

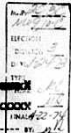
70-57-R #12 **PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

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

Legal owner... of the property at 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 hereto described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an... DR-1... zone to an... DR-1.5... zone, for the following reasons:
Error in the Zoning Classification of DR-1 placed on the Zoning Map, which error is more fully described in the memorandum filed herewith and for changes in circumstance and in the neighborhood since adoption of the Zoning Map, which change is more fully described in the Memorandum filed herewith.

See attached description



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

ROCKLAND HOLDING CORPORATION

By: *[Signature]*
Legal Owner

Address: _____

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 1 to D.R. 10.5 and B.L., : COUNTY BOARD OF APPEALS
SPECIAL EXCEPTIONS for Community : OF
Recreation Areas and Community :
Facility : BALTIMORE COUNTY
E/S and W/S of Falls Road between :
Baltimore County Beltway and : No. 73-231-RX
Jones Falls Expressway, :
367 W. of Falls Road : and
3rd and 9th Districts : No. 74-57-R
Rockland Holding Corporation, :
Petitioner :
:

DISSENTING OPINION

This member of the Board has previously filed a statement with the Majority Opinion stating that he dissented, and this represents an Opinion stating the reasons for the previously noted dissent.

The Opinion of the Majority of the Board in this case has ignored many of the most important facts in the case and has glossed over other important features. In the first place, in ten years on the Board this member has never seen a case more thoroughly prepared or a piece of property more thoroughly studied and planned in accordance with good modern practices of planning and zoning than this tract by the experts employed by the Rouse-Wates Company, including of course many of the experts in its own employ, but also including several representatives of the firm of Wallace, McHarg, Roberts and Todd, a firm of landscape architects and planners of world wide experience and recognized almost everywhere as experts in this field. Among those who appeared as the result of the connection with this firm was Mr. M. R. Dibandian, a geologist and regional planner, who has made one of the most thorough studies from the basic geological foundations of this tract up to and including the landscape architecture, as well as the best way to control storm water runoff and to preserve the trees now growing on this old property.

The exhibits show that under the present plans seventy-two percent of the entire tract will be maintained as open space, and that seventy-six percent of the trees on the property will remain undisturbed under the present plans of development as submitted. The hydrological studies indicate the plan is not only feasible but called for, and the engineering testimony was that there will be no problem with sewage disposal or water supply

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by the time the project would get underway in normal course. In any event, no building permits would be issued were adequate sewage disposal facilities not available at that time, and it is my finding that the evidence shows that any problems with respect to sewage capacity affected by this project are approaching a reasonable solution within a foreseeable time in the near future. Mr. David A. Wallace, head of the firm mentioned above, testified as to the work done by his firm and their studies in connection with this case, and stated that not only in his opinion was this an excellent plan, but that he felt that error had been committed by the County Council in zoning this property as D. R. 1, whether they took the recommendation of the Planning Board, the Planning Staff and the other planners into account or not. He felt that the Council did not consider correct basic planning concepts and, in any event, to zone this property D.R. 1 was in error.

I recognize that the opinion and the recommendations of the Planning Board and the Planning Staff are not necessarily binding on the County Council in their legislative capacity. However, if the Council pays no attention whatever to the advice of their Planning Staff and Planning Board, someone is certainly wasting a great deal of time not to mention taxpayer money. The only testimony before the Board as to the motivation of the County Council in this matter was as appears in the minutes of the County Council, that the Councilman from this district was quoted as saying that "there appeared to be a great many people opposed to this". This, of course, is not a valid reason and we have not evidence before us of any other motivation. Nevertheless, I understand of course that the original zoning of the County Council is presumed to be correct, however, this is not an irrebuttable presumption and can be overcome by reasonable evidence of great weight to show that an error was made. I feel error means mistake, and that if a decision violates good planning and common sense, it is the duty of this Board to determine that the Council was in error, notwithstanding the presumption of the correctness of the legislative act.

It must be pointed out that this entire tract is within the urban rural demarcation line as set by the Planning Board under the law establishing its responsibilities, and that the Planning Board and Staff are at this very moment doing their best to prevent urban sprawl from going on into areas outside the urban rural demarcation line. This demarcation

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line means that water and sewer are available, and other utilities are available, and that the land within this demarcation line should be developed first before extraordinary developments are to be allowed outside of this line in areas not yet serviced by adequate utilities. This particular tract of land cries for development, and to develop this entire tract in one acre lots under D.R. 1 classification, with one house to one lot, would be to perpetuate the very thing that all planning is trying to avoid; this is, the perpetuation of suburban sprawl by severe limitations on density even when the proposed increase in density is accompanied by excellent planning involving at least seventy-two percent of open space, and also including facilities for recreation, park use and other benefits for the residents of the area, and to provide a neighborhood shopping center that can be used by the residents of this immediate area, thereby decreasing the traffic necessitated by their having to travel a great distance to existing shopping centers. The petitioner is only asking for approximately nine acres of commercial in the middle of the planned development to fulfill this purpose, and is asking for special exceptions for such things as clubhouses, swimming pools, and other recreational facilities. The big bulk of the property will be left in its pristine loveliness as a piece of Maryland countryside, whereas development in individual lots would almost inevitably require the removal of all of the old and big trees. This property has been in the Johnson family since 1690, and was the subject of an entail, probably the last piece of property of this nature in the State and consequently nothing had been possible to accomplish its development over the years. The action of the Majority in this case, it seems to me, would tend to perpetuate this entail, which certainly ought to be against public policy for land which is inside the rural urban demarcation line and that is more than ripe for development.

It is further to be noted that the protest in this case came fundamentally from the Old Court-Greenspring Improvement Association who, as late as January 11, 1971, wrote a letter by its President to the County Council stating that they were in favor of this project but have apparently changed their minds. On the other hand, the Ruxton-Riderwood-Lake Roland Improvement Association appeared and testified that its members are in favor of this project as it is now planned because the original plans of the Rouse-

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Wates Company have been modified to suit their ideas and opinions as to the proper development of this area. The entire residential population of the Ruxton-Riderwood-Lake Roland area was circularized and meetings were held at which action was taken to support the project as it now exists. Furthermore, there was placed in evidence a binding covenant entered into between the Rouse Company and the Johnson heirs who have formed the Rockland Holding Corporation for this purpose, which would prohibit them from doing anything with the property other than as is shown on the plans in the various exhibits and the testimony of their experts. I believe that this should be sufficient protection to satisfy any of the objections expressed by the improvement association. Furthermore, the small portion of B.L. zoning required could not possibly within reason be developed as a commercial area without development of the rest of the tract according to these plans. It simply would not make sense, and the special exceptions requested for community facilities for recreation, meetings and so forth are a necessity to carry out the plans in the adequate manner and the excellent way in which they have been presented to this Board.

To reiterate, it is the feeling of this dissenter that the Majority of the Board has completely ignored the weighty evidence in this case and has made a mistake in denying the rezoning and the special exceptions requested, which denial is not in the best interest of Baltimore County at large and certainly, in my opinion, there was error when it was originally zoned as D.R. 1 without, by that conclusion, meaning anything derogatory to the eminent members of the County Council who voted five to two to zone this property as D.R. 1. Its development under that classification, I feel, would be detrimental to the long range planning as to how Baltimore County should be developed inside the urban rural demarcation line. I, therefore, disagree with the findings of the Board and believe that the petition as presented should have been granted.

W. Giles Parker

Date: March 7, 1974

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 1 to D.R. 10.5 and B.L. zones : COUNTY BOARD OF APPEALS
SPECIAL EXCEPTIONS for Community : OF
Recreation Areas and Community Facility : BALTIMORE COUNTY
E/S and W/S of Falls Road between :
Baltimore County Beltway and : No. 73-231-RX
Jones Falls Expressway, : and
3rd and 9th Districts : No. 74-57-R
Rockland Holding Corporation :
Petitioner :
:

OPINION

This petition involves the properties of the Rockland Holding Corporation. The same are located in the southwestern quadrant of the Beltway and the Jones Falls Expressway. The Falls Road runs between and through these properties. Same are situated in portions of the 3rd and 9th Election Districts of Baltimore County.

This case represents a consolidated hearing upon two petitions filed by the Rockland Holding Corporation. These petitions may be identified as Case No. 73-231-RX and Case No. 74-57-R. An outline of the subject property may be examined as set out on Petitioner's Exhibit No. 8.

The first witness for the Petitioners, Dr. J. T. H. Johnson, told the Board of the ownership of this tract. It seems that the Rockland Holding Corporation is a family entity which represents the nine owners of this property. The subject property has been in the Johnson family since 1690. The Rockland Holding Corporation, as the owner of this property, has entered into a contingent contract of sale with the Rouse-Wates, Inc., it being the desire of the Rouse-Wates Corporation to develop the subject property as proposed in these petitions. The contract of sale is contingent upon the requested zoning reclassifications and special exceptions that are at issue in the subject case. This consolidated petition seeks the reclassification of 9.4 acres to B.L. and approximately 66.25 acres to D.R. 10.5. Each of these tracts is now zoned D.R. 1. The areas proposed in the petition for reclassification are outlined on Petitioner's Exhibit No. 8. Petitioner's Exhibit No. 19 sets out clearly the existing conditions on the Johnson tract. If this Petition be granted, the Rouse-Wates Corporation proposes to develop the Johnson tract as set out on Petitioner's

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Exhibit No. 21, which is labeled "Land Use Plan - Johnson Property". Examining this petition, one can see that if these reclassifications are granted, it is proposed that the Johnson tract contain approximately 985 apartment and townhouse units. The Petitioner has indicated that approximately half of these would be sold, while the other half would be retained as rental units. In addition, the 9.4 acres of B.L. zoning would be developed as a village center, with approximately 50,000 square feet of retail space and 30,000 square feet of office space, and encompassed within this 9.4 acres would be a parcel with the anticipated use of a car care center. Utilizing the advantage of Bill No. 100, the Petitioner would develop the apartments and townhouses as proposed on Petitioner's Exhibit No. 21. The location of the apartments and townhouses throughout the Johnson tract may be noted on said Petitioner's Exhibit No. 21.

In addition to the reclassification, the Petitioner seeks five (5) special exceptions of varying sizes. Each would be used for community recreation type facilities. Petitioner's Exhibit No. 24 labeled a "Concept Plan", and Petitioner's Exhibit No. 25 labeled "Illustrative Plan", further detail the proposal. Same note the plan to preserve and restore the historic village, the location of a community facility and the other recreation facilities, the village center, the car care center, and a potential county elementary school site. In addition, these Petitioner's Exhibits Nos. 24 and 25 indicate the location of the various residential units throughout the Johnson property.

The presentation of this case before the Board consumed seven full days of hearings. In addition, each side presented complete detailed memoranda of law and fact. This Opinion will not attempt to detail the entire testimony heard by this Board during the seven days; however, the Board will comment upon some of this testimony in order to offer its reasoning for the conclusion and Order which follows. The memoranda previously mentioned do fairly summarize much of the facts presented to the Board in this case. The Board would wish to add that the presentation of this case by both the Petitioner and the Protestant was equal in quality to any such presentation received within the recent memory of the existing Board. The quality of the expert witnesses heard by the Board in this case was outstanding. Their careful attention to detail and candor was particularly impressive.

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The Board would be hard pressed to cite a tract of land that has received the development study that has been made at the subject property.

Without further comment upon the presentation of case, the Board would like to cite its charge in the subject instance, same being simply and solely to decide whether or not the County Council erred on March 24, 1971 when they zoned the subject property D.R. 1 in its entirety, and/or whether or not there has been substantial change in the character of the neighborhood since March 24th of 1971 to warrant the requested reclassifications. As agreed by both sides, the granting of the special exceptions requires the fulfillment of the provisions of Section 502.1 of the Zoning Regulations, and in addition same are directly incident to the granting of the reclassifications. These five special exceptions will be discussed later in this Opinion.

The first principal expert witness for the Petitioner was William Winstead, a representative of the Rouse-Wates Corporation. Mr. Winstead told the Board of the contingent contract relationship between Rouse-Wates and the Rockland Holding Corporation, and furthermore, he described to the Board that if this petition were successful, the Rouse-Wates Corporation would develop the subject property in line with six major goals that related to the good land development of this entity.

Following Mr. Winstead to the stand on behalf of the Petitioner was a Jarvis H. Dorton, who was employed by the Rouse Company as a land planner and architect. He further discussed the proposed development.

On the third day of hearings the Petitioner ventured into the proof of error and/or change portion of his case, presenting Norman E. Gerber, Chief of the Community Planning Division of the Department of Planning of Baltimore County. Mr. Gerber cited the various aspects of the subject proposal which met with the approval of both the Planning Staff and Planning Board at various stages through the history of this petition, up to and including the present. Mr. Gerber was questioned by the Protestants and the Board as to whether or not his feelings were really devoted to the specific plan offered by the Rouse-Wates Corporation, or in fact represented a general development plan for the subject land, whether or not same would be developed by Rouse-Wates, and Mr. Gerber clearly indicated

that he was in favor of a development at the subject property at or near the density proposed by the Rouse-Wates Corporation, whether or not said company was involved in the development of same. His opinion was not especially keyed to this one development proposal that was specifically before the Board at this time. Mr. Gerber stated that he would favor the reclassification of the subject property as proposed in general and not specifically tied to the Rouse-Wates plan. There was expressed a concern to Mr. Gerber in reference to the B.L., as to whether or not it would be spot zoning. The Board can not conditionally zone same for the village center concept as proposed, but the B.L., if granted, would be available to any single site use that might desire B.L. land for any one of many uses. The question was whether or not same would represent good land planning. It was Mr. Gerber's opinion that considering all aspects of this location, this small 9.4 acre parcel would not be tantamount to spot zoning. He felt that the small B.L. zoning here was consistent with the overall policies of the Guide Plan and of the policy of the Planning Staff at this time.

An ecological planner, one M. Richard Nalbansan, of Philadelphia, followed Mr. Gerber to the stand on behalf of the Petitioner. His testimony was primarily oriented to the storm water runoff that would be created when the subject property was developed. The same was thorough and complete, and would seem to satisfy anyone that the proper development of the subject property as proposed would not present a problem in the local or regional streams from a storm water runoff standpoint. Petitioner's Exhibits No. 30 and No. 31 graphically illustrate some of the discussions presented to the Board by this witness.

The fourth day of testimony brought to the stand on behalf of the Petitioner Robert A. Relyea, a civil engineer with Green Associates, Inc., of Towson. Mr. Relyea's testimony dealt with the availability of public water and the availability of public sanitary sewer to the subject site. In the opinion of this Board his testimony was a most critical factor in the determination of the conclusion reached in this case, particularly as his testimony related to the availability of sanitary sewer. It would be unfair to attempt to detail his testimony, considering in the mind of this Board its importance to this deci-

sion. Suffice it to say that same was detailed and evidenced a good attention to the problems that exist in this case by the witness, Mr. Relyea. Two questions unanswered by Mr. Relyea concern the Board; one, being the fact that no apparent consideration was given to the overall sewer demands that might be anticipated within Baltimore City itself, and secondly and more specifically concerning immediate future City problems as they relate to the Jones Falls Interceptor. What, if any, impact will the now progressing plan of the Village of Cold Spring have upon the capacity of the City side of the Jones Falls Interceptor? It would seem that those factors would be very important in the decision making process of the County, i.e. both the County Council and subsequent zoning authorities considering this problem.

Concerning the sanitary sewer situation, both sides readily acknowledge the fact that the entire Jones Falls Interceptor is now under a complete building moratorium, as same is not capable of handling any more additional waste water flow at all. Both sides also readily acknowledge that the County is now putting into the Jones Falls Interceptor at the City line approximately four and one-half million gallons per day in excess of the amount which the County had contractually agreed to enter into the system at the City line. Again, both sides agreed that without correction of this problem the development of the Rockland tract in March 24th, 1971 or now would be a practical impossibility. The center of the controversy concerning the sanitary sewer revolves around the completion of a diversionary system which would relieve the Jones Falls Interceptor and "enable" same to handle some additional sewage outflow. At the time of the map adoption, the various component parts of this diversionary system were in the discussion stage. Since that time contracts have been let for a portion of same and the completion of the system is now being discussed. The controversy involves perhaps the timing of the completion of this diversionary system. Both sides agree that when the diversionary system is completed there will be, from a practical standpoint, room in the Jones Falls Interceptor for some additional sewage waste water outflow. At this point in time the County has executed contracts, and construction is under way for the Long Quarter pumping station and the Long Quarter forced main. The proposed Green Ridge Interceptor has not yet been let

for bids and hence it would be difficult to accurately forecast the completion date for this part of the diversionary system. All four of the component parts of the diversionary system, including a Texas force main which has also not been let for construction bids, will be necessary before the diversion system would function, and as cited above, when this diversionary system is completed, the Jones Falls Interceptor will likely become available again for the reception of additional sewage. The timing for the diversion system is the critical factor; whether same may be characterized as being a reasonable probability fruition in the foreseeable future is a question to be decided by this Board, and of course was a question in the mind of the Council at the time of the adoption of the use map. Again at this point in time, there can be no doubt that the diversionary system construction is under way and will be completed. The only doubt that is difficult to determine at this time is the question of when.

Bernard M. Willemain, a recognized land planner, testified on behalf of the Protestants, and disagreed with some of the timing data presented by the Petitioner's witness, Mr. Relyea. Petitioner's Exhibit No. 33 and Protestants' Exhibit E emphasize to some degree the differing testimony presented by the witnesses for each side concerning sanitary sewer problems. Petitioner's Exhibits No. 35 and No. 36 are also pertinent to this sanitary sewer situation.

The ninth witness for the Petitioner was Herbert R. Plitt, a civil engineer employed by Green Associates, Inc. He presented testimony on behalf of the Petitioner concerning the traffic situations at the subject property, as might be created if the subject petition were granted. Petitioner's Exhibits No. 38 through No. 44 deal with the traffic study.

The fifth day brought to the stand, on behalf of the Petitioner, one David A. Wallace, an architect, urban designer and planner from Philadelphia. Mr. Wallace testified at length for the last part of two days and generally summarized the basic reasoning for the petition. He was the concluding witness for the Petitioner.

Concerning the Protestants' presentation, as previously mentioned, Bernard M. Willemain testified as an expert witness on behalf of the Protestants. In addition,

Nathan L. Cohen, a member of the Board of Trustees, Treasurer and member of the Executive Committee of the Park School, testified in opposition to the granting of these reclassifications on behalf of the Park School. Mr. Cohen cited the potential increase in traffic and the safety and environmental effects of the subject petition, particularly considering the location of the Park School immediately contiguous with the subject proposal. He also specifically cited the entrance to Park School on Old Court Road and the effect of increased traffic at this entrance. Same was described as an extremely hazardous point of ingress and egress.

Dr. Paul Madison Leard, a resident of Old Court Road, testified in opposition to the granting of this petition. Dr. Leard is also the Vice President of the Old Court-Greening Improvement Association. Said organization is in opposition to the granting of this petition.

After carefully reviewing the testimony and evidence in this case, it is the judgment of this Board that the requested reclassifications and special exceptions shall be denied in toto. The reasons for the denying of these reclassifications and special exceptions will be discussed below beginning with the reasoning for the decision concerning the denial of the requested B.L. zoning classification.

It is the judgment of this Board that the reclassification to B.L. as requested by the Petitioner, of 9.4 acres would be tantamount to spot zoning. Despite the best evidence presented by the Petitioner, there is absolutely no need for a commercial neighborhood center at this location, except perhaps considering any possible need that might at some future time be created by some sort of higher density development on the Johnson tract than exists at present, of course, the use at present being predominantly vacant and containing the few isolated homes owned and/or occupied by the Johnson family. There would be no other evidence, in the opinion of this Board, that could possibly warrant the isolated singling out of this pinpointed 9.4 acres of commercial zoning in this particular spot. Same, in the opinion of the Board, would be completely inconsistent with the 1980 Guide Plan, and would not represent good land planning at this time. For these reasons, the Board sees no error on the part of the County Council in

not granting any commercial zoning at this particular location, nor can the Board find any evidence of significant change in the character of the neighborhood to warrant the granting of the requested B.L. zoning classification. The sole evidence that would indicate that the same would in any way represent good land planning would be that evidence presented by Dr. Wallace and other witnesses for the Petitioner which was oriented almost completely to the needs of the proposed Rouse-Wates development. This Board cannot use these reasons for prematurely granting commercial zoning. Considering the neighborhood as it exists today, with but a small number of single family residences, one can conceive of no possible need for any commercial zoning.

As to the request for the 10.5 reclassification of the 66.25 acres, the Board would cite the following: The Board sees nothing inconsistent with D.R. 1 zoning on the subject property, as same correlates and reflects the thinking of the 1980 Guide Plan and the intent and purpose of the establishment of the urban/rural demarcation line. In fact, the same, carefully read, would seem to indicate the opposite, in that there would be good, logical, sound land planning reasonings for keeping the fringes of this particular sector in a low density classification. Hence if one would, as this Board is forced to do, disregard the specific proposal of the Rouse-Wates Corporation, it is difficult to say that Council erred in their deliberations and conclusions on March 24, 1971 when they placed the subject property in toto in a D.R. 1 classification.

The Board, of course, as previously mentioned, is particularly impressed with the testimony and evidence concerning the sanitary sewer situation. As mentioned before, the system at this time is closed and a diversionary system is planned which at some future date will reopen the Jones Falls Interceptor to some additional waste water flows. A prime question is when? Reflecting as to whether or not the Council erred in adopting a low density classification for the subject property on March 24, 1971, the Board thinks not. The Board can readily imagine that if the Council, singly and solely settled upon the sanitary sewer situation as it existed before them in March of 1971, this single reason could have been sufficient in the mind of this Board to warrant the Council's keeping this property at a low density. At that time, the diversionary system was not under construction and was

certainly off somewhere into the future. As we face it today, whether or not this developing diversionary system by itself could constitute substantial change in the character of the neighborhood, the Board thinks not. Frankly, almost three years after the adoption of the existing use maps by the Council, the diversionary system is far from complete. Two elements of four have yet to be let for construction bids. The Board agrees that there is no doubt that the diversionary system will at some future time be completed, and when that future time comes about, some additional sewer outflow into the Jones Falls Interceptor will be acceptable. The magnitude of this additional outflow is not tremendous, and it is significant to note that little apparent consideration has been given to additional needs in Baltimore City, including, but not limited to, the ongoing plans of Cold Spring. This sanitary sewer situation as it existed in March of 1971 could, in the mind of this Board, have been the reason for the low density zoning of the subject property, and hence reason to deny the reclassifications as requested then by the Petitioner; and in addition, even considering the progress that has been made in this diversionary system, this Board is not ready to say that the Jones Falls Interceptor will on any given fixed date be able to accept the sewerage from the subject property. So as an evidence of substantial change in the character of the neighborhood that is required by law as a premise for the granting of such reclassification, the Board is unimpressed. The Board does not feel that the existing conditions of the completion of the diversionary system is sufficient evidence of substantial change in the character of the neighborhood at this time to warrant the requested reclassifications.

The traffic potentially generated by a development of this magnitude is not to be discounted. While same could likely eventually be assimilated into the community without catastrophic effects, it is not fair to say that same would not significantly change the basically residential single family characteristic of this general neighborhood. Hence, the magnitude of the traffic generation anticipated by the size of the proposal, if this reclassification would be granted, would be one element that would tend to discourage such intensified land use at this site.

In summary, concerning the residential reclassification, the Board does not

feel that the Petitioner has overcome the burden that the maps as adopted in March of 1971 carry a strong presumption of correctness, nor has there been evidence of substantial change in the character of the neighborhood to warrant this reclassification. It is noted that the existing D.R. 1 classification seems to this Board to be consistent with the 1980 Guide Plan, the Northwest Area Sector Plan, and the Regional Planning Staff suggestions as adopted in 1972. In addition, it seems reasonable that one cannot ignore the existing sanitary sewer problems which at the present time have completely shut down the Jones Falls Interceptor; nor would it be unreasonable to consider carefully the traffic situation, as they exist at the subject property, the existing roads and the potential impact of a new development of this size that would be generated by the reclassification in the subject instance. Any or all of the above points could have been the factors of final determination in the minds of the County Council, when in March of 1971 they zoned the subject property D.R. 1; considering same this Board can find no error on the part of the Council in rendering that judgment as the same affects the subject property. The subject neighborhood itself has certainly changed in no way since March of 1971, and perhaps the only change worthy of any consideration on behalf of the Petitioner is the development to some degree of the diversionary sanitary sewer system. However, in the mind of this Board, this factor does not come close to being a change of sufficient character to warrant the reclassification in the subject instance.

As to the special exceptions, all five of same shall be denied. Each are tied intricately to the reclassification of the subject property. It is the judgment of this Board that the reclassifications are not warranted; hence, the special exceptions shall be denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 22nd day of February, 1974, by a majority of the County Board of Appeals ORDERED, that the reclassifications from D.R. 1 to D.R. 10.5 and D.R. 1 to B.L. zones petitioned for, be and the same are hereby DENIED; and it is

FURTHER ORDERED, that the Special Exception for Community Recreation Areas and Community Facilities petitioned for, be and the same are hereby DENIED.

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

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

John A. Slowik, Chairman
Walter A. Keller, Jr.

DISSENT

The undersigned member of the Board dissents in toto from the decision and Order of the majority of the Board in this case, and will file an opinion stating the reasons for said Dissent as quickly as possible.

W. Gilles Parker

Dated February 22, 1974

RE: PETITION FOR RECLASSIFICATION
W/S of Jones Falls Expressway,
367' W of Falls Road - 3rd District
Rockland Holding Corporation -
Petitioner
NO. 74-57-R (Item No. 12)
DEPUTY ZONING
COMMISSIONER
OF
BALTIMORE COUNTY

This Petition represents a request for a Reclassification from a D.R. 1 Zone to a D.R. 10.5 Zone for a tract of ground that contains 20.25 acres and is owned by the Rockland Holding Corporation. The property is located on the west side of the Jones Falls Expressway, three hundred and sixty-seven (367) feet west of Falls Road in the Third Election District of Baltimore County.

The Petitioner did not present any evidence by way of expert testimony but simply presented his case based on evidence presently contained in the file. This evidence basically consists of the Petitioner's request for Reclassification, site plans, maps and bounds descriptions of the property in question, comments from the County agencies who reviewed the site plan for compliance to their standards and requirements, and Planning Board recommendations with regard to the Northwest Sector Master Plan and the Baltimore County 1980 Guideplan.

Several area residents present in protest to the Reclassification, were represented by attorneys who requested denial of the Petition based on the fact that there has been no change in the area, and the lack of evidence to support the Petitioner's case. A list of the names of those present has been accepted marked Protestants' Exhibit A, and made a part of the file.

After reviewing the Petitioner's case, it is apparent to the Deputy Zoning Commissioner that the lack of expert testimony on behalf of the Petitioner's case coupled with the fact that any favorable decision by the Deputy

Zoning Commissioner with regard to this small segment of the Petitioner's overall tract, could only result in a spot zone. For these reasons, the Petitioner's request must be denied.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 14th day of September 1973, that the herein requested Reclassification be and the same is hereby DENIED and that the herein described property or area be and the same is hereby continued as and to remain a D.R. 1 Zone.

James E. Dyer
Deputy Zoning Commissioner of
Baltimore County

PETITION FOR RECLASSIFICATION
FROM DR-1 TO A DR-10.5 ZONE
by Rockland Holding Corporation,
a Maryland Corporation.
(Property located on the West
side of Jones Falls Expressway,
South of Old Court Road in
the 3rd Election District)

DEPUTY ZONING
COMMISSIONER
FOR
BALTIMORE COUNTY

MEMORANDUM

The existing DR-1 classification, as established by the Baltimore County Zoning Maps on the land for which reclassification is requested, is erroneous for the following reasons, among others:

1. This land, with convenient access to the Baltimore County Beltway and the Jones Falls Expressway and amply serviced by area roads, enjoys excellent access and its development, as proposed, would not place an undue burden on any such area roadways.
2. The improvement of the Baltimore County Beltway, begun approximately 1 1/2 years ago and continuing as of this date, has further increased accessibility to the tract.
3. The present construction of a "fly-way" over the Baltimore County Beltway connecting Charles Street Avenue and I-83 near the subject property further will improve traffic flow upon its completion in approximately one year.
4. A 27" sanitary sewer line is at the Eastern boundary of the entire tract owned and available to serve the tract.
5. The Slaughterhouse Run 18" sanitary sewage disposal system provides sewage disposal facilities for the tract.
6. The Moores Run sewer line is available for use including its 18" sanitary sewage disposal facilities.

ROYSTON, MUELLER,
THOMAS & MCLEAN
ATTORNEYS AT LAW
SUITE 800
100 W. PENNS. AVE.
TOWSON, MD. 21204
823-1800

7. The Jones Falls interceptor consisting of 24" and 8" lines is available to serve the tract.
8. 12" water line facilities along Old Court Road and 16" water facilities along Jones Falls Road serve the subject tract.
9. A Baltimore County fire station is located adjacent to the tract, thus providing fire protection for improvements to be constructed on the tract.
10. This Parcel, for which DR-10.5 classification is requested, is abutted on the East and South by other lands of the Petitioner, on the West by the Park School, and on the North by other lands of the Petitioner. Apartment developments are either completed or are under construction a short distance South of the Parcel.
11. The need for comprehensive development of large tracts of land is recognized by the various Planning and Zoning Agencies and Boards of Baltimore County, Maryland, and here, comprehensive development is planned by the Petitioner. The availability of water, sewage disposal facilities, and appropriate access to the site justifies the requested Reclassification. The Comprehensive-ness of the development is evidenced by the fact that Petitioner has requested that this Reclassification Petition be heard simultaneously with a previous request of Petitioner for reclassification of adjacent and nearby land.
12. The modern demand for townhouse and apartment facilities was not anticipated by Baltimore County authorities and thus inadequate provision was made in this area for land so classified as to make the construction of such apartments and townhouses feasible.
13. The failure of the Baltimore County Council to zone such land as requested was error for the reasons assigned above.

ROYSTON, MUELLER,
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823-1800

-2-

14. The great increase in demand for such townhouse and apartment facilities since map adoption is, itself, a change justifying Reclassification.

15. The improvements to the Baltimore County Beltway completed or under construction represent changes sufficient to justify reclassification.

By reason of the errors cited, and other errors attendant to the classification to the subject land as DR-1 and by reason of the changes in the area, this Reclassification request is made.

W. Lee Thomas
Attorney for Petitioner

FRED A. DOLLENBERG
FRED A. DOLLENBERG
CARL L. DOLLENBERG
JOHN J. DOLLENBERG
JOHN J. DOLLENBERG

DOLLENBERG BROTHERS
Registered Professional Engineers & Land Surveyors
708 WASHINGTON AVENUE AT YORK ROAD
TOWSON MD. 21204

January 19, 1973

Description to accompany Zoning Petition on the property of Rockland Holding Corporation.

Proposed Zoning DR 10.5

All that piece or parcel of land situate, lying and being in the Third Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point on the westernmost right of way line of Jones Falls Expressway at a point distant South 36 degrees 09 minutes 40 seconds West 367.96 feet from the corner formed by the intersection of the westernmost right of way line of the Jones Falls Expressway with the southeast side of way line of the Jones Falls Expressway, the eleven following lines viz: South 37 degrees 14 minutes 52 seconds West 167.92 feet, South 28 degrees 35 minutes 46 seconds West 111.95 feet, South 25 degrees 02 minutes 22 seconds West 152.84 feet, South 22 degrees 03 minutes 29 seconds West 168.56 feet, South 22 degrees 52 minutes 02 seconds West 167.92 feet, South 22 degrees 11 minutes 52 seconds West 37.77 feet, South 60 degrees 08 minutes 22 seconds West 60.26 feet, North 71 degrees 27 minutes 34 seconds East 86.29 feet, South 22 degrees 52 minutes 02 seconds West 6.49 feet, South 3 degrees 50 minutes 02 seconds East 139.95 feet, South 21 degrees 16 minutes 08 seconds East 94.31 feet and Southwesterly by a line curving toward the left having a radius of 1787.02 feet for a distance of 124.63 feet (the chord of said arc bearing South 3 degrees 54 minutes 45 seconds West 126.61 feet) and thence leaving said Expressway and running South 55 degrees 20 minutes 26 seconds West 1310.58 feet to intersect the boundary line of the property of the petitioner herein, thence binding on the boundary lines, the three following courses and distances viz: North 13 degrees 03 minutes 10 seconds West 245.55 feet, North 13 degrees 01 minute 30 seconds West 510.00 feet and North 29 degrees 07 minutes 10 seconds East 44.98 feet and thence leaving said boundary lines and running the five following courses and distances viz: North 64 degrees 28 minutes 26 seconds East 681.11 feet, South 31 degrees 45 minutes East 208.71 feet, North 53 degrees 15 minutes East 208.71 feet, North 31 degrees 45 minutes West 208.71 feet and North 55 degrees 06 minutes 40 seconds East 866.49 feet to the place of beginning.

Containing 20.25 Acres of land more or less.

Being the property of the petitioners herein as shown on a plat filed with the Zoning Department.



ROYSTON, MUELLER, THOMAS & MCLEAN
ATTORNEYS AT LAW
SUITE 800
100 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

AREA CODE 301
823-1800

September 21, 1973

Baltimore County Board of Appeals
County Office Building
Towson, Maryland 21204
ATTN: Mr. John A. Slowik, Chairman

Re: Petition for Reclassification
W/S of Jones Falls Expressway,
367' W of Falls Road - 3rd District
Rockland Holding Corporation -
Petitioner
NO. 74-57-R (Item No. 12)

Dear Mr. Slowik:

The above case, as to which an appeal has been taken from the decision of the Deputy Zoning Commissioner, is a companion case with Case No. 73-231-RX, which has previously been appealed to the Baltimore County Board of Appeals. The cases, of course, involve land owned by the same Petitioner in the 3rd and 9th Election Districts and the tract of land involved is the same in each instance.

It is our belief that consolidation of the cases is warranted in that the evidence applicable to one is equally applicable to the other. Counsel for the Protestants, Steven H. Sachs, Esquire, agrees with my position and has authorized me to request such consolidation.

Thank you for your courtesy and cooperation.

Very truly yours,
W. Lee Thomas
W. Lee Thomas

WLT:gs

100 West Pennsylvania Avenue
Towson, Maryland 21204

Rec'd 9-26-73
11/17

ROYSTON, MUELLER, THOMAS & MCLEAN
ATTORNEYS AT LAW
SUITE 800
100 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204

AREA CODE 301
823-1800

September 17, 1973

Zoning Commissioner
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204
ATTN: S. Eric DiNenna, Esquire

Re: Petition for Reclassification
W/S of Jones Falls Expressway,
367' W of Falls Road - 3rd District
Rockland Holding Corporation -
Petitioner
NO. 74-57-R (Item No. 12)

Dear Mr. Commissioner:

Please enter an appeal on behalf of Rockland Holding Corporation, the Petitioner in the above entitled matter, from the decision of Mr. James E. Dyer, Deputy Zoning Commissioner, dated September 14, 1973, to the Baltimore County Board of Appeals.

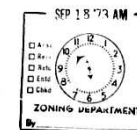
A check in the amount of \$70 is enclosed.

Very truly yours,

W. Lee Thomas
W. Lee Thomas

WLT:gs

Enclosure



ROYSTON, MUELLER,
THOMAS & MCLEAN
ATTORNEYS AT LAW
SUITE 800
100 W. PENNS. AVE.
TOWSON, MD. 21204
823-1800

Baltimore County, Maryland
Department of Public Works
 COUNTY OFFICE BUILDING
 TOWSON, MARYLAND 21204

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

March 13, 1973

Mr. S. Eric DiMenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Re: Item #138 (1972-1973)
 Rockland Holding Corporation
 W/S Jones Falls Expressway, 367' W. of Falls Road
 Present Zoning: D.R. 1
 Proposed Zoning: Reclass. from D.R. 1 to D.R. 10.5
 District: 3rd No. Acres: 20.25 acres

Dear Mr. DiMenna:

The subject properties of this Petition are portions of the larger tract of land (Johnson Tract) for which comments were supplied October 24, 1972 in conjunction with Item #21 - Cycle IV (October 1972 - April 1973). Those comments remain valid and applicable to this Petition, Item #138 (1972-1973) and are referred to for your consideration.

Very truly yours,

Ellsworth H. Dyer
 ELLSWORTH H. DYER, P.E.
 Chief, Bureau of Engineering

END: EAM: PAM: ss

S-SS Key Sheet
 O-NR and W Position Sheets
 W/S 9 & 10 O Topo
 69 Tax Map

Baltimore County Fire Department

J. Austin Deitz
 Chief



Towson, Maryland 21204
 675-7310

Office of Planning and Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Attention: Mr. Jack Dillon, Chairman
 Zoning Advisory Committee

Re: Property Owner: Rockland Holding Corporation

Location: W/S of Jones Falls Expressway, 367' W of Falls Road

Item No. 12 - Reclassification Zoning Agenda April 26, 1973

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable 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 750 feet along an approved road in accordance with Baltimore County standards as published by the Department of Public Works.
- (X) 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead-end condition shown at _____
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- (X) 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.

Reviewer: Lt. Roger R. Weeks, Sr.
 Planning Group
 Special Inspection Division

Noted and Approved:
 Deputy Chief
 Fire Prevention Bureau

mls
 4/16/73

BALTIMORE COUNTY, MARYLAND
 JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING
 EUGENE J. CLIFFORD, P.E.
 DIRECTOR
 WM. T. NELSON
 DEPUTY TRAFFIC ENGINEER

April 26, 1973

Mr. S. Eric DiMenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Re: Item 12 - Cycle Zoning V - April to Oct. 1973
 Property Owners: Rockland Holding Corporation
 Jones Falls Expressway W. of Falls Road
 Reclass. to DR 10.5 - District 3

Dear Mr. DiMenna:

As presently zoned, this site can be expected to generate approximately 251 trips per day. As proposed, it would generate approximately 1800 trips per day.

Very truly yours,

C. Richard Moore
 C. Richard Moore
 Assistant Traffic Engineer

CRM:nc

Maryland Department of Transportation
 State Highway Administration

Harry R. Hughes
 Secretary
 James J. O'Donnell
 Acting Commissioner

February 6, 1973

Mr. S. Eric DiMenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204
 Attn: Mr. John J. Dillon

Re: Item 138 -- J.A.C. Meet. 2/6/73
 Property Owner: Rockland Hold. Corp.
 Location: W/S Jones Falls Expy.,
 367' W. of Falls Road
 Present Zoning: D.R. 1 - south of
 Old Court Road (Route 133)
 Proposed Zoning: Reclass from D.R.
 1 to D.R. 10.5
 District: 3
 No. Acres: 20.25

Dear Sir:

It will be the developer's responsibility to improve Old Court Road throughout his frontage. Development plans must indicate the improvement.

Access from Old Court Road will be subject to approval and permit from the State Highway Administration.

The 1971 Average Daily Traffic Count for this section of Old Court Road is ... 3,100 vehicles.

Very truly yours,

Charles Lee, Chief
 Development Engineering Section
 by: John E. Meyers
 Asst. Development Engineer

CLJ:EMBk

P.O. Box 717 / 570 West Preston Street, Baltimore, Maryland 21203

BALTIMORE COUNTY, MARYLAND
 JEFFERSON BUILDING TOWSON, MARYLAND 21204



DEPARTMENT OF TRAFFIC ENGINEERING
 EUGENE J. CLIFFORD, P.E.
 DIRECTOR
 WM. T. NELSON
 DEPUTY TRAFFIC ENGINEER

March 1, 1973

Mr. S. Eric DiMenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Re: Item 138 - ZAC - February 6, 1973
 Property Owner: Rockland Holding Corporation
 Jones Falls Expressway W. of Falls Road
 Reclass. from DR 1 to DR 10.5
 District 3

Dear Mr. DiMenna:

As presently zoned, this site can be expected to generate approximately 251 trips per day. As proposed, it would generate approximately 1800 trips per day.

Very truly yours,

Michael S. Flanagan
 Michael S. Flanagan
 Traffic Engineer Associate

MSF:nc

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF HEALTH



JEFFERSON BUILDING
 TOWSON, MARYLAND 21204

February 6, 1973

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

Mr. S. Eric DiMenna, Zoning Commissioner
 Office of Planning and Zoning
 County Office Building
 Towson, Maryland 21204

Dear Mr. DiMenna:

Comments on Item 138, Zoning Advisory Committee Meeting
 February 6, 1973, are as follows:

Property Owner: Rockland Holding Corporation
 Location: W/S Jones Falls Expressway, 367' W of Falls Rd.
 Present Zoning: D.R. 1
 Proposed Zoning: Reclass from D.R. 1 to D.R. 10.5
 District: 3
 No. Acres: 20.25

Metropolitan water and sewer must be extended to this site prior to issuance of building permit.

Very truly yours,

Thomas H. Devlin
 Thomas H. Devlin, Director
 BUREAU OF ENVIRONMENTAL SERVICES

HVS:mng

**BOARD OF EDUCATION
 OF BALTIMORE COUNTY**

TOWSON, MARYLAND - 21204

Date: February 7, 1973

Mr. S. Eric DiMenna
 Zoning Commissioner
 County Office Building
 Towson, Maryland 21204

Re: Item 138
 Property Owner: Rockland Holding Corporation
 Location: W/S Jones Falls Expressway, 367' W of Falls Road
 Present Zoning: D.R. 1
 Proposed Zoning: Reclass from D.R. 1 to D.R. 10.5

District: 3
 No. Acres: 20.25

Dear Mr. DiMenna:

SEE ATTACHED SHEET

Very truly yours,

W. Nick Petrowski
 W. Nick Petrowski
 Field Representative

WNP:nl

COMMENTS

School Situation:

School	Enrollment	Capacity	Over/Under
Summit Park Elementary	272	385	-113
Pikesville Jr.	1331	1220	+111
Pikesville Sr.	1437	1320	+117

Projections:

School	Sept. 19 73	Sept. 19 74	Sept. 19 75	Sept. 19 76	Sept. 19 77
Summit Park Elem.	285	300	312	321	331
Pikesville Jr.	1285	1235	1180	1155	1100
Pikesville Sr.	1465	1515	1515	1450	1395

Budgeted Construction:

School	Status	Capacity	Estimated To Open
Pikesville Sr. Add'n	Contract Signed (Architect) 7/72	400	FY '75

Programmed Construction: (Subject to availability of funds)

School	Capacity	Year Programmed	Estimated To Open
"Tollgate Middle School"	1300	FY '75	FY '77

Possible Student Yield:

Elementary	Junior High	Senior High
------------	-------------	-------------

Present Zoning: 5 6 7

Proposed Zoning: 139 50 34

(Used county-wide DR. 10.5 factor since no sample is available for this area)

Comments concerning effect on school housing matters:
 Ultimate development of the entire Johnson tract may require the construction of another elementary school.

H. EMBLE PARKS, President
 EUGENE C. HESS, Vice President
 MRS. ROBERT L. BERNY

MARCUS M. BOTSARIS
 JOSEPH M. MCGOYAN
 ALVIN CORICK
 JOSHUA W. WHEELER, Superintendent

T. BAYARD WILLIAMS, JR.
 RICHARD W. TRACEY, V.M.D.
 MRS. RICHARD K. HUNTER

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - GENERAL SERVICES DIVISION
MISCELLANEOUS C/SN RECEIPT

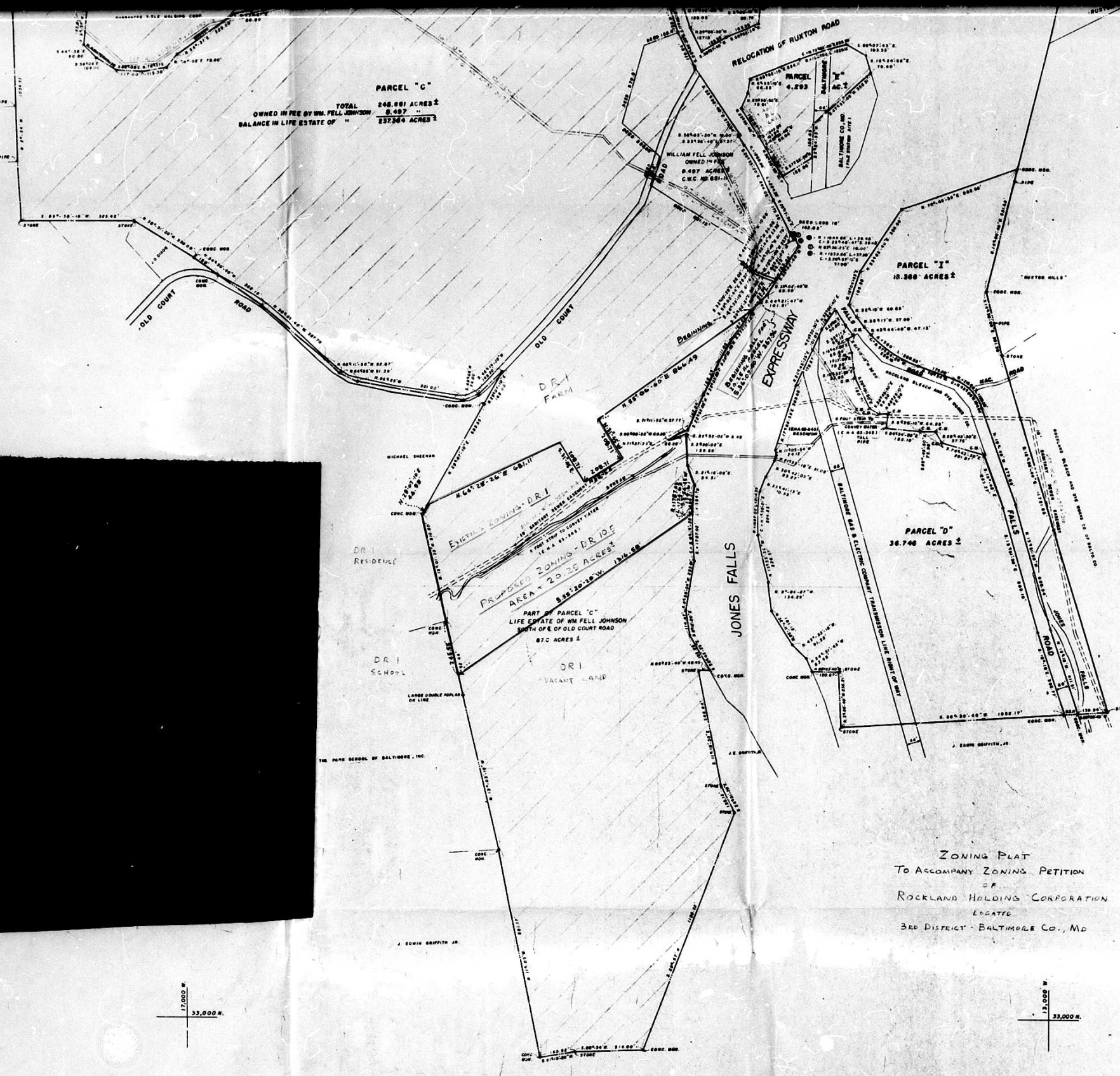
No. 8331

DATE May 3, 1973 ACCOUNT 01-662

AMOUNT \$50.00

DISTRIBUTION

WH/FE - CARRIER	PERM - AGENCY	YELLOW - CUSTOMER
SW. Bayston, Mueller, Thomas & Hansen P.O. Penna. Ave. Baltimore, Md. 21204		
Petition for Reclassification for Bookland William C. ...		



ZONING PLAT
 TO ACCOMPANY ZONING PETITION
 OF
 ROCKLAND HOLDING CORPORATION
 LOCATED
 3RD DISTRICT - BALTIMORE CO., MD

EXISTING ZONING - DR 1
 PROPOSED ZONING - E.P. 10-5
 GROSS AREA - 20.25 ACRES
 PERMITTED DENSITY - 10.5 DU / AC; TOTAL UNITS - 212.6 DU
 PARKING SPACES REQUIRED - 175 / DU - 372 SPACES
 PARKING SPACES AVAILABLE - 372 SPACES
 WINTER 1973 - 1974 AVAILABLE

NOTE: EASEMENT AREAS ADJACENT TO THE BALTIMORE BELTWAY & THE JONES FALLS EXPRESSWAY
 ARE SHOWN ON THE PHOTOGRAMMETRIC MAP PREPARED IN CONJUNCTION WITH THIS PLAT.

ZONING PLAT PREPARED JANUARY 19, 1973



DATE OF MARYLAND
 LAND SURVEY
 SCALE: 1"=200'
 REVISED JUNE 4, 1964
 APRIL 20, 1964
 DOLLENBERG BROTHERS
 SURVEYORS & CIVIL ENGINEERS
 709 WASHINGTON AVENUE
 TOWSON MARYLAND

