

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of...

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

a Special Exception for a... should be granted.

IT IS ORDERED by the Zoning Commissioner of Baltimore County this... day of... 197... that the herein described property or area should be and the same is hereby reclassified; from a... zone to a... zone, and/or a Special Exception for a... should be and the same is granted, from and after the date of this order.

Zoning Commissioner of Baltimore County

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of...

the above re-classification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this... day of... 197... that the above re-classification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a... zone; and/or the Special Exception for... be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: October 9, 1974

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

Z.A.C. Meeting of: October 1, 1974 (Cycle #8)

Re: Item 16
Property Owner: Caleb C. Ewing
Location: N/S of Timonium Road, 590 ft. E. of York Rd.
Present Zoning: M.R.
Proposed Zoning: B.M.

District: 8th
No. Acres: 2.663

Dear Mr. DiNenna:
No bearing on student population.

Very truly yours,
W. Nick Petrovich,
Field Representative.

H. EMILE FRANKS, President
EUGENE C. HESS, Vice President
MRS. ROBERT L. BERNY

MARCUS H. BOTSAKIS
JOSEPH W. MAGDOREN
ALVIN LOBECK
JOSHUA R. WHEELER, Superintendent

T. BAYARD WILLIAMS, JR.
RICHARD W. FRANKY, V.P.D.
MRS. RICHARD K. HUCKFEL

WILLIAM D. FROHMAN
DIRECTOR
S. ERIC DINENNA
ZONING COMMISSIONER



November 6, 1974

Mr. S. Eric DiNenna, Zoning Commissioner
Zoning Advisory Committee
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Dear Mr. DiNenna,

Comments on Item #16, Zoning Cycle VIII, October, 1974 are as follows:

Property Owner: Caleb C. Ewing
Location: N/S of Timonium Road 590 ft. E of York Road
Existing Zoning: M.R.
Proposed Zoning: B.M.
No. of Acres: 2.663
District: 8th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

The existing building is a historic landmark and should be preserved as should the larger trees and shrubbery where possible.

Very truly yours,
John L. Winkley
Planning Specialist II
Project and Development Planning

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
SUITE 301 JEFFERSON BUILDING 108 WEST CHESAPEAKE AVENUE TOWSON, MARYLAND 21204
AREA CODE 301 PLANNING 254-9211 ZONING 254-3281

RE: PETITION FOR RECLASSIFICATION : BEFORE
from M.R. zone to B.M. zone : COUNTY BOARD OF APPEALS
N/S of Timonium Road 590 feet :
West of York Road : OF
8th District :
Caleb C. Ewing : BALTIMORE COUNTY
Petitioner : No. 75-201-R

ORDER OF DISMISSAL

Petition of Caleb C. Ewing for reclassification from M.R. zone to B.M. zone, on property located on the north side of Timonium Road 590 feet west of York Road, in the 8th Election District of Baltimore County.

WHEREAS, the Board of Appeals notified all parties of record in the above entitled matter that this Board considers said case to be moot (copy of said letter is attached hereto).

THEREFORE, this Board, on its own Motion, will dismiss the within named appeal.

IT IS HEREBY ORDERED, this 25th day of January, 1977, that said petition be and the same is declared moot and the petition dismissed.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

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

Robert A. Davis

BALTIMORE COUNTY, MARYLAND
JEFFERSON BUILDING TOWSON, MARYLAND 21204



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

October 28, 1974

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

Re: Item 16 - Cycle Zoning 8 - October, 1974 through April 1975
Property Owner - Caleb C. Ewing
N/S of Timonium Road, 590 ft. W of York Road
B.M.
District 8

Dear Mr. DiNenna:

The subject petition is requesting a change from M.R. to B.M. This will increase the trip density from 250 to 1300 trips per day. The York Road corridor presently has more density than the road system can accommodate and this increase can only compound this problem.

Very truly yours,
C. Richard Moore
Assistant Traffic Engineer

CRM /mg

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204

December 22, 1976

John B. Howard, Esq.
Mercantile-Towson Building
Towson, Maryland 21204

Re: Case No. 75-201-R
Caleb C. Ewing

Dear Mr. Howard:

As the Petitioner, or representative thereof, in the above referenced case, you are hereby advised that said case now pending before the Board of Appeals is considered moot. This decision is based on an opinion of the Baltimore County Solicitor's office concluding that any reclassification case pending before this Board on the date of the adoption of new comprehensive zoning maps (i.e. 10/15/76) is moot.

Therefore, unless you present written objection and/or an amended appeal, where applicable, to the Board within thirty (30) days from the date hereof, an Order of Dismissal shall be executed by this Board.

Very truly yours,

Walter A. Reiter, Jr., Chairman

cc: Mr. Caleb C. Ewing
Mr. John R. Miller, Pres.
Gr. Timonium Comm. Council
Mrs. Nancy L. Hargess, Chairman
Seminary Valley Council, Inc.
Mr. Domenick Barbieri
Optimist Club of Timonium, Inc.
John W. Heslian, III, Esq.

BALTIMORE COUNTY, MARYLAND DEPARTMENT OF HEALTH



JEFFERSON BUILDING
TOWSON, MARYLAND 21204

October 11, 1974

DONALD J. ROOP, M.D., M.P.H.
BALTIMORE COUNTY DEPARTMENT OF HEALTH

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

Dear Mr. DiNenna:

Comments on Item 16, Zoning Reclassification, Cycle #8, are as follows:

Property Owner: Caleb C. Ewing
Location: N/S of Timonium Rd. 590 ft. E of York Rd.
Existing Zoning: M.R.
Proposed Zoning: B.M.
No. of Acres: 2.663
District: 8th

Metropolitan water and sewer must be extended to site.

Air Pollution Comments: The building or buildings on this 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.

Food Protection Comments: If a food service facility is proposed, complete plans and specifications must be submitted to the Division of Food Protection, Baltimore County Department of Health, for review and approval.

Jones Falls Moratorium: A moratorium was placed on new sewer connections in the Jones Falls Drainage Basin by Dr. Neil Solomon, Secretary of Health and Mental Hygiene, on November 11, 1973; therefore approval may be withheld for this connection.

Very truly yours,

Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

HVB/mcg

CC--W.L. Phillips
L.A. Schuppert

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
301 COUNTRYLAND AVENUE
TOWSON, MARYLAND 21204

OFFICE: 252-3008

September 26, 1974

RESIDENCE: 771-4592

DESCRIPTION TO ACCOMPANY PETITION FOR RECLASSIFICATION PROPERTY OF CALEB C. EWING ET AL

Beginning for the same at a point on the north right of way line of Timonium Road at a distance of 590' westerly from the intersection formed by the north side of Timonium Road and the center line of York Road said point being in the 6th or last line of the land which by deed dated March 31, 1950 and recorded among the Land Records of Baltimore County in Liber THS 1828, folio 237 was conveyed by Katherine C. E. Henkel et al to Caleb C. Ewing et al running thence and binding on the north right of way line of Timonium Road by a curve to the left with a radius of 2326.83' for a distance of 368.81' thence leaving the north right of way line of Timonium Road and binding on the outline in aforesaid deed the three following courses and distances: (1) N18°45'50"W 356.42'; (2) N75°55'10"E 367.52'; (3) S18°45'50"E 286.75' to the place of beginning. Containing 2.663 Acres of land more or less.

Being part of the land which by deed dated March 31, 1950 and recorded among the Land Records of Baltimore County in Liber THS 1828, folio 237 was conveyed by Katherine C. E. Henkel et al to Caleb C. Ewing et al.



E. F. RAPHEL
Reg. Prof. Land Surveyor
No. 2246








The property is improved with a historic landmark known as Timonium Mansion, has been in the Petitioner's family for many generations, and served as a residence for his mother until her death approximately two years ago.

Recommendations of the Baltimore County Planning Board, concerned primarily with saving the Mansion, recommended for the reclassification, provided covenants were established insuring the preservation of the Mansion. This recommendation was in effect nullified by a legal opinion from the Baltimore County Solicitor's Office advising that said recommendations were improperly arrived at and unlawful.

The Petitioner and area residents, who attended the hearing, all felt that the Mansion should be saved. However, the question, saved at what cost, varies with the individuals involved. The Petitioner testified that his mother took for granted that the Mansion would endure, that he also desired that the Mansion be preserved and had, in fact, declined to sell or lease the property to prospective purchasers who would have destroyed the dwelling. Nevertheless, he was not prepared or, in his words, in the financial position to restore and/or donate the valuable property for public use. He felt that the site was improperly sited and that a zone more compatible with the surrounding uses would provide a better opportunity to find a use or user that would preserve the property.

The area residents were steadfast in their requirement that any reclassification of the subject property be accompanied with deed covenants that would preserve the Mansion. At the conclusion of the hearing, the writer afforded both parties several months to work out some solution that would involve a grant for funds to restore the Mansion and accompanying covenants, which would insure the preservation of the Mansion. No such solution was arrived at, and the Order must now be written. The Order will of course be based solely on the expert testimony dealing with change in the neighborhood or error in the Map.

Without repeating all testimony and evidence presented, much of which is documented in the Petitioner's brief and other exhibits that are part of this case file, it is the opinion of the Deputy Zoning Commissioner that said testimony and evidence proved conclusively that the property has not been placed in a classification compatible with its surroundings or one that provides for a feasible development of the property in comparison to its unusual characteristics. The site is iterally surrounded by the Timonium Fairgrounds, a privately owned nonconforming commercial use, that is presently undergoing modernization changes that could have an end result of requiring a change in its zoning status from a M.R. Zone to a commercial zone. Properties just west of the site are improved with a service station, a restaurant, and a large warehouse type complex devoted to wholesale and retail uses. The property opposite the site, on Timonium Road, was recently reclassified from a M. L. Zone to a B. R. Zone and construction has been started on a large retail store.

In view of these findings, coupled with several important changes in the road system in the immediate vicinity of the subject property, it is clear that the character of the neighborhood has substantially changed and that the property has been erroneously placed in a M.R. zoning category. While the preservation of the property per se cannot and has not been given weight in considering the change in zoning, it is the feeling of the Deputy Zoning Commissioner

that such change will afford the Petitioner all the use opportunity necessary to preserve the Mansion.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 29th day of August, 1975, that the herein described property or area should be and the same is hereby Reclassified from a M. R. Zone to a B. M. Zone, from and after the date of this Order subject to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

Deputy Zoning Commissioner of
Baltimore County

IN THE MATTER OF THE PETITION OF *
CALEB C. EWING, LEGAL OWNER, FOR *
RECLASSIFICATION OF PROPERTY *
LOCATED ON THE NORTH SIDE OF * BEFORE THE ZONING COMMISSIONER
TIMONUM ROAD, EAST OF YORK ROAD, *
EIGHTH ELECTION DISTRICT. * OF BALTIMORE COUNTY
BALTIMORE COUNTY, MARYLAND, FROM *
M.R. to B.M.

MEMORANDUM IN SUPPORT OF PETITION FOR
RECLASSIFICATION

Caleb C. Ewing is the owner of a parcel of land located on the north side of Timonium Road, several hundred feet east of York Road, consisting of 2.65 acres plus minus, on which is located a historic manor house known as "Timonium Mansions." The property is presently zoned M.R. and is surrounded on the east, north and west by property owned by the Maryland State Fair and Agricultural Society and utilized as the Timonium Fair Grounds.

"Timonium Mansions" is considered one of Baltimore County's foremost historical landmarks, having been constructed in the early 1700's and is the property from which the community of Timonium draws its name. It is reputed that both George Washington and his French ally, Lafayette, are said to have stayed at the Mansions. There is currently a great deal of interest in the preservation of this historic site. Groups such as the Baltimore County Historical Society, the Society for the Preservation of Maryland Antiquities, the Citizens' Planning and Housing Association and the Cockeysville --Timonium Jaycees are seeking its restoration and preservation.

In a report entitled "Historical and Architectural Preservation in Baltimore County" adopted by the Baltimore County Planning Board on June 20, 1974, it is noted that

ORDER RECEIVED FOR FILING

DATE Recd. 20. 1975

84 Julia P. Lawrence

COPIES RECEIVED FOR FILE 175

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1. 1000

the Historic Buildings' Survey Committee of the Baltimore County Historical Society started listing the County's landmarks in 1965 and at present approximately 1,000 structures are included. The report goes on to state:

Approximately 25 to 30 landmarks have been "threatened" during the period in which this inventory was being compiled. Of these, nine are known to have been demolished; eight are known to have been "saved"; and nine remain classified as "threatened." The latter two categories are by no means final, as circumstances change from day to day. A structure can be "threatened" for a long time, deserted and vandalized, and then "saved," as in the case of the Painters Plantation (one of the early homes of Samuel Owings, the founder of Owings Mills)--now restored as a distinctive restaurant. Or, after a long period of neglect, the landmark may be demolished by the developer, as in the instance of Ten Mile House.

This report is inaccurate insofar as the statement concerning Timonium is concerned. The property has been in the ownership of the Petitioner, Caleb C. Ewing's family for many, many generations. It served as a residence for Mr. Ewing's mother, until he death, approximately two years ago, for a period of several decades; and it was the great desire of the senior Mrs. Ewing that the property be preserved. Under its present zoning classification of M.R. the subject property could immediately be utilized for warehouses, manufacturing plants, offices, cold storage plants, etc.; but none of these uses are economically compatible with preservation of the existing structure.

The land on which Timonium Mansions is situated is highly valuable and it is submitted that the only method under which proper economic realization could flow from the land and at the same time result in restoration and preservation of the structure would be a restaurant-dinner theatre use similar to the Samuel Owings house noted in the comments of the Planning Board report, supra.

It is contended that the Baltimore County Council committed error with respect to the subject property at the time of adoption of the comprehensive land use maps in 1971 by not separating this parcel from the large M.R. zone established for the Timonium Fair Grounds. The designation of M.R. zoning was tantamount to imposition of a death sentence on this historic site, as well as being anathema to the clear desires of the Baltimore County Planning Board, the preservation groups mentioned above and the now public statements of members of the Baltimore County Council. Furthermore, it is submitted that the general failure of the Council to provide commercial zones at the time of adoption of the maps for properties in proximity to York Road and on the periphery of the large industrially zoned tracts in the York Road-Harrisburg Expressway constituted error. Additionally, the Council apparently failed to give any consideration to the effect on the neighborhood of the recent construction and opening of Awlesbury Road, a major four-lane roadway, intersecting immediately to the south of the subject property, in that it failed to even designate the existence of that roadway on the official maps that were adopted.

Petitioner avers that the requested zoning reclassification is mandated not only on the basis of clear error but by virtue of substantial changes in the character of the neighborhood wherein the subject property is located. Aylesbury Road, described above, is a striking element of change; York Road, to the east of the subject property, has recently been widened; the interchange of Timonium Road and Harrisburg Expressway has recently been redesigned and reconstructed; and despite the existence of basically industrial zoning in the neighborhood, the actual use of the large majority of structures located therein is commercial. In short, the Timonium neighborhood lying between York Road and Harrisburg Expressway initially conceived as an industrial area has changed complexion to that of a commercial area supportive of the large residential areas located to the east of York Road and to the west of the Harrisburg Expressway.

Respectfully submitted,

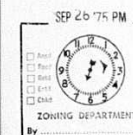
John B. Howard

RE: PETITION FOR RECLASSIFICATION : BEFORE THE DUPUTY ZONING
North side Timonium Road, 590' West :
of York Road, 8th Election District : COMMISSIONER FOR BALTIMORE COUNTY
Caleb C. Ewing, Petitioner :
No. 75-201-R (Item No. 16) :

ORDER FOR APPEAL

Mr. Commissioner:

Please note an Appeal from your decision in the above entitled matter under date of August 29, 1975, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.



John W. Hession, III
People's Counsel

Charles E. Kountz, Jr.
Deputy People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I hereby certify that on this 26th day of September, 1975, a copy of the foregoing Order was mailed to John B. Howard, Esquire, Cook, Murray, Howard & Tracey, Mercantile-Towson Building, 409 Washington Avenue, Towson, Maryland 21204.



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

William D. Fromm, Director
TO: Dept. of Planning and Zoning
FROM: Office of Law
SUBJECT: Board Comments on Timonium Mansion

Date: June 6, 1975

RECEIVED
BALTIMORE COUNTY
JUN 17 1975
OFFICE OF PLANNING
AND ZONING

August 29, 1975

John B. Howard, Esquire
409 Washington Avenue
Towson, Maryland 21204

RE: Petition for Reclassification
N/S of Timonium Road, 590' W of
York Road - 8th Election District
Caleb C. Ewing - Petitioner
NO. 75-201-R (Item No. 16)

Dear Mr. Howard:

I have this date passed my Order in the above captioned matter in accordance with the attached.

Very truly yours,

James E. Dyer
JAMES E. DYER
Deputy Zoning Commissioner

JED/mc

Attachments

cc: Mr. John R. Miller, President
Greater Timonium Community Council
P. O. Box 55
Timonium, Maryland 21093

Mr. Domenick Barbiero
Optimist Club of Timonium
P. O. Box 262
Timonium, Maryland 21093

Mrs. Nancy L. Hargest, Chairman
Seminary Valley Council, Inc.
502 Jamieson Road
Lutherville, Maryland 21093

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William R. Fromm, Director of
Planning
FROM: John W. Hestian, III, Counsel
SUBJECT: Cycle VIII, Item 16
75-201-R
Caleb C. Ewing
Timonium Mansion

Date: March 11, 1975

RECEIVED
BALTIMORE COUNTY
MAR 13 1975
OFFICE OF PLANNING
AND ZONING

The impression that one even minimally literate would garner from the Memorandum in Support of Petition for Reclassification submitted by the petitioner with his application for reclassification in this case would be that there existed a viable plan to preserve the building on the property. The Planning Board, understandably anxious to cooperate in this endeavor, adopted in the absence of specific legislative provisions for the preservation of historic buildings the practical device of straining the basis for reclassification to the extent that it would champion preservation projects. A review of the report and recommendations contained in the Cycle volume demonstrates this rather clearly, as the report presupposes that covenants designed to enforce what appeared to be the petitioner's intent to be forthcoming as part and parcel of the reclassification proceeding.

Having at least neutralized the Planning Board, in the sense that the Board was diverted from approaching the question of reclassification as merely a commercial venture, the Deputy Commissioner yesterday heard the petitioner's testimony which included very blunt statements that he knew of no viable program to save the structure on the premises, that he would give no guarantees in that direction, and wasn't aware of any concrete efforts by any community or historic group to accomplish the preservation. The petitioner's testimony was then adduced by a gaggle of "experts" expressing opinions predicated solely on change in the neighborhood and/or original error, and the listener waited in vain for any mention whatever of the historic significance of the premises.

I therefore specifically ask that you re-present this petition to the Planning Board and ask that it be considered by the Board not in its original guise as an attempt to preserve an historic building, but as a standard, garden-variety petition for reclassification for the economic benefit of the owner. I believe that a supplemental report should be issued by the Board incorporating such preferatory explanations as might be necessary to explain any contradiction which may appear between the supplemental and original reports.

John W. Hestian, III
JOHN W. HESTIAN, III

RE: RECLASSIFICATION PETITION FOR : BEFORE THE
M.R.-I.M. to B.M.
N/S of Timonium Rd., West of
York Road, 8th District : ZONING COMMISSIONER
CALEB C. EWING : FOR BALTIMORE COUNTY
Case No. 75-201-R :

ORDER TO ENTER APPEARANCE

Mr. Commissioner:

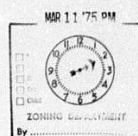
Pursuant to the authority contained in section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

Charles E. Randolph
Charles E. Randolph
Deputy People's Counsel

John W. Hestian, III
JOHN W. HESTIAN, III
People's Counsel
The County Office Building
Towson, Maryland 21204
494-3211

I HEREBY CERTIFY That a copy of the foregoing Order was mailed this 11th day of March, 1975 to John B. Howard, Esquire, Cook, Mudd, Murray and Howard, 409 Washington Avenue, Towson, Maryland, 21204, Attorney for Petitioner.

John W. Hestian, III
JOHN W. HESTIAN, III



I WILL ATTEND

Page -2-

In reviewing the matter it becomes apparent from the memorandum in support of the petition for reclassification that though there was a lengthy explanation of the history of Timonium Mansion, the request for B.M. zoning only stated that,

"... the only method under which proper economic realization could flow from the land and at the same time result in restoration and preservation of the structure would be a restaurant-dinner theater use. . . ."

No guarantee or covenants were offered by the petitioner to support the statement quoted above. Without such covenants running with the land, the Mansion would be subject to the same threats posed by the current M.R. (I.M. District) classification.

We have been requested to examine the request for reclassification presented to the Zoning Commissioner in the context of the Planning Board recommendation and indicate the appropriate course of action for the Board. It is the judgment of the Office of Law that the Planning Board's recommendation was not made in accordance with applicable legal standards prerequisite to a valid determination.

It is apparent that the Board's qualification of its recommendation as dependent on deed covenants to preserve the historical nature of the mansion amounts to conditional zoning. The Court of Appeals observed in *Montgomery County v. National Capital Realty Corp.*, 267 Md. 364, 297 A.2d 675 (1972) that "The invalidity of conditional zoning in Maryland is not seriously open to question." There, the Court declared that the use of covenants in connection with rezoning would fall within the prohibited area. The purpose of this prohibition is to preserve consistency and uniformity intended by zoning classifications and prevent the inhibition of the police power.

Of no lesser importance, the Planning Board was aware that the factors considered to support recommendation departed from "normal" procedure and did not include evaluation of congestion, safety, health, public facilities, and general welfare pertinent to a finding of mistake in original zoning or change in the neighborhood. The force of a Board recommendation is no greater than the reasoning upon which it is based. *Stratkin v. Beauchamp*, 268 Md. 643, 304 A.2d 244 (1973). Correspondingly, conclusions relevant to planning recommendations without supporting reasons are devoid of effect. Insofar as the historical considerations deemed relevant by the Board are not yet provided for by county law, its recommendation constitutes "wishful thinking" which cannot survive legal analysis. *Habington v. City of Salisbury*, 258 Md. 350, 265 A.2d 885 (1970). Section 22-22 of the Baltimore County Code (1973-74 Supplement) promulgates the familiar "change-mistake" rule applicable to zoning reclassification petitions. The purpose of promoting health, safety and welfare is elaborated upon in Section 22-18 of the Code (1968). Since the Planning Board failed to adhere to the clear

Page -3-

statutory mandate in forming its conclusion, that conclusion, improperly arrived at, is unlawful and should be given the appropriate weight by the Zoning Commissioner.

We believe also that the Planning Board cannot withdraw its original recommendation at this time and submit a revised recommendation since it would violate the cycle provisions of Section 22-22 (c) and (f) of the Baltimore County Code.

J. Carroll Holzer
J. Carroll Holzer
County Solicitor

JCH:rm
cc: County Executive
cc: Walter R. Richardson
cc: Charles B. Heyman

TO: Mr. Eric DiKenna, Zoning Commissioner
FROM: Greater Timonium Community Council
RE: Timonium Mansion rezoning petition

The above matter was discussed at a regular meeting of this Council on January 22, 1975 with a duly constituted quorum. It was resolved that the Council would be in favor of petitioner's request for BM zoning provided that

- 1) petitioner signed a covenant providing for the preservation of this historic site, a covenant that would run with the land; and
- 2) that all necessary repairs would be made to the mansion to warrant preservation.

With the guarantee of preservation, the Council has almost no objection to the usage of the facilities that the owner may desire, short of commercial or industrial usage. The idea of a restaurant and/or dinner theater is most appealing.

Should the owner be unwilling to sign a covenant that will run with the land, the Council voices strong objection to petitioner's request for rezoning. The Department of Planning, the Jaycees, and other civic groups are interested in this Mansion's preservation, an interest which should be accorded considerable weight or we would have no national or local shrines. The Council voices no objection to a property owner's right to do with his land as he may see fit provided that it fit with the public "good". The preservation of the Timonium Mansion falls into the realm of the public good.

John Randolph Miller
John Randolph Miller, President



Optimist Club of Timonium INC.

"Friend of Youth"
P.O. BOX 262
TIMONIUM, MD. 21093

March 11, 1975

Dear Sir:

The Timonium mansion is a building of vital interest to the Timonium community. As a service organization, representative of the community, the Optimist Club of Timonium is vitally interested in the preservation of the mansion. The board of directors of the Optimist Club of Timonium have voted to use club efforts in combating any rezoning that jeopardizes the mansion and sufficient land around it to preserve its integrity.

The board of directors have voted that Past President Domenick Barbiero shall represent the club in hearings on this matter.

Very truly yours,
Richard C. Hestian
Richard C. Hestian
Secretary
Optimist Club of Timonium

RCH/pm

BALTIMORE COUNTY, MARYLAND No. 17135
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE Nov. 20, 1974 ACCOUNT 01-662
AMOUNT \$50.00
WHITE - CASHIER DISTRIBUTION PINK - AGENT YELLOW - CUSTOMER
Messrs. Cook, Mudd, Murray & Howard
1409 Washington Ave.
Towson, Md. 21204
Petition for Reclassification for Caleb C. Ewing
5000 MC

BALTIMORE COUNTY, MARYLAND No. 23350
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE Aug. 28, 1975 ACCOUNT 01-662
AMOUNT \$138.03
RECEIVED FROM Messrs. Cook, Murray, Howard & Tracy, 1409
Washington Ave., Towson, Md. 21204
FOR: Attaching and posting of property for
Caleb C. Ewing
Assess 75-201-2
138.03 MC

BALTIMORE COUNTY, MARYLAND No. 3394
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE October 3, 1975 ACCOUNT 01-662
AMOUNT \$75.00
RECEIVED FROM John W. Hessian, III, Esquire, People's Council
for Cost of Filing of an Appeal and Posting of Property
on Case No. 75-201-R (Item No. 16)
N/S of Timonium Road, 590' W of York Road - 8th Elec-
tion District
Caleb C. Ewing & Fletcher 6 75.00 MC

TRAFFIC - TIMONIUM ROAD

PUNK, FLETCHER & THOMPSON, INC.
SUITE 501, HEAVY PLAZA
1301 YORK ROAD
LUTHERVILLE, MARYLAND 21093
RET EX # 2 2C

TRAFFIC ANALYSIS
CALEB C. EWING PROPERTY
TIMONIUM ROAD BETWEEN YORK ROAD
AND HARRISBURG EXPRESSWAY

PUNK, FLETCHER & THOMPSON, INC.
SUITE 501, HEAVY PLAZA, 1301 YORK ROAD
LUTHERVILLE, MARYLAND 21093

TRAFFIC - TIMONIUM ROAD
The Caleb C. Ewing property is located on the north side of
Timonium Road between York Road and the Harrisburg Expressway. Timonium
Mansions, a 200 year old structure of considerable historic value is lo-
cated on the 2.66 acre site. It is presently zoned MH.
On the site it is proposed to build a dinner-theatre attached
to Timonium Mansions. Although there are other possible uses of the
property if zoned RM such as an Animal Boarding Place, a Home Improve-
ment Office or a Hotel Site, these usages would have a spread effect
and less traffic impact on Timonium Road than a dinner theatre. Re-
quired for dinner theatre usage of the site is 65 parking spaces, while
123 spaces are provided on the plat dated Sept. 1974 by S. F. Raphael and
Associates. See Exhibit III.

In order to determine the impact of the proposed site usage
on Timonium Road traffic, the following factors should be considered.
1. Timonium Road at this location is a divided four lane
street with a two way capacity of not less than 32,000 Average Daily
Traffic, about double the existing traffic loading.
2. The major traffic for the proposed Dinner-Theatre usually
occurs between 6:00 and 8:00 P.M. and from 10:00 to 12:00 P.M. The
traffic arriving at the dinner-theatre during the 6:00 P.M. to 8:00 P.M.
period will be spread over the two hour period and have little impact on
the normal Timonium Road Traffic. Also, the normal traffic during that
period uses only a maximum of 10% of Timonium Road capacity, so the effect
of a spread 65 cars will be scarcely noticeable.

TRAFFIC - TIMONIUM ROAD (Continued)

On the other hand, between 10:00 P.M. and 12:00 P.M., the
cars will probably leave closely spaced, or the 65 cars will leave in
a very short interval. However, the normal traffic on Timonium Road is
but 17% or less of capacity at that time. Accordingly the effect on
Timonium Road traffic will be slight.

Exhibit I and II are the results of traffic counts on
February 26, 1975 and March 1, 1975 between the hours of 6:00 P.M. and
12:00 Midnite.

3. The turning movements into the Dinner-Theatre will have
little effect on the Timonium Road Traffic. In addition to this usage
being off peak in the 10:00 P.M. to 12:00 P.M. period the storage dis-
tance (370 ft) between Alstebury Road and the proposed Dinner-Theatre
entrance is ample for such a slight amount of 6-8 P.M. traffic. Other permitted
usages would have but little impact on Timonium Road Traffic and the
turning movements involved.

4. The State Fair traffic from the Fair Parking lots would
have little impact on Timonium Road after 6:00 P.M. Furthermore, the
traffic movement to Harrisburg Expressway does not conflict with the proposed
Dinner-Theatre traffic at any time, since the major State Fair Parking lot
is west of the entrance to the Ewing Property. It should also be pointed
out that this traffic is for a short period only each year and usually does
not conflict with after 6:00 P.M. traffic.

EXHIBIT I.

Date 2-26-75, Friday

TIMONIUM ROAD

Lane Capacity 600

Lane Loading	Vehicles		Percentage of Capacity	
	Time P.M.	Total	Per Lane	
Traffic from East	6-7	551	276	31%
	7-8	595	293	37%
	8-9	109	205	26%
	9-10	335	168	21%
	10-11	206	103	13%
	11-12	192	96	12%
Traffic from West	6-7	613	322	10%
	7-8	607	304	36%
	8-9	132	216	27%
	9-10	317	174	22%
	10-11	274	137	17%
	11-12	211	106	13%

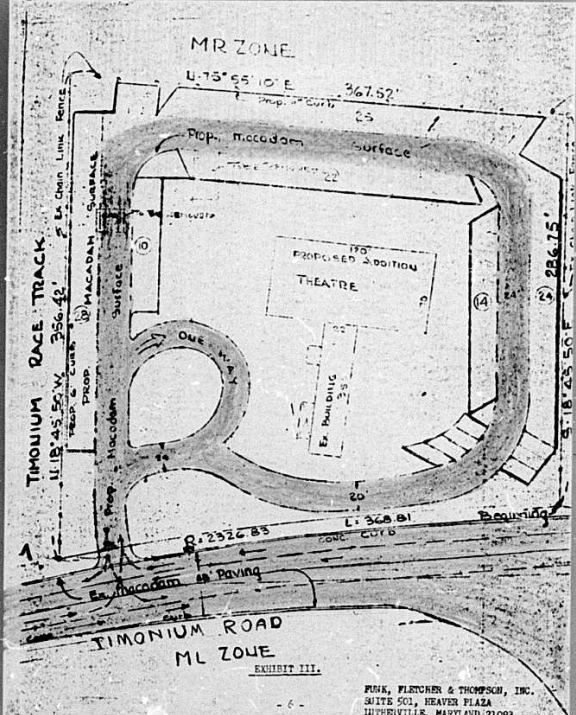
EXHIBIT II.

Date 3-1-75, Saturday

TIMONIUM ROAD

Lane Capacity 800

Lane Loading	Vehicles		Percentage of Capacity	
	Time P.M.	Total	Per Lane	
Traffic from East	6-7	387	194	24%
	7-8	366	183	23%
	8-9	327	164	20%
	9-10	215	108	14%
	10-11	166	83	10%
	11-12	172	86	11%
Traffic from West	6-7 P.M.	115	298	26%
	7-8	438	217	27%
	8-9	336	168	21%
	9-10	259	130	19%
	10-11	211	106	13%
	11-12	170	85	11%



WEEKLY TRAFFIC VARIATIONS

It is interesting to note that a traffic count on Timonium Road on March 1, 1970 indicated the following daily variation.

Sunday	6,200
Monday	11,930
Tuesday	12,240
Wednesday	5,840
Thursday	7,536
Friday	13,710
Saturday	9,350

An examination of the above data indicates that the traffic on Friday is more heavy than on any day of the week. This appears to be in conformance with the findings of the Highway Research Board in their publication No. 1328 pp. 31.

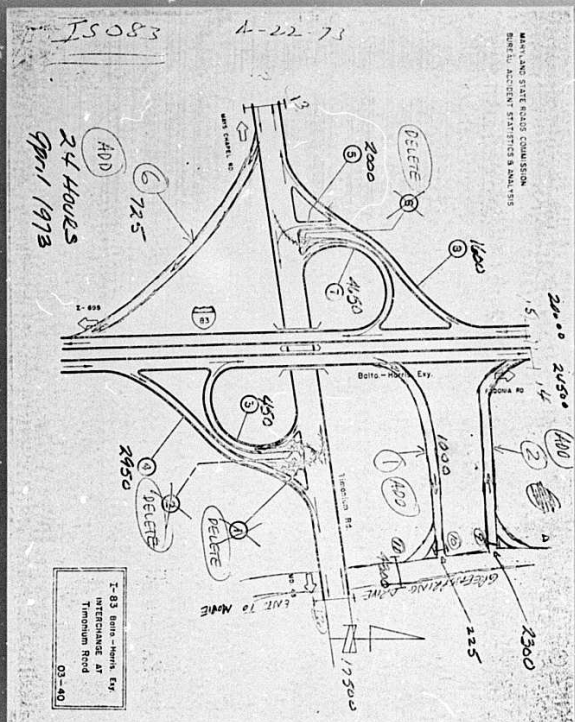
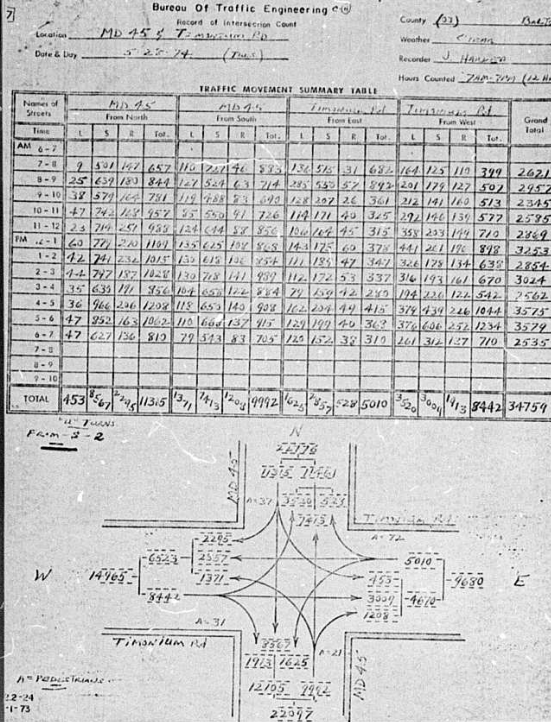
Accordingly, our traffic analysis of Friday, February 26, 1975, and March 1, 1975 indicates that a satisfactory condition should exist thru out the week.

It should be pointed out that the Timonium Road - York Road intersection has recently been improved (.57%).

As a result, the intersection is fully capable of handling the small amount of traffic generated by the dinner-theatre and added to this road in any way. Therefore, it must be assumed they were not aware of the plans to extend said road.

Also, the Harrisburg (83) - Timonium Road Interchange has been rebuilt and has ample capacity for the small amount of traffic generated by the Dinner - Theatre.

The information concerning the intersection and interchange is submitted as an addendum to this report.



20. Pet Ex #3

John B. Howard, Esq.
Cook, Murray, Howard & Tracy
409 Washington Avenue
Towson, Maryland 21204

Re: Caleb C. Ewing Property
North Side Timonium Road
9th Election District
(Attorney File 4691)
(Planning and Zoning File Item 16 - 8th Zoning Cycle)

Dear Mr. Howard:

This brief written report is prepared in respect to your request for my testimony before the Zoning Commission of Baltimore County for the above referenced property for the change in zoning from MR-III to RM in accordance with the petition filed by Mr. Ewing, owner of the property.

In making this review, I have personally inspected the subject property and neighborhood, have reviewed various plats and data concerning traffic, zoning, and market trends and have generally investigated the subject property and neighborhood as to be in a position to express an opinion on the proposed zoning.

As a way of background and qualifications, I am attaching hereto a list of qualifications for your benefit. Further, I think it appropriate to note that my firm made independent appraisals for Baltimore County for the widening of Timonium Road (east and west of I-83). I also made independent appraisals and studies for the State Highway Administration with reference to the new interchange at I-83 and Greenspring Drive. I also was involved in several appraisals for the Circuit Court of Baltimore County in appraising and estimating loss in Fair Market Value for the extension of Aylesbury Road and Timonium Road. Finally, I have developed residential and commercial properties on York Road within 3 miles of the subject site and, therefore, am familiar with market trends in the area.

For the purpose of providing a greater understanding of the subject property and surrounding neighborhood, I am also attaching various

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photographs and plats which help support my opinion in this matter. I would like to break down into three areas my views on the subject petition.

I. Error

- County Council failed to recognize Aylesbury Road extended to Timonium Road and proposed traffic light at this intersection. (Official zoning map did not indicate the extension of this road in any way. Therefore, it must be assumed they were not aware of the plans to extend said road.)
- County Council did not recognize proposed expansion of Interchange at I-83 and Greenspring Drive (Official zoning map did not show this proposed improvement; therefore, it must be assumed that Council was not informed of this construction.)
- County Council erred in not recognizing existing structure (Timonium Mansion); the MR zone and permitted uses and coverage making it all but impossible to retain this existing structure within a proposed use which can give a fair and reasonable return to the property owner.
- County Council erred in not recognizing need for additional commercial uses within the York Road - I-83 corridor.

II. Change

- Change has occurred in the general character of the neighborhood in that most of the uses which have developed in the last 3 to 5 years between Timonium Road and Ridgely Road and I-83 and York Road have been commercial in nature. (See attached list of commercial uses and aerial photographs showing commercial activity.)

Page 3

- Change in improved vehicular access to subject property due to extension of Aylesbury Road, Interchange at I-83, and widening of York Road.
- Change in national marketing concept where wholesalers have located within industrial and commercial neighborhoods, thus providing increased commercial activity. (Again, refer to list of wholesalers have occupied industrial buildings where and, therefore, represent a major change in the projected use of the properties.)
- Change in major feeder roads (east-west) between I-83 and York Road from industrial to commercially oriented uses. For example:

SHAWAN ROAD:	Hunt Valley Inn Office Buildings
PADONIA ROAD:	Service Stations Funeral Home Realtors Office High Rise Office Building Furniture Store Proposed Motel Proposed Community Shopping Center
TIMONIUM ROAD:	Restaurant Service Stations Bank Office Building Proposed Gardening Center

- Changes in official zoning map during the last three years as shown on the current official zoning plat.

III. Comments

- Increased demand for commercial property which should be kept east of I-83. York Expressway.

Page 4

- The Planning Board comments do not fully comment upon the proposed zoning except to indicate that it would be reclassified providing the structure can be preserved. Without proper funding, such a request would present a financial hardship to the owner, as it would be impossible under most circumstances to restore the building. The proposed use is perhaps one method of encouraging restoration, but by no means can be guaranteed due to the many unknown factors involved.
- Traffic can be controlled due to the improved patterns created by the widening of Timonium Road and traffic light at the intersection of Aylesbury Road and Timonium Road.
- Due to the ever-increasing residential population east and west of the subject site, there is demand for commercially zoned land in this area to provide goods and services to these residents.

In summary, therefore, I believe there is sufficient error and change in the neighborhood to justify the change in zoning from MR-III to RM. The present condition of the structure on the property virtually prohibits anyone from guaranteeing its preservation under present codes and economic conditions. Certainly, the present owner like to preserve the structure if at all possible. More than anyone else, would case, he would have razed it and not spent the time, money and effort to completely fence in the property to prevent continued vandalism. The present zoning, while in error from a planning standpoint, also completely prohibits any possibility of restoring and preserving the structure.

Sincerely,

Clark F. MacKenzie
President

CFM:ma

Real Estate

Appraiser - Consultant - Developer

MEMBER:

MacKenzie & Associates, Inc. - President
 Maryland Contracting Management Corp. - Chairman of the Board
 Baltimore County Appraisers' Society
 Senior Residential Appraiser - Society of Real Estate Appraisers
 Baltimore Chapter No. 24, Society of Real Estate Appraisers - Secretary
 Licensed Real Estate Broker, State of Maryland
 Real Estate Board of Greater Baltimore
 Member - Appraisal Division
 Vice Chairman - Baltimore County Division
 National Association of Real Estate Boards
 National Institute of Real Estate Brokers
 Maryland Association of Real Estate Boards
 American Right of Way Association, Chapter 14
 Central Baltimore County Chamber of Commerce - Pres., 1969-1971

EDUCATION AND BACKGROUND:

Bachelor of Science Degree - University of Virginia
 Major in Finance, Minor in Accounting
 Real Estate Courses taken and passed:
 American Institute of Real Estate Appraisers
 Course I, Theories and Principles
 June, 1964, University of Virginia
 Course II, Real Estate Appraisal Problems
 July, 1964, University of Virginia
 Course IV, Condemnation
 March, 1966, University of Georgia
 Real Estate Board of Baltimore City
 Examination III, Rural Properties
 September, 1968
 Johns Hopkins Evening College:
 Introduction to Commercial and Industrial Real Estate
 Real Estate Management
 Real Estate Law
 Investment Banking
 American University
 Ninth Institute on Tax Planning in Real Estate
 Real Estate Seminars:
 Condemnation Seminar, October, 1973 (Mock Trial)
 Condominium Seminar, October, 1972 (Developer's Viewpoint)
 Presented by The Society of Real Estate Appraisers

March 7, 1974

MacKenzie & Associates Inc. consultants - appraisers

APPRAISED FOR:

Baltimore County Board of Education
 Baltimore County Revenue Authority
 Baltimore County Bureau of Land Acquisition
 Baltimore County Solicitors Office
 Baltimore Gas and Electric Company
 Baltimore Life Insurance Company
 Bendix Corporation
 Chesapeake National Bank
 Circuit Court of Baltimore County
 County Appraisers, Inc.
 Department of Law - State of Maryland
 Department of Public Improvements - State of Maryland
 Getty Oil Company
 Goucher College
 Martin-Marietta Company
 Maryland State Highway Administration
 Mobil Oil Corporation
 Office of Law - Anne Arundel County
 Real Estate Department of Baltimore City
 Reisterstown Federal Savings & Loan Association
 Shell Oil Company
 Toll Facilities Division, Maryland State Highway Administration
 Attorneys and Landowners

Over Six Hundred appraisals in the last nine and one half years; combined appraised value exceeding \$275,000,000. These appraisals include residential, industrial, and commercial properties for condemnation, mortgage, estate and tax purposes.

QUALIFIED AS REAL ESTATE EXPERT BEFORE:

Anne Arundel County Circuit Court
 Baltimore County Circuit Court
 Baltimore County Zoning Board of Appeals
 Baltimore County Zoning Commissioner
 Howard County Circuit Court
 Howard County Zoning Board of Appeals
 Public Service Commission - State of Maryland
 Tax Appeals Court - Baltimore County, Maryland
 Town Council - Easton, Maryland

DEVELOPMENT EXPERIENCE:

Commercial

Scotts Corner Shopping Center
 Ridgely Plaza
 Garrison Forest Plaza
 Fred Avon Square
 Carney Village Shopping Center
 Shamrock Industrial Building

Residential

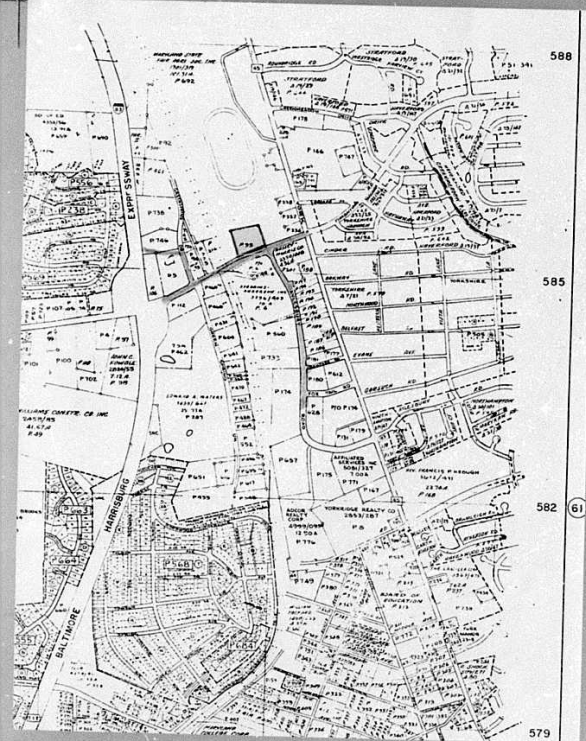
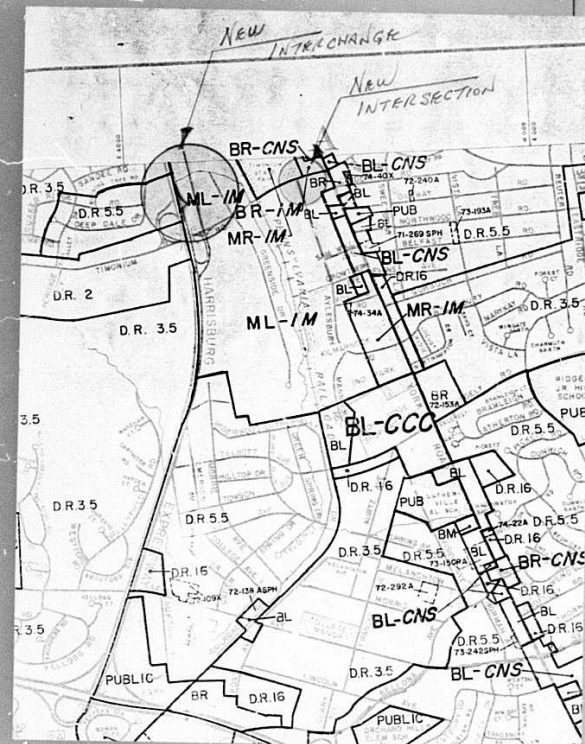
Stillpond (Condominiums)
 The Beeches (Condominiums)
 Greencroft (Large lot Subdivision)

March 7, 1974

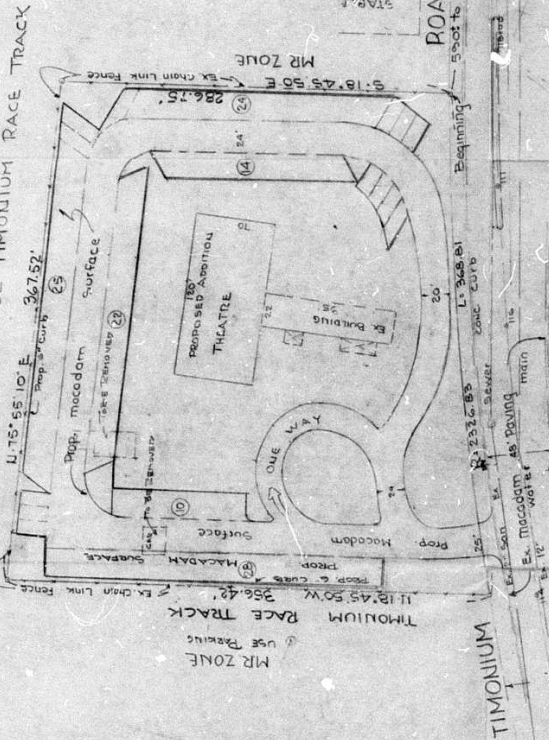
MacKenzie & Associates Inc. consultants - appraisers

These businesses are in close proximity to the subject property:

1. The Hardware Fair
2. Solis Cleaners
3. White Coffee Pot
4. Bill Pellingtons
5. Glaubers
6. Read's Drugs
7. Silbeis
8. McElroy's Jewelers
9. Barber (Yorkridge)
10. A & P
11. First National Bank
12. Cannon Shoes
13. Provident Savings & Loan
14. China Moon Carry Out
15. Sears
16. S. S. Kressges
17. Movies
18. Timonium Mall
19. Stewarts
20. Shell
21. Parson Tables Ltd.
22. Baltimore Stereo Wholesalers
23. STX
24. Metro Tire Wholesalers
25. Ready-to-Finish Furniture
26. Fall of the Fox
27. Burger King
28. Alexander's
29. Timonium Federal
30. Town & Country Appliance
31. Eagles Pool Parlor
32. Cadwick Florist
33. Esquire Cleaners
34. Mercantile Bank
35. A.B.C. Rental
36. Rosemarie de Paris (candy)
37. Brooks Robinson Sporting Goods
38. Timonium Drive-In
39. Union Trust
40. American
41. MacDonalds
42. Welsh Interiors
43. Diavolo's Restaurant
44. Scott Gas
45. Covache's Liquors
46. Exxon (York & Padonia)
47. Sunoco
48. Steak & Ale
49. Phillips
50. Vordenberge Saddlery
51. Merry-go-Round
52. Webco Tire Company
53. Calbys Male Apparel
54. Grue Tailoring Company
55. Batco Shoes
56. Rental Center



MR ZONE USE TIMONIUM RACE TRACK



GENERAL DATA
AREA OF PROPERTY 2.423 AC.
EXISTING ZONE MR IM
EXISTING USE RESIDENTIAL
PROPOSED ZONE TM
PROPOSED USE RESTAURANT & THEATRE

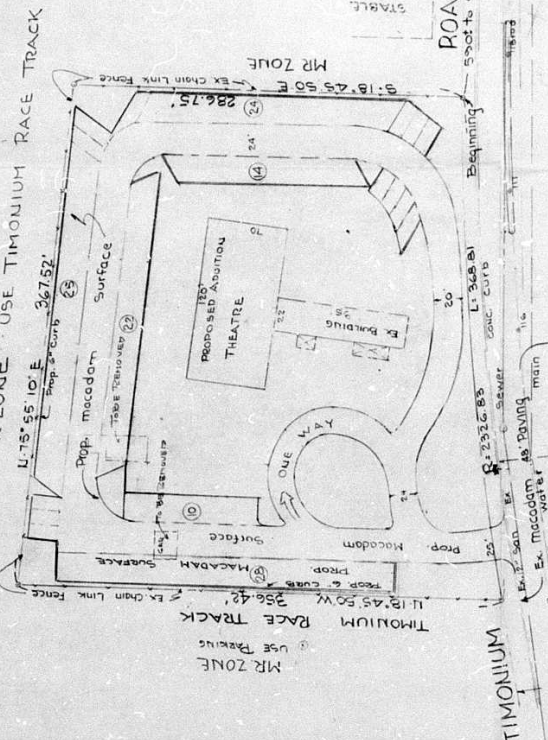
PARKING DATA
AREA OF EXISTING BLDG. 2315 S.
PARKING RATIO 1.5 SP/500' 2400' 48 SP.
AREA OF PROPOSED ADDITION 17200 S.
USE THEATRE
PARKING RATIO 1.5 SP/500' 17200' 117 SP.
REQUIRED 65 SP
PROVIDED 123 SP

PLAT TO ACCOMPANY PETITION
FOR RECLASSIFICATION
PROPERTY OF
CALEB EWING ETAL
8TH ELECTION DISTRICT BALTO CO
SCALE 1"=50' SEPT. 1974

E.F. RAPHE & ASSOCIATES
REG. LAND SURVEYORS
COURTLAND AVE.
TOWSON 4, MARYLAND

1616

MR ZONE USE TIMONIUM RACE TRACK



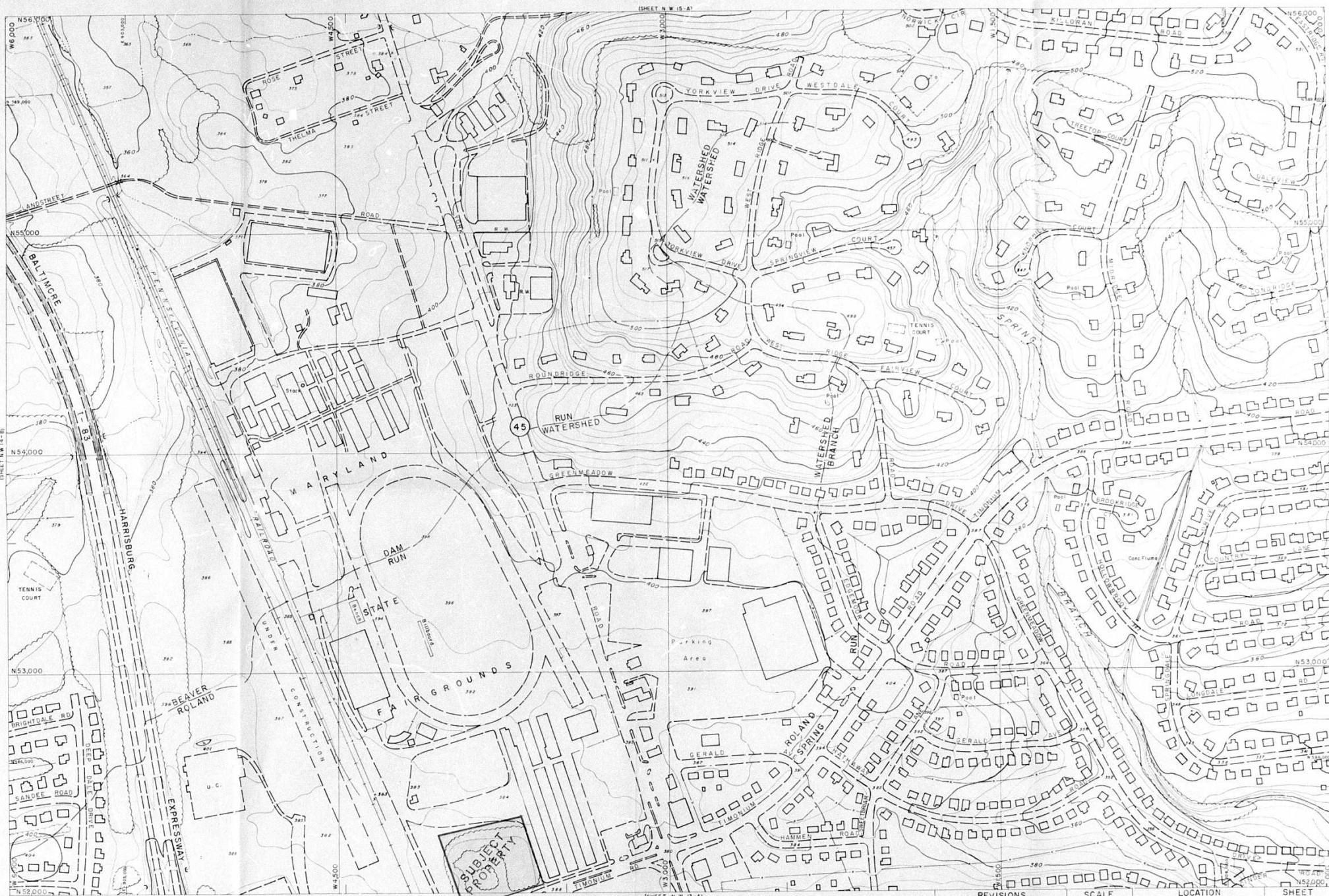
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AREA OF PROPERTY 2.423 AC.
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EXISTING USE RESIDENTIAL
PROPOSED ZONE TM
PROPOSED USE RESTAURANT & THEATRE

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TOWSON 4, MARYLAND

1616



S-NE R-NW

PHOTOGRAMMETRIC MAP OF BALTIMORE COUNTY METROPOLITAN AREA

REVISIONS		SCALE	LOCATION		SHEET
Topographic	BY DATE MAPS, 4-11-70 INC	1" = 200	TIMONIUM	N.W.	14-A
Topography Compiled By Photogrammetric Methods AERO SERVICE CORPORATION-PHILADELPHIA, PA		DATE OF PHOTOGRAPHY APRIL 1953			

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