed 4,500

M. L. Childs & Assoc. 1030 Crosswell Road, #204  
 6,515' by 415' P.M.C. 2.9, 1972



GENERAL NOTES

1. TOTAL ACRES OF TRACT EQUALS 27.065 ACRES
2. PRESENT USE OF PROPERTY AND USE
3. PRESENT ZONING OF PROPERTY - "DR-1"
4. PROPOSED ZONING OF PROPERTY - "DR-10"
5. PROPOSED USE OF PROPERTY - GARDEN APARTMENTS
6. DENSITY CALCULATIONS:
  - A. Gross Area Equals 27.065 Acres
  - B. Number of Density Units Allowed Equals 448
  - C. Number of Density Units Proposed Equals 272
  - D. Required Off-Street Parking Equals 560 Spaces
  - E. Proposed Parking Equals 644 Spaces
  - F. Required Open Space Equals 4.00 Acre (15% of 27.065)
  - G. Proposed Open Space Equals 4.8 Acre
7. Sanitary Sewer Will Be Extended To The Site Along Old Court Road From The Existing Main At Lightfoot Drive

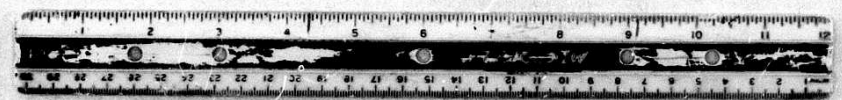


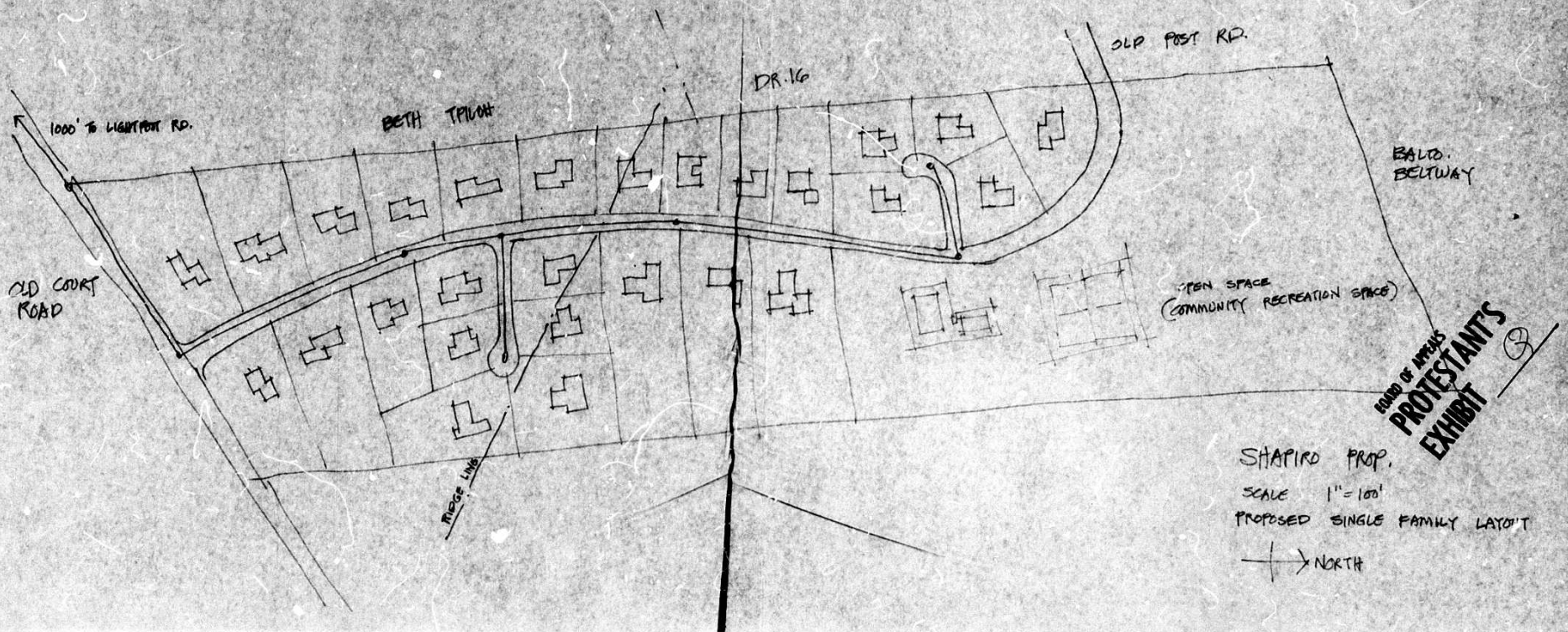
PLAT TO ACCOMPANY PETITION  
FOR RECLASSIFICATION OF PROPERTY

VICINITY  
OLD COURT ROAD 3957 EAST OF STEVENSON ROAD  
ELECTION DISTRICT 5 BALTIMORE COUNTY MD  
SCALE: 1" = 100' SEPT 15, 1972

#27  
Shapiro  
REVISED PLANS

MAP	DATE
SECTION	NO.
DATE	
TYPE	
REVISION	
BY	
SCALE	
BY	





**BOARD OF APPEALS  
PROTESTANTS  
EXHIBIT**

SHAPIRO PROP.  
SCALE 1" = 100'  
PROPOSED SINGLE FAMILY LAYOUT  
NORTH

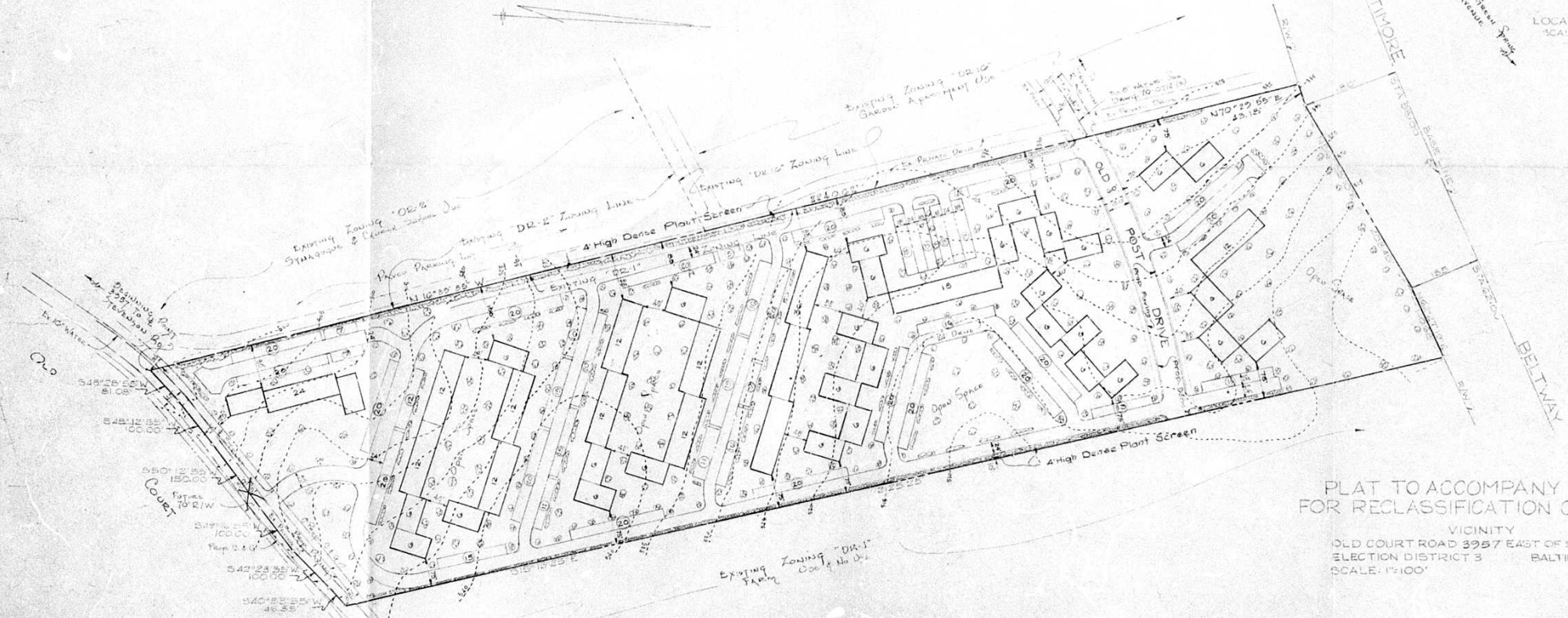
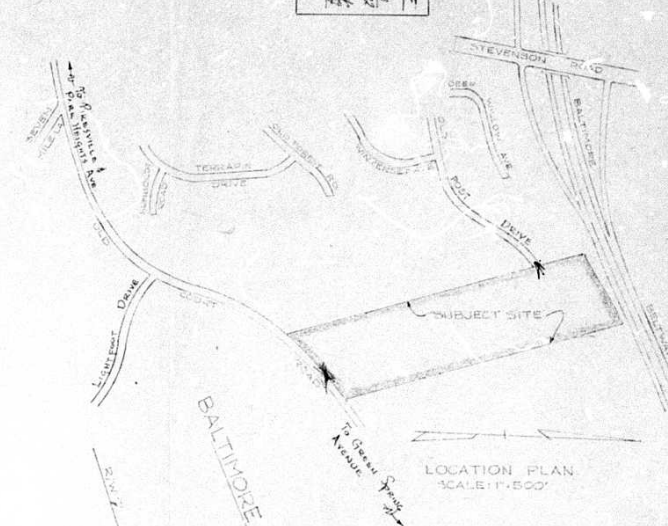




GENERAL NOTES

1. TOTAL ACREAGE OF TRACT EQUALS 27,065 ACRES.
2. PRESENT USE OF PROPERTY - NO USE.
3. PRESENT ZONING OF PROPERTY - "DR-1".
4. PROPOSED ZONING OF PROPERTY - "DR-1".
5. PROPOSED USE OF PROPERTY - GARDEN APARTMENTS.
6. DENSITY CALCULATIONS:
  - A. Gross Area Equals 27,065 Acres.
  - B. Number of Density Units Allowed Equals 148.
  - C. Number of Density Units Proposed Equals 300.
  - D. Required Off-street Parking Equals 550 Spaces.
  - E. Proposed Parking Equals 644 Spaces.
  - F. Required Open Space Equals 4.05 Acre (15% of 27,065).
  - G. Proposed Open Space Equals 4.8 Acre.
7. SANITARY SERVICE WILL BE EXTENDED TO THE SITE ALONG OLD COURT ROAD FROM THE EXISTING MAIN AT LIGHTFOOT DRIVE.

DATE	BY	REVISION
10/1/72	J.C.	1
10/1/72	J.C.	2
10/1/72	J.C.	3
10/1/72	J.C.	4
10/1/72	J.C.	5



PLAT TO ACCOMPANY PETITION  
FOR RECLASSIFICATION OF PROPERTY  
VICINITY  
OLD COURT ROAD 3957 EAST OF STEVENSON ROAD  
ELECTION DISTRICT 3 BALTIMORE COUNTY MD  
SCALE: 1"=100'  
March 29, 1972

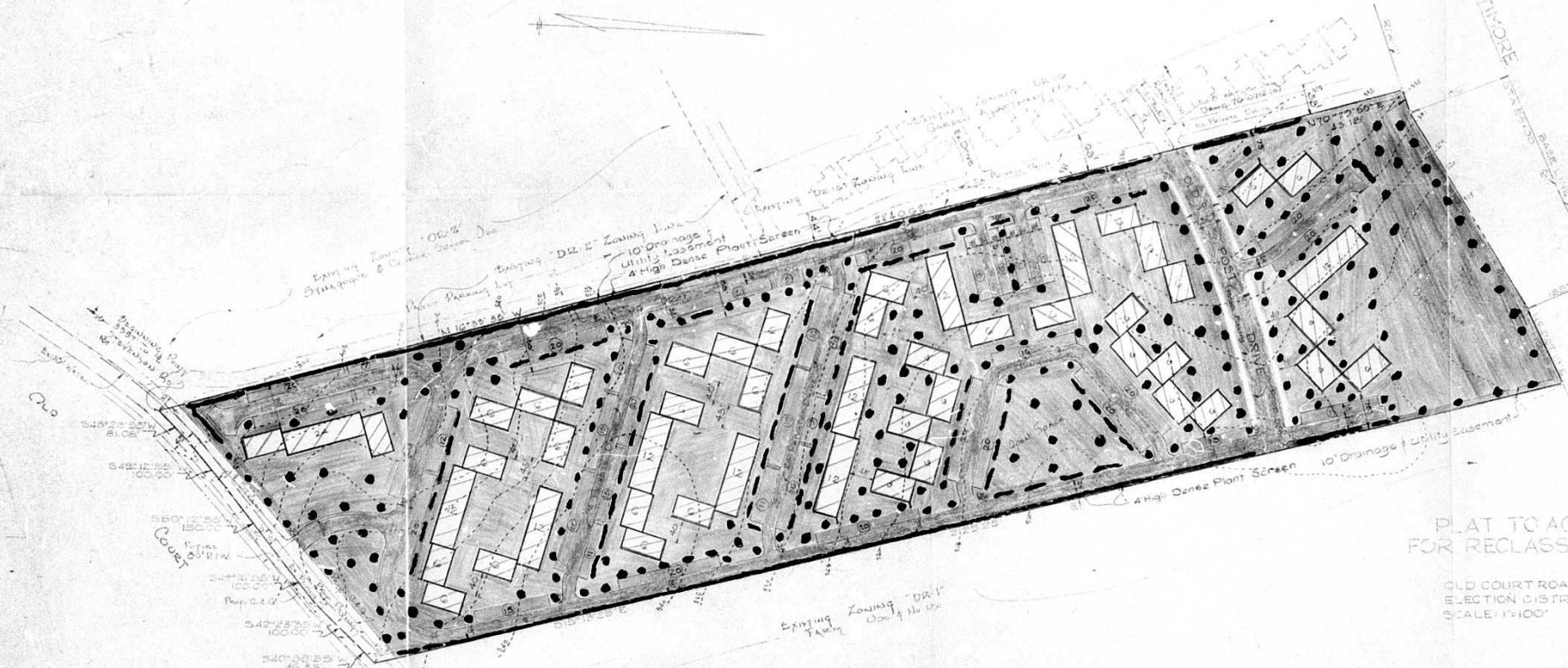
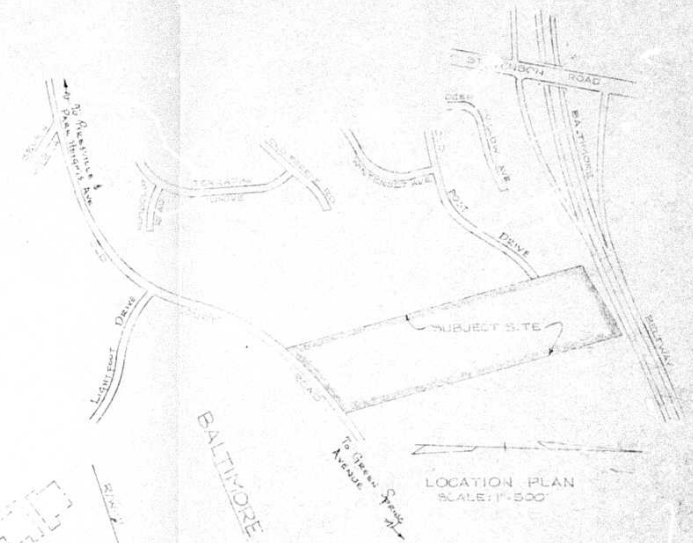


PETITIONER'S EXHIBIT No 2

GENERAL NOTES

1. TOTAL ACREAGE OF TRACT EQUALS 27.066 ACRES
2. PRESENT ZONING OF PROPERTY - "OC-1"
3. PROPOSED ZONING OF PROPERTY - DR-107
4. PROPOSED USE OF PROPERTY - GARDEN APARTMENTS
5. DENSITY CALCULATIONS:
  - A. Gross Area Equals 27,066 Acres
  - B. Number of Density Units Allowed Equals 448
  - C. Number of Density Units Proposed Equals 275
  - D. Required Off-Street Parking Equals 560 Spaces
  - E. Proposed Parking Equals 644 Spaces
  - F. Required Open Space Equals 4.05 Acre (10% of 27,066)
  - G. Proposed Open Space Equals 3.8 Acre
7. SANITARY SEWER WILL BE EXTENDED TO THE SITE ALONG OLD COURT ROAD FROM THE EXISTING MAIN AT LIGHTPOOT DRIVE.

P.Z.C.  
Page 1



PLAT TO ACCOMPANY PETITION  
FOR RECLASSIFICATION OF PROPERTY  
VICINITY  
OLD COURT ROAD 3957 EAST OF STEVENSON ROAD  
ELECTION DISTRICT 5 BALTIMORE COUNTY MD  
SCALE: 1"=100' SEPT. 13, 1972

