

# 78-26-R **PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, Lane Realty, Inc., A. Leon A. Crane, owners, of the property above in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from D.R. 5.5 zone to D.R. 16 and B.L. zone, for the following reason: The present classification of this property is a mistake and an error. The health, safety and general welfare of the public requires that the requested changes be granted. The present classification of the property amounts to a confiscation of the property in violation of the Fifth Amendment of the United States Constitution because of the economic impossibility of developing the property.

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

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.

**LANE REALTY, INC.**  
Lane A. Crane, President  
Legal Owner  
Address: 1800 North Charles Street  
Baltimore, Maryland 21201

**DAVID GRANT WILLEMAIN, P.A.**  
David Grant Willemain  
108 Jefferson Building  
Towson, Maryland 21204 296-1535  
Attorney's Address  
Ordered By The Zoning Commissioner of Baltimore County, this 29th day of April, 1977, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, the property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 5th day of September, 1977, at 10:00 o'clock A.M.

**DAVID GRANT WILLEMAIN, P.A.**  
David Grant Willemain  
108 Jefferson Building  
Towson, Maryland 21204 296-1535  
Attorney's Address



10:00A  
7/17/77

RE: PETITION FOR RECLASSIFICATION \* BEFORE THE  
NE/S of Timanus Lane, 960' NE of Windsor Mill Road - 2nd Election\* ZONING COMMISSIONER  
DISTRICT: LANE REALTY, INC. and LEON A. CRANE, Petitioners  
No. 78-26R (Item No. 5) \* BALTIMORE COUNTY

## **ORDER FOR APPEAL**

Now come LANE REALTY, INC. and LEON A. CRANE, Petitioners, and respectfully note an Appeal from the Order of the Zoning Commissioner of Baltimore County dated March 3, 1978, to the Board of Zoning Appeals of Baltimore County.

DAVID GRANT WILLEMAIN, P.A.

BY: *David Grant Willemain*  
DAVID GRANT WILLEMAIN

BY: *Michael P. Tanczyn*  
MICHAEL P. TANCZYN

108 Jefferson Building  
Towson, Maryland 21204  
296-1535  
Attorneys for Petitioners,  
Lane Realty, Inc. and  
Leon A. Crane

cc: Mr. James Smith  
7407 Millwood Road  
Baltimore, Maryland 21207  
John W. Heslian, III, Esquire  
People's Counsel



494-3180

## **County Board of Appeals**

Room 218, Court House

Towson, Maryland 21204

November 17, 1978

## **NOTICE OF ASSIGNMENT**

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 78-26-R

LANE REALTY, INC., ET AL

(Leon A. Crane, President)

for Reclassification from D.R. 5.5 to D.R. 16 & B.L. zones

NE/S Timanus Ln. 960' NE of Windsor Mill Rd.

2nd District

3/3/78 - Z.C. Granted Rec. in part

THURSDAY, FEBRUARY 8, 1979 at 9:30 a.m.

ASSIGNED FOR:

cc: David G. Willemain, Esq.

Michael P. Tanczyn, Esq.

Mr. Leon A. Crane

Mr. James Smith

Mr. Richard Maylin, President of

Hobbsville Elementary School PTA

Mr. George A. Rao, Liberty Road

Community Council, Inc.

John H. Heslian, III, Esq.

Mr. S. E. DiNenna

Mr. James E. Dyer

Mr. Leslie Graw

Mr. Gary Burt

Board of Education

Mr. C. L. Perkins

Counsel for Petitioners

Petitioner

Protestant

Req. Notification

People's Council

Muriel E. Buddemeier  
County Board of Appeals

RE: PETITION FOR RECLASSIFICATION : BEFORE THE ZONING COMMISSIONER

NE/S of Timanus Lane 960' NE of : OF BALTIMORE COUNTY

Windsor Mill Road, 2nd District : Case No. 78-26-R

LANE REALTY, INC., Petitioner

## **ORDER FOR APPEAL**

Mr. Commissioner:

Please note an Appeal from your decision in the above-entitled matter, under date of March 3, 1978, to the County Board of Appeals and forward all papers in connection therewith to said Board for hearing.

*Charles E. Kautz, Jr.*

Charles E. Kautz, Jr.,

Deputy People's Counsel

*John W. Heslian, III*

John W. Heslian, III

People's Council

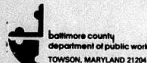
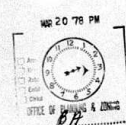
County Office Building

Towson, Maryland 21204

494-2188

I HEREBY CERTIFY that on this 20th day of March, 1978, a copy of the foregoing Order was mailed to David Grant Willemain, Esquire, 108 Jefferson Building, Towson, Maryland 21204, Attorney for Petitioners.

*John W. Heslian, III*



THORNTON M. MOURING, P.E.  
DIRECTOR

April 28, 1977

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

Re: Item #5 (Cycle I April-October 1977)  
Property Owner: Lane Realty, Inc.  
N/E of Timanus Ln., 960' N/E of Windsor Mill Rd.  
Existing Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.  
District: 2nd  
No. of Acres: Parcel "A": 7.47, Parcel "B": 4.92,  
Parcel "C": 4.87, Parcel "D": 3.86, Parcel "E": 7.48

Dear Mr. DiNenna:

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

### **General:**

Comments were supplied in connection with the Zoning Advisory Committee review of this property in connection with Item #251 (1968-1969). Those comments remain valid and applicable and are referred to for your consideration.

This property is tributary to the Oyama Falls Sanitary Sewer System subject to State Health Department regulations.

Very truly yours,  
*Donald W. Tucker*

DONALD W. TUCKER, P.E.

Acting Chief

Bureau of Engineering

DWT:GAM:FWB:SS

1-MS Key Sheet  
15-17 MS Key Sheets  
see 4 & 50 Typo  
87 Tax Map

## **BALTIMORE COUNTY ZONING ADVISORY COMMITTEE**

COUNTY OFFICE BLDG.  
111 W. GAYNESS AVE.  
TOWSON, MARYLAND 21204

Telephone: 494-3180

Commodore

Chairman

Members

BUREAU OF ENGINEERING

DEPARTMENT OF TRAFFIC ENGINEERING

STATE ROAD COMMISSION

FIRE PREVENTION

HEALTH DEPARTMENT

PROJECT PLANNING

BUILDING DEPARTMENT

BOARD OF EDUCATION

ZONING ADMINISTRATION

INDUSTRIAL DEVELOPMENT

June 20, 1977

David Grant Willemain, Esquire

108 Jefferson Building

Towson, Maryland 21204

RE: Reclassification

Item No. 5 - 1st Cycle

Petitioner - Lane Realty, Inc.

Dear Mr. Willemain:

Enclosed is a copy of the revised comment from the Department of Traffic Engineering on the above referenced matter that should be included within the comments that were forwarded to you on May 2, 1977.

Very truly yours,

*Nicholas B. Commodore*

NICHOLAS B. COMMODORE

Chairman

Zoning Plans Advisory Committee

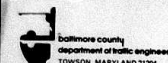
ENC:rf

Enclosure

cc: Mats, Childs and Associates

4907 Harford Road

Baltimore, Maryland 21214



STEPHEN E. COLLINS  
DIRECTOR

June 8, 1977

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

Re: Revised Comments

Cycle Zoning Item No. 5 - 1st Cycle April 1977

Property Owner: Lane Realty, Inc.

Location: NE/S of Timanus Lane 960' N/E of Windsor Mill Road

Present Zoning: D.R. 5.5

Proposed Zoning: D.R. 16 and B.L.

District: 2nd

No. Acres: Parcel "A": 7.47, Parcel "B": 4.92, Parcel "C": 4.87

Parcel "D": 3.86, Parcel "E": 7.48

Dear Mr. DiNenna:

The present D.R. 5.5 will generate approximately 1400 trips per day. The proposed D.R. 16 and B.L. zoning will generate approximately 8600 trips per day.

This site is located in the vicinity of two intersections which are at level of service F: Rolling Road and Windsor Mill Road and Liberty Road and Washington Ave.

Sincerely,

*Nicholas B. Commodore*

NICHOLAS B. COMMODORE

Associate Traffic Engineer

NSP:JLF

April 20, 1977

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

Dear Mr. DiNenna:

Comments on Item 5, Zoning Cycle I, April, 1977, are as follows:

Property Owner: Lane Realty, Inc.  
Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Road  
Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.  
District 2nd  
No. Acres: Parcel "A" 7.47, Parcel "B" 4.92, Parcel "C" 4.87, Parcel "D" 3.86, Parcel "E" 7.48

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.

If the petition is granted the developer must comply with all applicable Subdivision Regulations.

An emergency access should be provided at the rear of the proposed shopping center where the driveway from the proposed apartments would extend. All fire hydrants should be indicated as existing or proposed.

Landscape should be provided for in the commercial area in addition to the proposed screening.

Very truly yours,

*John L. Wimbley*  
John L. Wimbley  
Planner III  
Project and Development Planning

STEPHEN E. COLLINS  
DIRECTOR

April 18, 1977

Mr. Eric S. DiNenna  
Zoning Commissioner  
2nd Floor, Courthouse  
Towson, Maryland 21204

Re: Cycle Zoning Item No. 5 - ZAC - April 1977

Property Owner: Lane Realty, Inc.  
Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Rd.  
Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.  
District: 2nd  
No. Acres: Parcel "A" 7.47, Parcel "B" 4.92, Parcel 4.87, Parcel "D" 3.86, Parcel "E" 7.48  
District: 2nd

Dear Mr. DiNenna:

The present DR 5.5 will generate approximately 1600 trips per day. The proposed DR 16 & BL zoning will generate approximately 3100 trips per day.

This site is located in the vicinity of two intersections which are at level of service F: Rolling Road & Windsor Mill Road and Liberty Road & Washington Avenue.

Very truly yours,

*Michael S. Flanagan*  
Michael S. Flanagan  
Traffic Engineer Associate

NEP/130

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

April 18, 1977

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

Dear Mr. DiNenna:

Comments on Item #5, Zoning Cycle I Meeting, April 5, 1977, are as follows:

Property Owner: Lane Realty, Inc.  
Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Rd.  
Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.  
District: 2nd  
No. Acres: Parcel "A" 7.47, Parcel "B" 4.92, Parcel "C" 4.87, Parcel "D" 3.86, Parcel "E" 7.48

A moratorium was placed on new sewer connections in the Gwynne Falls Drainage Basin by Dr. Neil Solomon, Secretary of Health and Mental Hygiene on May 14, 1974; therefore, approval may be withheld for this connection.

Very truly yours,

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

ES:mah

Paul H. Reinecke  
CHIEF

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

Attention: Mr. Nicholas B. Comodori, Chairman  
Zoning Advisory Committee

Re: Property Owner: Lane Realty, Inc.

Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Rd.

Item No. 5 Zoning Agenda Zoning Cycle I

Gentlemen:  
Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "r" are applicable and required to be corrected or incorporated into the final plans for the property.

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

NOTED AND APPROVED: *Paul H. Reinecke*  
Paul H. Reinecke, Chief  
Special Inspection Division  
National Fire Protection Bureau

JOHN D. SEEVERT  
DIRECTOR

April 18, 1977

Zoning Cycle #1

Dear Mr. DiNenna:

Comments on Item # 5 Zoning Advisory Committee Meeting, are as follows:

Property Owner: Lane Realty Inc.  
Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Road  
Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.

Acres: Parcel "A" 7.47 Parcel "B" 4.92, Parcel 4.87, Parcel "D" 3.86  
District: 2nd Parcel "E" 7.48

The items checked below are applicable:

- ☒ A. Structure shall conform to Baltimore County Building Code (B.C.B.C.) 1970 Edition and the 1971 Supplement and other applicable codes.
- ☒ B. building permits shall be required before construction can begin.
- ☒ C. Three sets of construction drawings will be required to file an application for a building permit.
- ☒ D. Three sets of construction drawings with a registered Maryland architect or engineer's original seal will be required to file an application for a building permit.
- ☐ E. Wood frame walls are not permitted within 3'0" of a property line. Contact Building Department if distance is between 3'0" and 6'0" of property line.
- ☒ F. Setbacks will determine type of construction - See Table 5 and 6 of B.C.B.C. Building Code.
- ☐ G. Requested setback variance conflicts with the Baltimore County Building Code. See Section \_\_\_\_\_.

Very truly yours,

*Charles E. Burnham*  
Charles E. Burnham  
Plans Review Chief  
CSB:rwj

## BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: April 19, 1977

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

Z.A.C. Meeting of: Zoning Cycle I

RE: Item No: 5  
Property Owner: Lane Realty, Inc.  
Location: NE/S of Timanus Lane 960 ft. NE of Windsor Mill Rd.  
Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.L.

District: 2nd  
No. Acres: Parcel A 7.47, Parcel B 4.92, Parcel D 3.86, Parcel E 7.48

Dear Mr. DiNenna:

The schools that will service this development can absorb the public that will result.

Very truly yours,

*W. Nick Petrovich*  
W. Nick Petrovich,  
Field Representative

NEP/tp

JOSEPH M. MCGRAW, PRESIDENT  
T. SEWARD WILLIAMS, JR., VICE PRESIDENT  
MARCY M. BOYDANIS

MRS. LORRAINE P. CHURCH  
ROGER B. HAYDEN  
ROBERT V. BUELL, SUPERINTENDENT

ALVIN LORICK  
MRS. WALTON B. SMITH, JR.  
RICHARD W. TRACEY, D.V.M.

494-3180

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

May 19, 1979

### NOTICE OF ASSIGNMENT

#### CONTINUED HEARING

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. 78-26-R

LANE REALTY, INC., ET AL

for reclassification from D.R. 5.5 to D.R. 16 and B.L.

NE/S Timanus Lane 960'  
NE of Windsor Mill Road

2nd District

3/3/78 - Z.C. GRANTED PETITION IN PART

#### ASSIGNED FOR:

TUESDAY, MAY 15, 1979 at 10:00 am

cc: David G. Willemain, Esq.

Counsel for Petitioners

Mr. Leon A. Crane

Petitioner

Mr. James Smith

Protestant

Mr. Richard Maylin, Pres.  
Helmville Elementary School, PIA

Protestant

Yvonne Williams

Requested Notification

Mr. George A. Rea  
Liberty Road Community Council, Inc.

Requested Notification

John W. Hesston, III, Esq.

People's Counsel

Mr. J. E. Dyer, Zoning

Mr. S. E. DiNenna, Zoning

Mr. L. H. Graef, Planning

Board of Education

Meta J. Painter, County Board of Appeals

RECEIVED  
BALTIMORE COUNTY  
MAY 6 1 05 PM '79  
COUNTY CLERK  
BY \_\_\_\_\_







# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Marion A. Roberts  
7223 Castle Manor Road  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Ms. Roberts:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

If in the event it is necessary to issue a subpoena to assure your attendance, please notify me immediately and I will see that the Sheriff's Office is contacted.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mr. Yvonne Williams  
2201 Thomas Lane  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Williams:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

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Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mr. James Duklewski  
2201 Thomas Lane  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Duklewski:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

If in the event it is necessary to issue a subpoena to assure your attendance, please notify me immediately and I will see that the Sheriff's Office is contacted.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mr. Emily Williams  
2201 Thomas Lane  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Williams:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

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Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mrs. James B. Lambert  
7223 Castle Manor Road  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mrs. Lambert:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

If in the event it is necessary to issue a subpoena to assure your attendance, please notify me immediately and I will see that the Sheriff's Office is contacted.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mr. Karl L. Myers  
3129 Thomas Lane  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Myers:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

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Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mrs. Jeanie M. Collins  
3207 Cranson Avenue  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mrs. Collins:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

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Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah



# Baltimore County, Maryland

PEOPLE'S COUNSEL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL. 484-2188

May 10, 1979

Mr. Larry McHale  
8000 Hawthorn Road  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. McHale:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 a.m.

If in the event it is necessary to issue a subpoena to assure your attendance, please notify me immediately and I will see that the Sheriff's Office is contacted.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

JWH:ah





# Baltimore County, Maryland

PEOPLE'S COUNCIL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

7m CBA

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL 406-2189

May 10, 1979

Mr. Sub Law  
7316 Castle Moor Road  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Law:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 am.

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John W. Hessian, III

JWH:sh



# Baltimore County, Maryland

PEOPLE'S COUNCIL  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

7m CBA

JOHN W. HESSIAN, III  
People's Counsel  
PETER MAX ZIMMERMAN  
Deputy People's Counsel

TEL 406-2189

May 10, 1979

Mr. William S. Curtis  
7144 Bushill Road  
Baltimore, Maryland 21207

RE: LANE REALTY, INC.  
Zoning Case No. 78-26-R

Dear Mr. Curtis:

This will confirm the conversation that I had with you yesterday and is being written for the purpose of delivery to the appropriate supervisory personnel at your place of employment. You duly appeared for the purpose of giving vital testimony in a case pending before the Baltimore County Board of Appeals at Towson, Maryland, but unfortunately, we were unable to put you on the witness stand as originally intended because the case was unduly extended. You have assured me that this letter will serve in the place of a formal subpoena and that your employer will cooperate to the extent of authorizing you to again be in attendance this coming Tuesday, May 17, 1979, at 10 am.

If in the event it is necessary to issue a subpoena to assure your attendance, please notify me immediately and I will see that the Sheriff's Office is contacted.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III

WHS:h

October 26, 1979

BILLED TO:

David G. Willemain, Esquire  
108 Jefferson Building  
Towson, Md. 21204

Cost of certified copies of documents  
filed in Case No. 78-26-R . . . . . \$33.00

Lane Realty, Inc., et al  
NE/S of Timonium Lane 960'  
NE of Windsor Mill Road  
2nd District

MAKE CHECKS PAYABLE TO:

Baltimore County, Maryland

REMIT TO:

County Board of Appeals  
Room 219 Courthouse  
Towson, Md. 21204

RECEIVED  
BALTIMORE COUNTY  
MAY 1 10 15 AM '79  
CLERK OF RECORDS  
BY

RECEIVED  
BALTIMORE COUNTY  
MAY 1 10 15 AM '79  
CLERK OF RECORDS  
BY

494-3180

## County Board of Appeals

Room 219, Court House  
Towson, Maryland 21204  
October 9, 1979

David G. Willemain, Esquire  
108 Jefferson Building  
Towson, Maryland 21204

Re: Case No. 78-26-R  
Lane Realty, Inc.

Dear Mr. Willemain:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

*John W. Hessian, III*  
John W. Hessian, III, Secretary

Encl.

cc: Mr. Leon A. Crane  
Mr. James Smith  
Mr. Richard Maytin  
Ms. Yvonne Williams  
Mr. George A. Rao  
John W. Hessian, III, Esquire  
Mr. J. E. Dyer  
Mr. W. E. Hammond  
Mr. J. D. Seyffert  
Mr. J. G. Howell  
Board of Education

LAWS OFFICES OF  
DAVID GRANT WILLEMMAIN  
SUITE 108 JEFFERSON BUILDING  
105 WEST CHESTER AVE  
TOWSON, MARYLAND 21204  
(301) 296-1535

August 21, 1979

The Honorable Robert L. Gilland  
The Honorable Leroy B. Spurrier  
The Honorable Patricia Millhouser  
Baltimore County Board of Appeals  
Court House  
Towson, Maryland 21204

RE: Reclassification Appeal of  
Leon A. Crane, et al  
Case No. 78-26-R  
Our File #274C

Dear Ms. Millhouser and Messrs. Gilland and Spurrier:

We are enclosing herewith three counterparts of a Memorandum in Support of Petition for Reclassification which we would appreciate your considering carefully before rendering your decision in this matter.

Your courtesy and cooperation in this matter has been sincerely appreciated.

Very truly yours,

*David Grant Willemmain*  
David Grant Willemmain

RECEIVED  
BALTIMORE COUNTY  
MAY 21 12 00 PM '79  
CLERK OF RECORDS  
BY

LAWS OFFICES OF  
DAVID GRANT WILLEMMAIN  
SUITE 108 JEFFERSON BUILDING  
105 WEST CHESTER AVE  
TOWSON, MARYLAND 21204  
(301) 296-1535

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Very truly yours,

*David Grant Willemmain*  
David Grant Willemmain

RECEIVED  
BALTIMORE COUNTY  
MAY 21 12 00 PM '79  
CLERK OF RECORDS  
BY

Baltimore County  
Office of Planning and Zoning  
TOWSON, MARYLAND 21204  
(301) 484-3363  
S. ERIC DINENNA  
ZONING COMMISSIONER

March 3, 1978

Messrs. David Grant Willemmain  
and Michael Paul Tanczyn  
108 Jefferson Building  
Towson, Maryland 21204

RE: Petition for Reclassification  
NE/S of Timonium Lane, 960' NE of  
Windsor Mill Road - 2nd Election  
District  
Lane Realty, Inc. - Petitioner  
NO. 78-26-R (Item No. 5)

Gentlemen:

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

Very truly yours,

*S. Eric Dinenna*  
S. ERIC DINENNA  
Zoning Commissioner

SED/mc

Attachments

cc: Mr. James Smith  
7407 Millwood Road  
Baltimore, Maryland 21207

Mr. Richard Maytin, President  
Hebboville Elementary School P.T.A.  
3335 Washington Avenue  
Baltimore, Maryland 21207

John W. Hessian, III, Esquire  
People's Counsel

Baltimore County  
Office of Planning and Zoning  
TOWSON, MARYLAND 21204  
(301) 484-3363  
S. ERIC DINENNA  
ZONING COMMISSIONER

March 21, 1978

Mr. James Smith  
7407 Millwood Road  
Baltimore, Maryland 21207

Re: Petition for Reclassification for Lane Realty, Inc.  
#78-26-R

Dear Sir:

Please be advised that appeals have been filed by John W. Hessian, 3rd, People's Counsel and David Grant Willemmain, Esq., attorney for Petitioner, Lane Realty, Inc., from the decision rendered by the Zoning Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is scheduled by the Baltimore County Board of Appeals.

SED/ha  
cc: Mr. Richard Maytin, President  
Hebboville Elementary School, P.T.A.  
3335 Washington Avenue  
Baltimore, Maryland 21207

David G. Willemmain, Esq.  
108 Jefferson Building  
Towson, Maryland 21204

John W. Hessian, 3rd, Esq.  
People's Counsel

Very truly yours,  
*S. Eric Dinenna*  
S. ERIC DINENNA  
ZONING COMMISSIONER

August 1977

David Grant Willemain, Esq.  
106 Jefferson Building  
Towson, Md. 21204

**NOTICE OF HEARING**

Re: Petition for Reclassification for Lane A. Crane - Lane Realty, Inc.  
7/16/77  
Item #5

TIME: 8:00 A.M.

DATE: Monday, September 9, 1977

PLACE: ROOM 106 COUNTY OFFICE BUILDING, 111 W. CHESAPEAKE AVENUE,

TOWSON, MARYLAND

*Eric D. Dienna*  
ZONING COMMISSIONER OF  
BALTIMORE COUNTY

Baltimore County  
Office of Planning and Zoning  
TOWSON, MARYLAND 21204  
(301) 491-3251  
S. ERIC DIENNA  
ZONING COMMISSIONER

David Grant Willemain, Esq.  
106 Jefferson Building  
Towson, Md. 21204

Re: Petition for Reclassification for Lane Realty Co.  
Cycle #1 - Item #5

Dear Sir:

You are attorney of record in the above captioned case. In order to assist in scheduling your case and allotting sufficient time for its hearing, it is requested that you furnish us, by return mail, the information asked on the questionnaire, listed below:

1. Number of witnesses you anticipate calling One
2. How many of these witnesses will be "expert witnesses"?
3. Fields to be covered by experts you intend to call - please check:



Land Planner \_\_\_\_\_  
Real Estate \_\_\_\_\_  
Engineer \_\_\_\_\_  
Traffic \_\_\_\_\_  
Other \_\_\_\_\_

4. Total time required (in hours) for presentation of your side of the case One

Please return the above information by

JULY 11, 1977

O.K. - R.R.



Attorney for Protestants ( )  
*David Grant Willemain*  
Attorney for Petitioners (X)  
Very truly yours,  
*Eric D. Dienna*  
S. ERIC DIENNA  
ZONING COMMISSIONER

June 1977



DAVID GRANT WILLEMANN  
ATTORNEY AT LAW  
SUITE 402, JEFFERSON BUILDING  
106 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 286-1936

July 11, 1977

Mr. Nicholas B. Commodari,  
Chairman  
Zoning Plans Advisory Committee  
Baltimore County Office Building  
Towson, Maryland 21204

Re: Reclassification  
Item No. 5 - First Cycle  
Petitioner: Lane Realty, Inc.  
et al

Dear Mr. Commodari:

Pursuant to our conversation of July 7, 1977, in your office, it is our understanding that the petitioner's engineer erred in preparing the revised plat that has been filed in this case in that he provided only a 35 foot set back between building No. 22 in parcel D and the property line. Because the distance indicated is meant only to be an approximation, we are accordingly not requesting a variance in the set back requirements on this building.

We sincerely appreciate your having brought this matter to our attention.

Very truly yours,

*David Grant Willemain*  
David Grant Willemain

DGW:ba

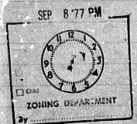
cc: Mr. Leon A. Crane

7/17/77  
9:16 A.M.

As a property owner at 3115 Hartside Avenue I am writing this letter as a protest against rezoning the property on Winans Lane and Windsor Mill Road. My husband and I went riding this weekend and we counted many apartment projects and shopping centers within our neighborhood. Starting at Woodlawn Drive up to Rolling Road, there are 10 apartment projects. Liberty Road from Woodlawn up to Old Quirt Road, there are 7 apartment projects. That is a total of 17 apartment projects. Then we counted 13 shopping centers from Woodlawn up to Deer Park Road, Randallstown and 7 from Ingleside Avenue to Rolling Road. There are 3 country stores on Windsor Mill Road, Eulers and Hebbville Country Store, and a new Farm Store at Rolling Road and Windsor Mill Road. That is a total of 30 shopping centers and 3 stores/grocery stores in our area. So we feel we have our share of apartments and stores around our community. Also I talked with many people as I took a petition around and they voiced their opinion about having a park with playground and tennis court, after all what is wrong with having green grass and trees around this area. If there is going to be any construction, what is wrong with having homes without basements, there are many homes in

this area without basements.

James & Janet Unstad  
3115 Hartside Avenue  
Baltimore 7, Maryland 21207  
944-4239



Baltimore County  
Office of Planning and Zoning  
TOWSON, MARYLAND 21204  
(301) 491-3251  
S. ERIC DIENNA  
ZONING COMMISSIONER

David Grant Willemain, Esq.  
106 Jefferson Building  
Towson, Md. 21204

Re: Petition for Reclassification for Lane Realty, Inc.  
7/16/77  
Item #5

Dear Sir:

This is to advise you that \$300.00 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Md. and remit to Mrs. Anderson Room 113 County Office Building, before the hearing.

Yours very truly,

*Eric D. Dienna*  
S. ERIC DIENNA  
ZONING COMMISSIONER

August 22, 1977

Hebbville Elementary School P.T.A.  
5535 Washington Avenue  
Baltimore, Maryland 21209  
September 8, 1977

**PROTESTANT'S EXHIBIT A**

Mr. S. Eric Dienna  
Baltimore County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Dear Mr. Dienna:

This letter is in regard to the request for a zoning change in the area of Windsor Mill Road, Timanus Lane, Castlemoor Road and Liberty Gardens Road.

There is much traffic congestion in the above-mentioned area and to build a shopping center and apartment complex would only add to this problem. Due to the hazardous walking conditions along Timanus Lane, Castlemoor Road and Liberty Gardens Road, children are bused to school.

This area was zoned single-family residential approximately 12 years ago. Since then, many shopping centers and apartment complexes have been built in this area to accommodate the population growth.

Actually, there are already too many apartment complexes, service stations, shopping centers, carry-outs, liquor stores and other businesses detrimental to the home owners in this area. This high density area is bordered by the heavy congestion along the Liberty Road corridor and that of Windsor Mill Road.

A majority of the residents in the area affected by the proposed zoning change are opposed to this change to further commercialize and congest their neighborhoods and want this made known at the zoning board hearing on September 9, 1977.

Sincerely,

*Richard Mayhew*  
Richard Mayhew  
President  
Hebbville Elementary School P.T.A.

RM/coc

7/16/77  
3/13 Crown Ave  
Baltimore, Md 21207

Mr. S. Eric Dienna  
Zoning Commissioner  
111 W. Chesapeake Ave  
Baltimore County Office Bldg.  
Towson, Md 21204

Re: Proposed rezoning for  
Bldg. By Corbett on White  
Mill Rd

Dear Sir:

There are too many stores and apartment in our area now.

We have empty food stores closed now due to lack of business. There is a new food store going to open on the corner of Windsor Mill Road and an old food store at the same corner that has been there for years.

We have traffic and traffic noise on our streets and trying to get out of my street on Hebbville Mill Road. Also I have tried to get out on Windsor Mill from Timanus Lane and for the same traffic. I hope I never have an emergency or I would be out of luck.

We also have plenty of kind of with or down system, and all it would be a burden on that.





We have house around here shot  
as selling and people are still looking  
for more.  
There are plenty of house in my  
development that I'll not have basement  
and they sell.

When making you decide  
on the I hope you will take  
all into thought

Yours truly  
Calvin J. Robinson

200 File  
9/7/77

Sir,  
As a property owner at 3115 Bartside Ave  
I am writing this letter as a protest against  
reopening the property on Timonium Lane and  
Windsor Mill Road. My husband and I went  
riding this weekend, and we committed many  
apartment projects and shopping centers within  
our neighborhood. Starting at Woodlawn Drive  
up to Rolling Road, there are 12 apartment projects  
Liberty Rd. from Woodlawn to Old Court Rd, there  
are 7 apartment projects. That is a total of 19  
apartment projects. Then we counted 13 shopping  
centers, from Woodlawn up to Deep Park Rd,  
Randallstown and 7 from Ingleside Avenue to  
Rolling Rd. There are 3 country stores on Wicks  
Mill Rd, Eulers and Hebbville Country stores, and  
a new Farm Store at Rolling Rd. and Windsor Mill  
Rd. That is a total of 30 shopping centers and 3  
grocery stores in our area. So we feel we have  
our share of apartments and stores around our  
community. Also I talked with many people as  
I took a petition around, and they voiced their  
opinion about having a park with playground  
and tennis courts, after all what is wrong with  
having green grass and trees around this area.  
If there is going to be any construction, what is  
wrong with having homes without basements,  
there are many homes in this area without

basements.

James & Janet Unstead  
3115 Bartside Avenue  
Baltimore, Maryland 21207  
944-4239



Bar

Mr & Mrs Billenna  
Zoning Commissioner  
Baltimore County Office Building  
111 W Chesapeake Ave  
Towson MD 21204

7207 Charlie Moor Road  
Jedburgh, MD 21207  
5 September 1977

RE Zoning Lot at Windsor Mill Road  
and Timonium Lane

Dear Mr Billenna

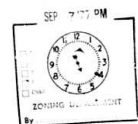
It has come to my attention that someone has petitioned  
that the 25 acre lot at the above location. The requested change would  
change zoning from residential to shopping center and apartments.

As a resident of this area, please be advised of my opposition  
to such a change in zoning. This is certainly does not and more stores.  
Many in the area are already present. Also, there is an abundance of  
apartments already in the area. If such changes were made the traffic  
problems already in existence would change drastically for the worse.

Thank you for your time and consideration in this matter.

Very truly yours,

Rae C Davidson  
Rae C Davidson



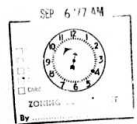
3106 Jeffery Road 11-24  
Baltimore, Md. 21207  
September 2, 1977

Dear Mr. Davidson,  
As a resident property owner in  
the neighborhood of Windsor Mill Rd. and  
Timonium Lane, I anxiously agreed that you  
during the latest request of Lane County Co. for  
reclassification at the hearing, Friday, Sept 2nd.  
While I do believe that a citizen has  
the right to use his property in any way he  
sees fit, I also believe that some citizens  
have a responsibility to his immediate neighbors  
here. (Especially if they have voiced opinions  
regarding the way he plans to utilize his land.)  
The residential composition of the area  
with the beautiful wooded atmosphere that  
his property afforded, was one of the reasons  
I chose to live here. His argument that  
there is a need for apartments is not valid.  
Less than a block from the site down  
Berkshire Street from Windsor Mill and through  
the Liberty Apartments, you can observe  
several "For Sale" signs.  
The traffic congestion that the State &  
Electric Co generates is a deplorable sight.  
But can you imagine what it could be if

the proposal is granted.  
I feel that the area is saturated  
with shopping facilities already. Can  
going to the existing centers does not cause  
traffic problems (as he cites as his ppl  
reason in the petition). A new center with  
merchandise trucks, people coming into  
the neighborhood would cause monumental  
traffic problems.

I know that yours is an anxious task.  
Making wise decisions is never easy.  
But I earnestly implore you - please  
please don't let this one property owner  
spoil what so many of us have worked  
to obtain.

Respectfully,  
Ellen L. Dutton  
(Mrs. Edward L. Dutton)



Bo

Mr. J. Eric Billenna  
Zoning Commissioner  
111 W. Chesapeake Avenue  
Baltimore County Office Building  
Towson, Maryland 21204

Mr. Gary Buddles  
202 Loyola Federal Building  
Towson, Maryland 21204

This letter is in regards to the zoning change request for the 25 plus acres  
involving Windsor Mill Road, Timonium Lane and Castleman Avenues.

We are greatly opposed to this change request for many reasons. The major of  
them listed herein.

Within 1/2 mile radius of this area are numerous apartment complexes with vast  
amounts of vacancies. We feel that more apartments are not required. Not only  
for the reason that they are fire hazards and a starting point for local trouble  
but also for the reason that the roads in this area cannot handle the additional  
traffic flow. Windsor Mill Road, Castleman Road and Liberty Gardens Road do  
not have any available space for widening the roads. They are all residential  
roads with the houses or apartments placed very close to the road. Timonium Lane,  
in part, is wide but at the end in front of my house it narrows and with the  
spectator coming over the hill it is impossible to park on the street in front of  
my own home. In the event we do, we are taking the chance of having the car hit.  
Many a time cars have come to a halting stop to allow for oncoming traffic to be  
able to pass because we are pushed out in front of our own home. Plus we are not  
able to pull right out of our driveway. It is always a waiting period.

If a heavy rainfall or snow storm occurs the flat portion of Timonium Lane (the  
majority of it) always floods. There appears to be no drainage in the wooded  
side of the road hence the water lags there until it becomes so abundant that it  
gradually lays in the street then it works its way to the street drain on the  
residential side of the street. Meanwhile its cars using Timonium Lane as a  
thoroughfare are almost halted to a complete stop as only one car at a time can  
go through the water and then may choke their way through and may even stop.  
I have tried to get ahead of the State Roads Commission when the road got this  
way but it was a losing battle. I was transferred from department to department  
with no results.

September 6, 1977

At the low end of Timonium Lane at Castleman Road you are on an ice patch for  
the majority of winter with no salt aid from the State Roads Commission.

The speeding situation on Timonium Lane has gotten out of hand. Recently, radar  
has been on the road but I do not feel it has been put to its proper use. The  
police are sitting across Seabill Road and this gives anyone coming over the hill  
a view of the police, a chance to slow down and also be able to turn into Washill  
without being stopped. A radar gun is not used and only one pull down is used.  
This action is helping many speeders get away. 25 MPH speed limits are posted  
but are not honored.

When the Gas & Electric Company was built the houses on Timonium Lane and Seabill  
Road were infested with rats. We are of with the County to alleviate this  
problem and were told that if the reason was in question we would be built so  
that we would have a bigger and more uncomfortable rat problem with the tearing  
of the ground directly in front of our property. That was a very unscrupulous  
and thoughtless experience to go through and we do not want to be faced with it  
again. We were afraid to let the children use the house during the day because  
the rats were so brave that they even made their appearance in daylight. At  
night the dogs that stayed out let you know the rats were working around. Then  
it was very bad for children and adults when as a last solution rat poisoning  
had to be used.

In regards to the commercial zoning request, we feel that 11 of the above  
reasons stated, in addition to the fact that the stores of any kind are not  
needed. We are plagued with many shopping centers within the area, both large  
and small. Within 1/2 mile radius we have two small country stores that carry  
everything imaginable for the home and a new Farm store. Within a mile or so every  
large name grocery store. And even an A&P that has been shut down and at empty  
for nearly two years. An store there has been a new store within the last 4 or 5  
years. We feel this helps prove the need for a commercial zoning request be  
denied.

Conclusion  
We have been told that this area is considered a low income area. People have  
to work too hard to be able to live in this area and we are scared and scared  
very hard to get this money and to keep it from leaving it. We feel that this title  
is not justified. The neighborhood is very well kept and we as a whole are  
greatly against zoning or being forced into income value on our homes and  
property because one individual wants to become rich. As a neighborhood  
stand to lose more than the one man owning the property in question intends to  
gain over his get rich quick scheme.



David M. Kelly for  
Mr. & Mrs. Thomas G. Kelly  
3137 Timonium Lane  
Baltimore, Maryland 21207



7301 Greenfield Ave.  
Balt., Md. 21207  
Sept. 5, 1977

Mr. S. Eric DiNenna, Zoning Commissioner  
111 West Chesapeake Avenue  
Baltimore County Office Building  
Towson, Maryland 21204

Dear Mr. DiNenna:

On Friday, September 9, 1977 at 10 a.m. a Hearing will be held on the Petition of Lane Realty to rezone 25 acres of land they own at Windsor Mill Road and Timanus Lane from a DR 5-5 to DR 10 B-1 which would allow them to build apartments and/or shopping center.

As a resident of this community for nearly nine years, I object to the reclassification of this land. These apartments and/or shopping center would be clearly visible from my home. Listed below are my comments to the allegations stated in Lane Realty's Petition:

1. It stated that unsightly use of nearby properties would prevent single family homes from selling. This is a small area with perhaps two or three businesses involved. This problem could be eliminated by leaving a strip of trees between the developed area and these businesses.

2. Construction costs for single homes are indeed high but I do not believe they are any higher in this area than any other part of Baltimore County.

3. All of the homes in Liberty Gardens are built on rock. Some of us have basements, others do not. My own home is a split-level. All new homes do not need basements.

4. The idea that there is a need for a local shopping center is absolutely ludicrous. Available within five to ten minutes from my home is a Giant, A & P, Penny Foods, and Foodarama not to mention the many small grocery and retail

stores along Liberty Road. At the junction of Windsor Mill Road and Rolling Road a new Farm Store is about to be opened. It should also be mentioned that a Food Fair store in Woodmoor Shopping Center lay vacant for four years before the Foodarama moved in.

5. Windsor Mill and Rolling Roads are already heavily traveled streets. With the building of a shopping center and/or apartments, the traffic problem in the area would greatly increase. It is now extremely dangerous for our children to walk on these streets to the neighborhood store.

6. It is difficult for me to believe there is a critical need for apartments in the area with the recent building of apartments on Rolling Road and Featherbed Lane.

As homeowners, naturally my husband and I are concerned that our taxes would probably stay the same but that the value of our property will positively decrease with the erection of apartments and/or shopping center. But this also raises further questions in my mind as to how this will affect my children. I understand that Windsor Mill High School is already so crowded that three or four trailers will be needed to hold classes. As a mother of three children who are in the public schools, one of whom will be attending Windsor Mill next year, how will 220 or so additional families in the neighborhood affect their education?

New sewage pipes have just been laid in Windsor Mill Road to help alleviate serious sewage problems in the Guyton Falls area. With the addition of 220 or so families would not these pipes already become obsolete?

In our Fire Department on Windsor Mill Road and Volunteer Fire Department on Woodlawn Drive capable of handling these additional families.

As a layman I do not know how to find the answers to these questions, but I believe they are serious enough to warrant the attention of the Planning Board.

After carefully considering the facts in this case, I sincerely hope the Planning Board will vote against the Petition of Lane Realty.

Very truly yours,

(Mrs) Janet D. Milewski

JANET D. MILEWSKI

Jdm

cc: Councilman Gary Huddles



September 6, 1977

Commissioner S. Eric DiNenna  
111 W. Chesapeake Avenue  
Baltimore County Office Building  
Towson, Maryland 21204

Dear Commissioner S. E. DiNenna:

I would like to voice my opinion and petition against the construction of ~~apartments and/or shopping center~~ at the vacant lot at Timanus Lane and Windsor Mill Road. I would like to see many of my neighbors in my community, to keep this piece of land zoned for single family homes.

The traffic in our neighborhood is already too heavy. I don't need or want any more cars coming racing down our streets. If, the apartments and/or shopping centers were granted to be built, the already heavily traveled ~~major roads~~ will be even more congested, which will mean more accidents, and property damage.

I have a feeling, building contractors must live in lovely homes with beautiful landscapes, acres upon acres buffering the unwanted environment that we are living in. Why not let them build around their homes, instead of shoving what we don't want down our throats? For a while, I never did understand what Civilization meant, but there is no question in my mind now.

In my neighborhood within a two three mile radius the following apartments can be found:

Timanus Lane

Oakview Apartments  
Liberty Gardens Apartments

Windsor Mill Road

Windsor Mill Apartments

Liberty Road

Belmont Apartments  
Dumbell Village Apartments  
Liberty West Apartments  
Riverview Apartments  
Riverside Apartments  
Savoy East Apartments

Rolling Road

Featherbed Lane Apartments  
Hershey Square Apartments  
Dale Lakes Apartments  
Garden Woods  
Town & Country

St. Johns Lane

Town & Country  
Fox Haven  
Lantern Hill  
Brookside Manor

Again within a two or three mile radius or less, Shopping Centers as listed below can be found:

Woodmoor Shopping Center  
Liberty Crest Shopping Center  
Riford Hill Shopping Plaza  
Liberty Plaza  
Liberty Court Shopping Center  
Savoy Plaza

Up and down Liberty Road from Washington Avenue to its intersection with the south side of the street, there are a multitude of stores and shopping centers to be found. There are abundance of shopping centers all around.

The construction of apartments and/or shopping center not only create heavier traffic, but also ~~additional congestion, and drainage problems already existing.~~

This would also mean an unjust moving of a family or families; unjustly creating more taxes to be paid by taxpayers who don't need it; pay more taxes for what I say, taxpayers who don't want to pay more taxes; and creating the demolition of real and personal property.

I am ~~totally~~ against the ~~reclassification~~ and construction of apartments and/or shopping centers.

I hope you will consider the human factor, we are average people, some families working to live peacefully away from the maddest crowd!

Respectfully yours,  
Robert L. Linder

**SPELLMAN, LARSON & ASSOCIATES, INC.**

SUITE 110 - JEFFERSON BUILDING  
108 W. CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
822-3000

ROBERT E. SPELLMAN, P.L.C.  
JOSEPH E. LARSON  
LOUIS J. PARRISH, P.E.  
WILLIAM H. COLEMAN, P.L.C.

January 12, 1979

Mr. Lester Graef  
Planning Director  
Baltimore County  
New Courts Building  
Towson, Maryland 21204

RE: Property at the northeast corner  
Timanus Lane and Windsor Mill Road  
Zoning Case No. 78-25-R  
Lane Realty, Inc.

Dear Mr. Graef:

I represent Mr. Charles Crane owner of the above captioned property which is currently pending a zoning appeal brought by the Peoples Council.

Mr. Crane's property was down-zoned on the 1976 Zoning Map whereby Mr. Crane petitioned this down-zoning before the Zoning Commissioner and was granted his original zoning in the Fall of 1977. This case was then appealed by the Peoples Council and is presently pending hearing of that appeal.

My client's concern at this point is the immediate adoption of the Liberty Road Commercial Building Moratorium within the Liberty Road Action Program Area which area encompasses the subject site. Mr. Crane is prepared at this point and has been prepared to proceed with the necessary development plans to process the subject project to a building permit. Of course the zoning action is precluding any development until the case has been decided. I believe you can use the volume that up effect ~~from~~ transfer as any future development is concerned. What I am anxious is that after the zoning appeal process has ended and if my client is successful it is very possible that he may then be prohibited from development due to the adoption of the Liberty Road Moratorium.

I totally understand that there exists certain ambiguous possibilities with regard to this situation, notably: the final decision in the zoning appeal case and also the decision of the Council with regard to adoption of the Liberty Road Moratorium. At this point it is Mr. Crane's intention to try to protect his interests should his appeal case be granted in his favor and should the Council adopt the Liberty Road Moratorium. Therefore, I wish to respectfully request that Mr. Crane be allowed to build the above project occur that his site be made exempt from the Liberty Road Moratorium.

My client's intention and concern is that he be allowed to proceed with the development of his property once the zoning decision is granted.

I would appreciate your consideration insofar as this case is concerned and acknowledgment insofar as your decision at your earliest possible conference.

Respectfully yours,

SPELLMAN, LARSON & ASSOCIATES, INC.

Joseph L. Larson

cc: S. DiNenna  
C. Crane

494-3180

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

January 5, 1979

David G. Willmetts, Esq.  
108 Jefferson Building  
Towson, Maryland 21204

Re: Reclassification Petitions  
Case 78-26-R Lane Realty, Inc., et al

Dear Mr. Willmetts:

Enclosed please find a copy of the recently enacted Bill 122-78 which affects your petition. No further hearings on reclassification petitions will be held until the petitions advise the Board as to their intentions within the period of this act.

Your prompt reply is necessary.

Very truly yours,

Walter A. Rether, Jr., Chairman

WAR:re

Enclosure: Bill 122-78

cc: Michael P. Tanczyn, Esq.  
Mr. Lynn A. Crane  
Mr. James Smith  
Mr. Richard Maytin, Pres. Hobbsville El. School PIA  
John W. Heslam, III, Esq.  
Mr. George A. Roy, Liberty Rd. Comm. Council, Inc.  
✓ Mr. S. E. DiNenna  
Mr. James Dyer  
Mr. Leslie Graef  
Mr. Gary Bull  
Board of Education

cc: Mrs. Carol Beresh

**B. D. LYNCH CO., INC.**

CONSTRUCTION LAYOUT  
4807 HANFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL. 254-4636

ZONING DESCRIPTION

7.48 ACRE PARCEL, NORTHWEST CORNER OF TIMANUS LANE AND WINDSOR MILL ROAD, SECOND ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR B.L. ZONING

PARCEL "E"

Beginning for the same at point located at the centerline of Timanus Lane at Windsor Mill Road. Said point being 15.00 feet distant, as measured northeasterly, from the centerline of Windsor Mill Road. Thence running with and binding on the centerline of Timanus Lane: (1) North 12 degrees 22 minutes 46 seconds east, 1000.00 feet. Thence leaving Timanus Lane for the following three courses: (2) North 72 degrees 15 minutes 21 seconds west, 519.31 feet and (3) South 01 degree 55 minutes - 00 seconds east - 779.98 feet (4) South 00 degrees - 34 minutes - 15 seconds west - 162.00 feet to Windsor Mill Road. Thence running along Windsor Mill Road: (5) South 55 degrees 44 minutes - 09 seconds east - 308.64 feet to the place of beginning.

Containing 7.48 acres of land more or less.





B. D. LYNCH CO., INC.  
CONSTRUCTION LAYOUT  
4907 HARFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL. 254-4936

ZONING DESCRIPTION

3.86 ACRES PARCEL, NORTH CORNER OF CASTLEMOOR ROAD AND LIBERTY GARDENS ROAD, SECOND ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR DR-16 ZONING

PARCEL "D"

Beginning for the same at the point of intersection of the centerline of Castlemoor Road and the northwest side of Liberty Gardens Road, running thence binding on the northwest side of said Liberty Gardens Road, (1) north 41 degrees 42 minutes 40 seconds east 300.00 feet, thence three courses: (2) north 55 degrees 57 minutes 00 seconds west 565.05 feet, (3) south 41 degrees 45 minutes 10 seconds west 300.03 feet and (4) south 55 degrees 57 minutes 00 seconds east 565.27 feet to the place of beginning.

Containing 3.86 acres of land, more or less.



(1)

B. D. LYNCH CO., INC.  
CONSTRUCTION LAYOUT  
4907 HARFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL. 254-4936

ZONING DESCRIPTION

4.87 ACRE PARCEL, NORTHEAST SIDE OF DOOMAN ROAD, NORTHWEST SIDE OF TIMANUS LANE AND SOUTH SIDE OF CASTLEMOOR ROAD, SECOND ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR DR-16 ZONING

PARCEL "C"

Beginning for the same at a point on the northeast side of Dooman Road, 50 feet wide, at a distance of 782 feet, more or less, as measured southeasterly along the northeast side of said Dooman Road from its intersection with the southeast side of Richmond Avenue, 50 feet wide, thence binding on the northeast side of said Dooman Road, two courses: (1) Southeasterly, by a curve to the left with the radius of 575.00 feet, the distance of 212 feet, more or less, and (2) south 77 degrees 37 minutes 14 seconds east 304 feet, more or less, thence binding on the fillet curve which connects the northeast side of said Dooman Road with the northwest side of Timanus Lane, 60 feet wide, (3) northeasterly, by a curve to the left with the radius of 20.00 feet, the distance of 31.42 feet, thence binding on the northwest side of said Timanus Lane, (4) north 12 degrees 22 minutes 46 seconds east 427 feet, more or less, thence binding on the fillet

(2)

curve which connects the northwest side of said Timanus Lane with the south side of Castlemoor Road, as proposed to be widened, (5) northwesterly, by a curve to the left with the radius of 20.00 feet, the distance of 34.35 feet, thence binding on the south side of said Castlemoor Road, (6) north 86 degrees 01 minutes 50 seconds west 316 feet, more or less, thence four courses: (7) south 61 degrees 46 minutes 00 seconds west 329 feet, more or less, (8) south 48 degrees 13 minutes 54 seconds east 57 feet, more or less, and (9) south 52 degrees 59 minutes 38 seconds east 55 feet, more or less, and (10) south 33 degrees 29 minutes 39 seconds west 125 feet, more or less, to the place of beginning.

Containing 4.87 acres of land, more or less.



B. D. LYNCH CO., INC.  
CONSTRUCTION LAYOUT  
4907 HARFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL. 254-4936

ZONING DESCRIPTION

4.92 ACRE PARCEL, SOUTHEAST SIDE OF DOOMAN ROAD, 101.66 FEET, SOUTHWEST OF CRESSON AVENUE, SECOND ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR DR-16 ZONING

PARCEL "B"

Beginning for the same at a point on the southwest side of Dooman Road, 50 feet wide, at the distance of 101.66 feet, as measured southeasterly along the southwest side of said Dooman Road from its intersection with the southeast side of Cresson Avenue, 50 feet wide, running thence binding on the southwest side of said Dooman Road, (1) southeasterly, by a curve to the left with the radius of 625.00 feet, the distance of 88 feet, more or less, thence three courses: (2) south 12 degrees 22 minutes 46 seconds west 686 feet, more or less, (3) south 01 degrees 55 minutes 00 seconds east, 143 feet, more or less, and (4) north 55 degrees 13 minutes 17 seconds west 468 feet, more or less, thence binding on the rear of the lots fronting on said Cresson Avenue, six courses:

(2)

(5) north 29 degrees 19 minutes 15 seconds east 323 feet, more or less, (6) north 36 degrees 22 minutes 56 seconds east 58 feet, more or less, (7) north 47 degrees 01 minutes 24 seconds east 210 feet, more or less, (8) south 87 degrees 58 minutes 36 seconds east 43 feet, more or less, (9) north 02 degrees 01 minutes 24 seconds east 43 feet, more or less, and (10) north 38 degrees 29 minutes 00 seconds east 94 feet, more or less, to the place of beginning.

Containing 4.92 acres of land more or less



(1)

B. D. LYNCH CO., INC.  
CONSTRUCTION LAYOUT  
4907 HARFORD ROAD  
BALTIMORE, MARYLAND 21214  
TEL. 254-4936

ZONING DESCRIPTION

7.47 ACRE PARCEL, NORTHWEST SIDE OF TIMANUS LANE, 960 FEET, MORE OR LESS, NORTHEAST OF WINDSOR MILL ROAD, SECOND ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND.

THIS DESCRIPTION IS FOR B-1 ZONING

PARCEL "A"

Beginning for the same at a point on the northwest side of Timanus Lane, 60 feet wide, at the distance of 960 feet, more or less, as measured northeasterly along the northwest side of said Timanus Lane, from its intersection with the northeast side of Windsor Mill Road, said beginning point being in the second line of the Baltimore County Zoning Description, 2-B-1-38, running thence binding on the northwest side of said Timanus Lane, (1) North 12 degrees 22 minutes 46 seconds East-687 feet, more or less, thence binding on the fillet curve which connects the northwest side of said Timanus Lane with the southwest side of Dooman Road, as proposed to be laid out 50 feet wide, (2) Northwesterly, by a curve to the left with the radius of 20.00 feet, the distance of 31.42 feet, thence binding on the south west side of said Dooman Road, two courses:

(2)

(3) North 77 degrees 37 minutes 14 seconds West 304 feet, more or less, and (4) northwesterly, by a curve to the right with the radius of 625.00 feet, the distance of 156 feet, more or less, thence (5) South 12 degrees 22 minutes 46 seconds west 686 feet, more or less, to the end of said second line, thence binding reversely on a part of said second line, (6) south 72 degrees 15 minutes 21 seconds east 479 feet, more or less, to the place of beginning.

Containing 7.47 acres of land, more or less.



PETITION FOR RECLASSIFICATION

2nd DISTRICT

ZONING: From D.R. 5.5 to L.2. 16 and B.1. Zones.  
LOCATION: Northeast side of Timanus Lane 960 feet Northeast of Windsor Mill Road.  
DATE & TIME: FRIDAY, SEPTEMBER 9, 1977 at 10:00 A.M.  
PUBLIC HEARING: Room 106, County Office Building, 111 V. Chesapeake Avenue, Towson, Maryland.

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Present Zoning: D.R. 5.5  
Proposed Zoning: D.R. 16 and B.1.

All that parcel of land in the Second District of Baltimore County

Being the property of Lane Realty, Inc., as shown on plat plan filed with the Zoning Department.

Hearing Date: Friday, September 9, 1977 at 10:00 A.M.  
Public Hearing: Room 106, County Office Building, 111 V. Chesapeake Avenue, Towson, Md.

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

DAVID GRANT WILLEMAIN  
ATTORNEY AT LAW  
SUITE 106 JEFFERSON BUILDING  
106 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204  
(301) 896-1836

October 6, 1977



Eric DiNenna, Esquire  
Zoning Commissioner for  
Baltimore County  
111 N. Chesapeake Avenue  
Towson, Maryland - 21204

RE: Petition No. 78-26-R  
Item 5 - Cycle 1

Dear Mr. DiNenna:

Pursuant to your request at the hearing on this matter on September 9, 1977, enclosed you will find Petitioner's Memorandum for your review. We appreciate and wish to commend you on the manner in which the hearing was conducted on this Petition.

Very truly yours,

*David Grant Willemain*

David Grant Willemain

DKW:kat  
Enclosure  
cc: Mr. James Smith  
John Hession, Esquire  
Mr. Leon Crane

RE: PETITION FOR RECLASSIFICATION  
NE/S of Timanus Lane 960' NE of  
Windsor Mill Road, 2nd District  
LANE REALTY, INC., Petitioners  
BEFORE THE ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 78-26-R

ORDER TO ENTER APPEARANCE

Mr. Commissioners:

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. Kountz, Jr.*  
Charles E. Kountz, Jr.  
Deputy People's Counsel

*John W. Hession, III*  
John W. Hession, III  
People's Counsel  
County Office Building  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 16th day of August, 1977, a copy of the foregoing Order was mailed to David Grant Willemain, Esquire, 106 Jefferson Building, Towson, Maryland 21204, Attorney for Petitioners.

*John W. Hession, III*  
John W. Hession, III



John W. Hession, III, Esq.  
James H. Dyer  
Zoning Office

People's Counsel  
Request Notification

Hobbsville Elementary School P.T.A.  
3333 Washington Avenue  
Baltimore, Maryland 21207  
September 8, 1977

PROTESTANT'S  
EXHIBIT A

Mr. S. Eric DiNenna  
Baltimore County Office Building  
111 N. Chesapeake Avenue  
Towson, Maryland 21204

Dear Mr. DiNenna:

This letter is in regard to the request for a zoning change in the area of Windsor Mill Road, Timanus Lane, Castlesnor Road and Liberty Gardens Road.

There is much traffic congestion in the above-mentioned area and to build a shopping center and apartment complex would only add to this problem. Due to the hazardous walking conditions along Timanus Lane, Castlesnor Road and Liberty Gardens Road, children are bused to school.

This area was zoned single-family residential approximately 12 years ago. Since then, many shopping centers and apartment complexes have been built in this area to accommodate the population growth.

Actually, there are already too many apartment complexes, service stations, shopping centers, carry-outs, liquor stores and other businesses detrimental to the home owners in this area. This high density area is bordered by the heavy congestion along the Liberty Road corridor and that of Windsor Mill Road.

A majority of the residents in the area affected by the proposed zoning change are opposed to this change to further commercialize and congest their neighborhoods and want this made known at the zoning board hearing on September 9, 1977.

Sincerely,

*Richard Maytin*  
Richard Maytin  
President,  
Hobbsville Elementary School P.T.A.

RW/cc

RE: PETITION FOR RECLASSIFICATION  
OF PROPERTY N/S TIMANUS LANE 960' NE  
S/E OF WINDSOR MILL ROAD 2d ED TO  
D.R. 16 AND D.L. ZONES  
\* BEFORE THE  
\* COUNTY BOARD OF APPEALS  
\* OF BALTIMORE COUNTY  
\* Case No. 78-26-R

MEMORANDUM IN SUPPORT  
OF PETITION FOR RECLASSIFICATION

FACTS

Petitioners have owned the subject property for more than 25 years. During this time and, in fact, shortly after Baltimore County first adopted a Comprehensive Zoning Plan for the County, part of this property was zoned for a community neighborhood shopping center in a business zone E in May, 1954, and Baltimore County rezoned the balance of the subject property B.L. and R.A. by Zoning Order 69-270-P.

Petitioner J.R. LEON A. CRANE, testified before the Zoning Commissioner on September 9, 1977, as to factors beyond his control which had hindered his attempts to develop the subject property as previously zoned. He had encountered substantial rock strata in developing single family residences and emplacing utilities near Timanus Lane beyond the subject property at tremendous expense. He also testified that the moratorium on development related to the Gwynns Falls sewerage problem had also delayed development of this property.

Petition was shocked when the Planning Board for Baltimore County, in preparing the proposed 1976 Comprehensive Zoning Plan for submission to the County Council, implicitly rejected the Planning Staff recommendation to retain the existing commercial zoning for the subject property, and urged the County Council to downshift the subject property to D.R. 5.5. The County Council did downshift the subject property, as recommended, while

concurrently retaining B.L. zoning to a smaller parcel on Windsor Mill Road to the southeast now developed as a commercial use.

The Petitioner seeks reclassification of the subject property to reinstate the previous zoning based on map error by the County Council in formulating the 1976 Comprehensive Zoning Plan for Baltimore County.

By an Order dated March 3, 1978, the then Zoning Commissioner, S. Eric DiNenna, did grant your Petitioners' request for reclassification of Parcels A and E from D.R. 5.5 Zones to B.L. Zones and denied the requested reclassification of Parcels C and B. Timely appeals of this Order were taken by both Petitioners and the Office of the People's Counsel.

A hearing before this Board was finally held on May 9, 1979, and continued on May 15, 1979.

Mr. Paul Lee of Paul Lee Engineering Inc., a highly qualified professional Civil Engineer who was accepted by the Board as an expert witness, testified that he had performed professional services for the Petitioners since approximately 1954, at which time he was employed by the firm then known as Matz, Childs and Associates.

Mr. Lee further testified that the Petitioners had developed residential subdivisions contiguous to the Subject Property and that he had recommended to the Petitioners that they not develop this property for single family homes either detached or townhouse because of the very serious rock problems they had encountered.

Mr. Lee further testified that his experience had been that if the Petitioners attempted to develop the Subject Property for single family homes, the additional excavation costs due to the rock condition would be between Five Thousand Dollars (\$5,000.00) and Seven Thousand Dollars (\$7,000.00) per unit.

Mr. Carl Heimmuller, a Real Estate Appraiser and

Consultant with more than fifty (50) years of experience in the Greater Baltimore Metropolitan area. He was duly qualified as an expert witness and testified for the Petitioners.

Mr. Heimmuller testified that the maximum value of the Subject Property as now zoned would be Three Thousand Dollars (\$3,000.00) per unit without any unusual difficulties in development such as rock.

Mr. Heimmuller further testified that he had studied the neighborhood and the marketplace in general, and that his findings showed that the single family homes without basements could not be constructed in the neighborhood and sold except at a loss. He further testified that there is a large demand for apartments in the area and that the Subject Property could be developed into garden apartments without suffering a loss only if it was rezoned to D.R. 16 because of the small number of units which could be erected under D.R. 5.5 zone in part because of transition zone requirements.

Bernard M. Willemain, M.C.P., a professional City Planner and consultant on the feasibility of land development projects. Mr. Willemain is without question one of, if not the, most highly qualified and respected experts in his field in the State of Maryland. He was, of course, duly qualified as an expert witness.

Mr. Willemain testified as to the nature of his study of the Subject Property which included a study of the neighborhood, all pertinent public records, and the market for various ways this property might be utilized. His findings were that:

(a) There exists a need for the B.L. zoning requested on parcels A and E; and

(b) Because of the configuration of Parcels A and E and the contiguous business and industrial uses, these parcels could not be developed for residential uses; and

(c) None of the Subject Property could be developed as it is presently zoned without actual economic loss to the Petitioners; and

(d) There is a serious need for apartments in the area; and

(e) The only economically possible use of Parcels C and B would be for commercial or industrial use; or in the alternative, for the development of garden apartments under D.R. 16 zoning; and

(f) The neighborhood would suffer no adverse effects if the zoning requested was granted.

Leon Crane, Esquire, one of the Petitioners, testified as to the history of the Subject Property and the nearby projects built by Petitioners. The uncontroverted testimony was that the Petitioners have suffered substantial losses on these projects and that the economics of today are such that much greater losses would be sustained if Petitioners attempted to develop all or any part of the Subject Property as it is presently zoned.

Mr. Crane further testified that the Petitioners suffered extreme losses due to astronomical costs in installing utilities and in attempting to sell houses without basements.

The matter of the ownership of the Subject Property was brought up and the uncontroverted evidence before the Board was that only a portion of Parcel A was "downshifted" on the 1976 map and that the Petitioners did not receive the notices of the proposed action as required by law including the regulations governing such actions and the Due Process provisions of the United States and Maryland State constitutions.

The People's Counsel produced as a witness Mr. James G. Hoswell of the Planning Office of Baltimore County. Because of the academic and work experience offered in support of his qualifications as an expert witness in the area of City Planning, Peti-



tioners objected vigorously to his acceptance by the Board as an expert. Nevertheless, the Board chose to accept him as such.

Mr. Hoswell testified:

(a) That the records of the Office of Planning show that apparently the Petitioners did not receive proper notice of the proposed downshift on the 1976 map; and

(b) That the development in the neighborhood since 1969 has been primarily apartments and commercial and industrial uses; and

(c) That the Petitioners obtained the zoning they are requesting be restored to there in two reclassification actions in 1969 and before; and

(d) That the transition zone requirements apparently make it impossible for your Petitioners to develop the Subject Property under the present D.R. 5.5 zoning and utilize all of the units available to them.

Mr. Hoswell testified on other matters as well. Generally, his testimony may be most kindly characterized as confused and contradictory.

The People's Counsel also offered Mr. Stephen Korn, a building engineer for Baltimore County, who was offered and accepted as an expert witness. Mr. Korn's responsibilities include the review of applications for building permits.

Mr. Korn explained to the Board the differences in the construction of houses with basements as opposed to "slab" houses without basements. He had reviewed the records of permits issued for slab houses in the region and testified as to the location of the sites for which the permits had been issued. All of the few sites were a substantial distance from the Subject Property and, by any definition, out of the neighborhood.

The People's Counsel also offered Mr. Michael F. Flannigan, a Traffic Engineering Associate II with Baltimore Coun-

ty, who was offered as an expert witness in the area of traffic engineering and accepted as such.

Mr. Flannigan testified as to the computations made by his office as to the traffic that would be generated by Petitioners obtaining the zoning they have requested. Mr. Flannigan was unable to adequately explain to the Board the manner in which these figures are calculated and conceded that they are not very accurate and amount to mere guesses. This part of the Witness' testimony should be ignored.

Mr. Flannigan also testified that the traffic situation in the neighborhood and affecting it has improved from both the date Petitioners originally obtained their commercial and apartment zoning and from the date of the enactment of the 1976 zoning map. He further testified that there are major improvements planned which would greatly improve the traffic problems in the neighborhood, but admitted that he had not reviewed these plans and could not testify regarding them.

In response to a question from the Chairman of the Board, Mr. Flannigan testified that the traffic situation in the neighborhood was very common in all of the urban areas of Baltimore County, and that it would be very difficult to find an area of the County which did not have similar problems at least as severe.

The People's Counsel produced numerous lay witnesses who testified to traffic conditions in the neighborhood. Such testimony should be ignored by the Board or given very little weight because it was contradictory to the testimony of their expert witness, they were unqualified to offer the opinions that they gave, and because the testimony was confused, contradictory and emotional.

Many of the Witnesses for both parties identified the unsightly commercial and industrial uses in the neighborhood

and agreed that they would not want to live on Parcel E and A as a result. The Board has before it detailed pictures showing these unsightly locations.

The Board has extensive testimony from the neighborhood opponents of the Project. Their testimony showed a serious lack of understanding of the process under which the Subject Property would be developed. Many of the situations which formed their objections would have to be rectified in order for the Petitioners to build on the Subject Property.

The testimony of the lay opponents was, to be most kind, emotional. There was testimony that the opposition was, in substantial part, due to a fear that the Petitioners might build apartment units which would be subsidized with federal housing funds. The fear was also expressed that crime rates in the neighborhood would increase because of the construction of apartments. No evidence in support of these fears was produced even though it was readily available with such projects as Liberty Gardens in the area. To the contrary, testimony was produced that there is little crime in the neighborhood and that property values have continued to increase.

Several of the People's Counsel lay witnesses testified to the very serious rock problem that they experienced in building or improving their own homes, and to the difficulty others, including your Petitioners, had had in the neighborhood, due to the serious rock problem.

#### ISSUES

I. WERE THE PETITIONERS PROVIDED WITH LEGALLY SUFFICIENT NOTICE OF THE PROPOSED DOWNSHIFTING ON THE 1976 ZONING MAP?

II. WAS PARCEL A OF THE SUBJECT PROPERTY DOWNSHIFTED ON THE 1976 ZONING MAP?

III. IS THE BOARD BARRED BY THE DOCTRINE OF RES JUDICATA TO DENY PETITIONER'S REQUESTED RECLASSIFICATION?

IV. DID THE BALTIMORE COUNTY COUNCIL ERRED IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS ENACTED INTO LAW?

V. DOES THE ACT OF DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 CONSTITUTE AN UNCONSTITUTIONAL CONFISCATION OF PETITIONER'S REAL PROPERTY, WITHOUT CONSIDERATION, IN VIOLATION OF THE UNITED STATES CONSTITUTION AS AMENDED?

VI. HAS THE PETITIONER PRESENTED A COMPELLING CASE, SUPPORTED BY REASONABLE PROOF, THAT THE SUBJECT PROPERTY SHOULD BE RECLASSIFIED AS PETITIONED UNDER THE PREVAILING STANDARD OF BALTIMORE COUNTY?

#### ARGUMENT

I. THE PETITIONERS DID NOT RECEIVE LEGALLY SUFFICIENT NOTICE.

The record on this issue is very clear and the legal principles are so clearly established that this issue will not be further pursued.

II. PARCEL A OF THE SUBJECT PROPERTY WAS NOT DOWNSHIFTED ON THE 1976 ZONING MAP.

The official records all show that at all times that portion of the Petitioners' property downshifted was 8.5 acres, approximated 0.5 acres more than Parcel E. At the most, 0.5 acres of A was downshifted. Under the circumstances, it is our position that none of it was downshifted.

III. THE BOARD IS BARRED FROM DENYING PETITIONERS REQUESTED RECLASSIFICATION.

The record is clear that this Board granted your Petitioners' zoning which was equivalent to the zoning they are requesting be restored to them in the 1954 and 1969 Zoning cases.

In addition, Petitioners retained this zoning on the 1972 Zoning Map.

The general rule is that "at least some of the principles of the doctrine of res judicata are applicable to decisions by zoning boards." Board of County Commissioners of Cecil County v. Racine, 24 Md. App. 475, 332 A2d 306 (1975); 3 American Law of Zoning section 20.50, n. 568.

The earlier Maryland law confined the res judicata doctrine to judicial tribunals and not administrative boards (Knox v. Balt., 180 Md. 87, 23 A2d 15 (1941)), but recognized:

"The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it may properly grant such a permit only if there has been a substantial change in conditions. This rule seems to rest not strictly on the doctrine of res judicata, but upon the proposition that it would be arbitrary for the board to arrive at opposite conclusions on substantially the same state of facts and the same law."

Whittle v. Board of Zoning Appeals, 211 Md. 36, 45, 125 A2d 41, 46 (1956)

The modern rule in Maryland was recognized in Woodlawn Assn. v. Board, 241 Md. 187, 216 A2d 149 (1965), where it was said at 123, 216 at 153:

"In light of the administrative procedures and adjudications which the District Council is required to follow and make in the process of rezoning, the principles of public policy which underlie the rule of res judicata logically would seem to be applicable to its actions in this respect."

See also: Rohde v. County Bd. of Appeals for Balto. County, 192 A2 216, 234 Md. 259 (1964); Chatham Corp. v. Betram, 243 Md. 118, 220 A2d 589 (1966).

Thus, whether the principle of res judicata is applied to a second action based on the same subject matter, the

same property, the same parties and especially the same circumstances or the older principle that an administrative board cannot act in an arbitrary and capricious manner, the result is the same: the issue has already been brought to a final disposition and should not be changed.

The record also clearly shows that all of the changes which have taken place have been in favor of the Petitioners' request.

IV. THE BALTIMORE COUNTY COUNCIL ERRED, AS A MATTER OF LAW, IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM ITS LONGSTANDING PREVIOUS ZONING OF B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS ENACTED.

From 1954 until late 1976, part of the Petitioners' subject property had been earmarked to allow development as a neighborhood shopping center on County Zoning Plans to serve the ever swelling number of residents who chose to live in the general vicinity of this property. Later, in 1969, and thereafter concurrently until late 1976, another parcel of the subject property was zoned D.R. 16 by zoning reclassification order 69-270-R following full procedural compliance to allow development of density apartment units to meet the demand for such housing in the general vicinity.

The developer encountered severe obstructions to the development of this project, including extensive rock strata on the site and the sewer moratorium which proscribed the earlier development of this property. Despite extreme economic hardship, the Petition did install utilities along Timanus Lane to the residential area which would, when coupled with existing utility lines in Windsor Mill Road, provide adequate sewer and water facilities for the subject properties.

The rock strata on this site predated the first Comprehensive Zoning Maps of 1945 and it is further logical to

presume that the subject property parcel for which Petitioner seeks reinstatement of B.L.-CNS zoning can be economically developed only as a pad based neighborhood shopping center. The soil structure for this area has been a matter of public record for years and lends credible support for the previous zoning while it at once raises a question about the soundness of the County Planning Board's reasoning for downshifting the property.

The fears of increased traffic, while a valid consideration in zoning deliberations, is but one of many factors to be considered by the officials in processing a zoning petition. Vestry of St. Mark's on the Hill Episcopal Church v. Doub, 219 Md. 387, 149 A.2d 779 (1959). The fears concerning additional trips generated by this development evidenced by the Planning Board for the 1976 Map by the Planning Department concerning the instant Petition, and by the Protestants who spoke on September 9, 1977, before the Zoning Commissioner and on May 9 and 15, 1979, before the Board primarily arose from the present width of Timanus Lane, lack of traffic controls at Windsor Mill Road, lack of sidewalks on Timanus Lane towards Hobbsville Elementary School, and purported traffic feeder routes to the site.

If the Petitioners' zoning is granted, present Baltimore County policy for site development will require the widening of Timanus Lane, construction of sidewalks and, in all probability, traffic controls at Windsor Mill Road. This would obviously alleviate several concerns and it is fair to note that these improvements may not be made as speedily if Petitioners' rezoning is not granted. As to the purported traffic trips generated along various routes of ingress to the subject property, two observations are in order.

First, the "F" level intersections at Rolling Road; and, at Washington Avenue and Liberty Road were disputed at legitimate routes of ingress by Protestants' own witnesses at the hearing. The number of shopping centers along the Liberty Road corridor, as

well as the Protestants' shopping habits of traveling to relatively distant centers, must be considered in concert with the trips which would be generated if Petitioners developed their property for D.R. 5.5 density.

The Petitioners had a legal right to rely upon the rule that a zoning classification made by ordinance will not be changed unless the change is required for the public good, and is not made merely to accommodate private interests which are detrimental to the welfare of other private owners of the same neighborhood. Offutt v. Board of Zoning Appeals of Baltimore County, 204 Md. 551, 105 A.2d 219 (1954). This rule indicates Council error since, while downshifting Petitioners' property in 1976, it retained a strip zoned nearby B.L. parcel for commercial use which could not help but increase traffic on Windsor Mill Road as it is an uncontrolled location. Petitioners' neighborhood shopping center site would reduce traffic stops - starts along Windsor Mill Road by channeling traffic to the shopping center tenants, reducing the number of multiple errand trips.

As indicated above in the Section on Facts, the only testimony on traffic to which the Board should give any weight is such that it clearly supports Petitioners' position.

The County Council was, at best, inconsistent in its reasoning and treatment of parcels in the same area. Its action further strains reason when Petitioners' two Exhibits are reviewed. The changes in and about the area of the subject property since 1954 and 1969 make the downshift zoning stand out like a sore thumb.

The County had constructed a storage yard to house Baltimore County School buses and a maintenance building, as well as a service yard for the County Maintenance and Highways Department, on parcels contiguous to the subject parcel. These developments certainly did not enhance the development of the subject parcel to D.R. 5.5 which Petitioner testified was economically in-



feasible due to the condition of the land.

All of these reasons point up the error made by the County Council and its subordinate inputs when it rejected the professional advice of the Planning Staff and downshifted this property to D.R. 5.5.

V. THE DOWNSHIFTING OF THE SUBJECT PROPERTY TO D.R. 5.5 GIVEN THE CONDITION OF THE LAND CONSTITUTES A CONFISCATORY TAKING OF PRIVATE LAND, WITHOUT COMPENSATION, WHICH VIOLATES THE UNITED STATES CONSTITUTION AS AMENDED.

Petitioners spoke at length before the Baltimore County Council, testified at length before the Zoning Commissioner for Baltimore County on September 9, 1977, and before this Board on May 9, 1979, concerning the tenure of his ownership of this tract, the economic loss he earlier sustained in residential development nearby during the 1960's, the land and soil conditions, the contiguous uses and the neighborhood development over the years. Numerous other witnesses, for both the Petitioners and People's Counsel also testified to these conditions and the impossibility of developing the Subject Property as it is now zoned without suffering serious economic losses.

If the Subject Property is worth a maximum of Three Thousand Dollars (\$3,000.00) per unit without any unusual difficulties in development such as rock, and if the rock problem increases the costs of construction between Five Thousand Dollars (\$5,000.00) and Seven Thousand Dollars (\$7,000.00) per unit, what is the value of the Property? The answer is clear. It is worth NOTHING as presently zoned.

Every zoning restriction which regulates use of property does not constitute a confiscatory taking. In the instant petition, however, it is eminently clear that the downshift in zoning goes beyond the constitutional ambit and restricts the use of Petitioners' land in the realities of life as hard as the sub-

-13-

surface rock strata on Petitioners' land to no reasonable use of his land which, Petitioners submit, constitutes taking of property without compensation in violation of the United States Constitution 5th Amendment. (See Congressional School of Aeronautics, Inc. v. State Roads Commission, 218 Md. 236, 146 A.2d 558 (1959); City of Baltimore v. Cohn, 204 Md. 523, 105 A.2d 482 (1954); Stephens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); Arnold v. Prince George's County, 270 Md. 285, 311 A.2d 223 (1973).

VI. PETITIONERS PRESENTED CLEAR AND COMPELLING PROOF OF MAP ERROR BY THE COUNTY COUNCIL IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 AND SHOULD BE ALLOWED TO DEVELOP THE SUBJECT PROPERTY UNDER THE CORRECT ZONING REQUESTED.

Zoning must be in accordance with a comprehensive plan and it can be upheld only as part of the general plan for the community which sets apart certain areas for agricultural, residential and business uses where these uses are obviously suitable and needed. Hunter v. Board of County Commissioners of Carroll Co., 252 Md. 305, 250 A.2d 81 (1969). Without reiterating the extensive testimony before the Board, it seems clear first, that the Petitioners presented at least a clear and convincing case mandating an affirmative decision to their requested zoning. The ordinary presumption of the correctness of the 1976 Comprehensive Zoning Map cannot stand the weight of reason presented by the Petitioners for the propriety and reasonableness of the earlier zoning classification prior to 1976. Mr. Crane spoke as well to the economic obstacles to development as presently zoned as he had earlier spoken to the County Council prior to the adoption of the 1976 Map. Why they chose to retain present zoning on the nearby B.L. tract on Windsor Mill Road while downshifting Petitioners' land for traffic concerns boggles the mind, but it happened. It is the proper function of this Board to correct such errors and Petitioners submit that, on its case, the Board can properly cor-

-14-

rect the map error by granting the requested zoning which Petitioners respectfully pray be done.

Respectfully submitted,

DAVID GRANT WILLEMANN  
108 Jefferson Building  
Towson, Maryland 21204  
296-1535  
Attorney for Petitioners

#### CERTIFICATE OF SERVICE

I Hereby Certify that on this \_\_\_\_\_ day of August, 1979, a copy of the foregoing Memorandum In Support of Petition for Reclassification was mailed, postage prepaid, to John Hessian, Esquire, People's Counsel, County Office Building, Towson, Maryland, 21204.

DAVID GRANT WILLEMANN

-15-

APPEAL FROM  
THE DECISION  
OF THE  
COUNTY BOARD  
OF APPEALS  
OF BALTIMORE COUNTY  
IN THE MATTER  
OF THE  
PETITION FOR RECLASSIFICATION  
FROM D.R. 5.5 TO B.L. AND D.R. 16  
NE/2 Timsau Lane 809  
NE of Windsor Mill Road  
Second District  
LANE REALTY, INC.  
and  
LEON A. CRANE  
Petitioners - Appellants  
Case No. 78-26R

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
AT LAW  
Misc. Docket: 12  
Folio: 13  
Case No. 6963

#### MOTION TO EXTEND TIME FOR FILING OF RECORD

Now come LANE REALTY, INC., and LEON A. CRANE, Petitioners-Appellants, by and through David Grant Willemann, their attorney, and, pursuant to Maryland Rule 87(b), respectfully request the Court to extend the time for filing the record and for reasons represent:

That counsel for Petitioners-Appellants has received notice from Carol Beresh, the court reporter for the County Board of Appeals that she may not be able to prepare the record transcript to be filed in the above captioned matter before the second week of December.

2. That Maryland Rule 87(a) requires that the record be transmitted to this Honorable Court within 30 days; and that the second week in December would be beyond the 30 day limit.

RECEIVED  
BALTIMORE COUNTY  
COURT BOARD OF APPEALS  
NOV 7 11 40 AM '79

3. That Maryland Rule 87(b) allows that upon application of a Party, for sufficient cause shown, the Court may direct a longer time.

4. That delay by the agency court reporter is sufficient cause for a time extension, especially since Maryland Rule 87(c) would preclude the Court from dismissing the appeal when the record is not transmitted in time, if the delay was occasioned by the inability of those other than appellants.

WHEREFORE, Petitioners-Appellants move this Honorable Court to order:

a. That the time for filing of the record be extended to Monday, December 17, 1979; and

b. For any further relief deemed just and proper.

AND AS IN DUTY BOUND WILL EVER PRAY

DAVID GRANT WILLEMANN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1535  
Attorney for Petitioners

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of November, 1979, copies of the foregoing Petition On Appeal were mailed, U.S. postage prepaid, to John W. Hessian III, Esquire, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204, County Board of Appeals of Baltimore County, Courthouse, Towson, Maryland 21204, and Leon A. Crane, Esquire, Lane Realty, Inc., 1000 North Charles St., Baltimore, Maryland 21201.

DAVID GRANT WILLEMANN

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APPEAL FROM  
THE DECISION  
OF THE  
COUNTY BOARD  
OF APPEALS  
OF BALTIMORE COUNTY  
IN THE MATTER  
OF THE  
PETITION FOR RECLASSIFICATION  
FROM D.R. 5.5 TO B.L. AND D.R. 16  
NE/2 Timsau Lane 809  
NE of Windsor Mill Road  
Second District  
LANE REALTY, INC.  
and  
LEON A. CRANE  
Petitioners - Appellants  
Case No. 78-26R

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
AT LAW  
Misc. Docket: 12  
Folio: 13  
Case No. 6963

#### PETITION ON APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

Come now your Petitioners-Appellants, LEON A. CRANE and LANE REALTY, INC., by and through their attorney, David Grant Willemann, and respectfully submit this Petition On Appeal pursuant to Rule 87a of the Maryland Rules of Procedure.

#### ACTION APPEALED FROM

Your Petitioners appeal from the Order of the County Board of Appeals in Case No. 78-26-R dated October 9, 1975 denying your Petitioner's "Petition For Zoning ReClassification" on appeal before the said Board.

#### ERRORS COMMITTED

1. The Board erred in its failure to consider the testimony of Paul Lee regarding the expense of developing the subject property as presently zoned.

2. The Opinion and Order is null and void because the third member and Chairman of the panel which heard the case, Robert L. Gilland, did not sign the same and apparently did not participate in the consideration of the case.

3. The Board erred in not considering the testimony of Carl Heinmuller, Jr. regarding the value and market ability of housing which could be built under the existing zoning.

4. The Board erred in finding that Carl Heinmuller, Jr. testified "...that the Gwynns Falls Sewer Moratorium has stopped new construction in the area..."

5. The Board erred in allowing James Howell, Michael Flannigan and Steve Koren to testify as expert witnesses.

6. The Board erred in allowing the testimony of the lay residents of the area and in considering their testimony regarding property values and market.

7. The Board erred in concluding that "...Steve Koren, testified that townhouses had been built nearby..."

8. The Board erred in hearing the testimony of Michael Flannigan which was without proper foundation.

9. The Board erred in concluding that "...the sole question to be answered is whether or not the County Council erred when they classified the subject property in 1976..."

10. The Board erred in not finding that the action of the County Council in 1976 was null and void because proper notice was not given and because errors were made in describing the subject property.

11. The Board erred when it found "...no evidence nor testimony presented in this case that was not available to the County Council at the time it last considered comprehensive land use classification for this area..."

12. The Board erred in not finding that the County Council erred and made a mistake in rezoning the subject property by D.R. 5.5.

13. The Board erred in not finding that the County Council was stopped from rezoning the subject property in 1976 when the County Council had confirmed the prior zoning (B.L. and D.R. 16 as requested by Petitioners) in 1972, which had been granted through administrative action when there was no mistake made and no change in the neighborhood during those periods.

14. The Board erred in not finding that it is economically impossible for Petitioners to economically utilize the subject property zoned D.R. 5.5.

15. The Board erred in not finding that the action of the County Council constituted a taking of Petitioners' property with out compensation in violation of the United States and Maryland State Constitutions.

#### RELIEF SOUGHT

WHEREFORE, Petitioners respectfully pray that:

- The Opinion and Order of the County Board of Appeals be set aside, vacated and declared null and void; and
- That the prior zoning of the subject property, as prayed by Petitioners, be reinstated; and
- That the County Board of Appeals be ordered to issue its Order rezoning the subject property as prayed; and
- That any action taken by the Baltimore County Council, prior to January 1, 1981, to deprive Petitioners of the zoning they have requested be declared null and void; and
- For such active and further relief as this Honorable Court may deem just and proper.

AND AS IN DUTY BOUND WILL EVER PRAY.

DAVID GRANT WILLEMANN  
Suite 108, Jefferson Bldg.  
Towson, Maryland 21204  
296-1535  
Attorney for Petitioners

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this fifth day of November, 1979, copies of the foregoing Petition On Appeal were mailed, U.S. postage prepaid, to John W. Hessian III, Esquire, People's Counsel for Baltimore County, County Office Building, Towson, Maryland 21204, County Board of Appeals of Baltimore County, Courthouse, Towson, Maryland 21204, and Leon A. Crane, Esquire, Lane Realty, Inc., 1000 North Charles St., Baltimore, Maryland 21201.

DAVID GRANT WILLEMANN

RE: PETITION FOR RECLASSIFICATION  
From D.R. 5.5 and D.R. 16 to BL  
NE/5 Timanus Lane 960'  
NE of Windsor Mill Road  
2nd District  
Lane Realty, Inc., et al  
Petitioners-Appellants  
Case No. 78-26-R  
IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
AT LAW  
Misc. Docket No. 12  
Folio No. 13  
File No. 6963

#### CERTIFICATE OF NOTICE

Mr. Clerk:  
Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure; LeRoy B. Spurrer and Patricia Millhouser, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, David G. Willemain, Esquire, Suite 108, Jefferson Building, Towson, Maryland 21204, Attorney for the Petitioner, and Mr. Leon A. Crane, 1800 North Charles Street, Baltimore, Maryland 21201, Petitioner, and Mr. James Smith, 7407 Millwood Road, Baltimore, Maryland 21207 and Mr. Richard Maytin, President, Hebbville Elementary School, P.T.A., 3335 Washington Avenue, Baltimore, Maryland 21207, Protestants, and Ms. Yvonne Williams, 3205 Timanus Lane, Baltimore, Maryland 21207 and Mr. George A. Rao, Liberty Road Community Council, Inc., 8308 Liberty Road, Baltimore, Maryland 21207, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

*Edith T. Eienhart*  
Edith T. Eienhart, Administrative Secretary  
County Board of Appeals of Baltimore County  
Room 219, Courthouse, Towson, Md. 21204  
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been mailed to David G. Willemain, Esquire, Suite 108 Jefferson Building, Towson, Maryland

Lane Realty, Inc., et al - 12/13/6963

21204, Attorney for the Petitioner, and Mr. Leon A. Crane, 1800 North Charles Street, Baltimore, Maryland 21201, Petitioner, and Mr. James Smith, 7407 Millwood Road, Baltimore, Maryland 21207 and Mr. Richard Maytin, President, Hebbville Elementary School, P.T.A., 3335 Washington Avenue, Baltimore, Maryland 21207, Protestants, and Ms. Yvonne Williams, 3205 Timanus Lane, Baltimore, Maryland 21207 and Mr. George A. Rao, Liberty Road Community Council, Inc., 8308 Liberty Road, Baltimore, Maryland 21207, and John W. Hession, III, Esquire, County Office Building, Towson, Maryland 21204, People's Counsel for Baltimore County, on this 26th day of October, 1979

*Edith T. Eienhart*  
Edith T. Eienhart, Administrative Secretary  
County Board of Appeals of Baltimore County

cc: Zoning, S. Jones  
Hessling, J. Howell

RE: PETITION FOR RECLASSIFICATION \*  
NE/5 Timanus Lane 960' NE OF  
Windsor Mill Road \*  
Lane Realty, Inc., et al., \*  
Petitioners \*  
\* \* \* \* \*  
BALTIMORE COUNTY  
No. 78-26-R  
\* \* \* \* \*

#### ORDER FOR APPEAL BY PETITIONERS

The Petitioners, LANE REALTY, INC. AND LEON A. CRANE, by and through their attorney, David Grant Willemain, hereby notes an appeal from the Order of the Board.

Respectfully Submitted,

DAVID GRANT WILLEMMAIN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1335

Attorney for Petitioners

#### CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of October, 1979, copies of the foregoing Order For Appeal By Petitioners were mailed, U.S. postage prepaid, to John Hession, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204, County Board of Appeals of Baltimore County, Courthouse, Towson, Maryland 21204, and Leon A. Crane, Esquire, Lane Realty, Inc., 1800 North Charles St., Baltimore, Maryland 21201.

DAVID GRANT WILLEMMAIN

494-3180

County Board of Appeals  
Room 219, Court House  
Towson, Maryland 21204  
October 26, 1979

David G. Willemain, Esquire  
108 Jefferson Building  
Towson, Md. 21204

Re: Case No. 78-26-R  
Lane Realty, Inc., et al

Dear Mr. Willemain:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

*Edith T. Eienhart*  
Edith T. Eienhart, Adm. Secretary

Encls.

cc: Mr. Leon A. Crane

RE: PETITION FOR RECLASSIFICATION  
NE/5 Timanus Lane 960' NE of  
Windsor Mill Road  
2nd District  
Lane Realty, Inc., et al,  
Petitioners  
BEFORE  
COUNTY BOARD OF APPEALS  
OF  
BALTIMORE COUNTY  
No. 78-26-R

#### OPINION

The petition before the Board consists of four parcels of land for a reclassification from a DR 5.5 zone to a BL zone on Parcel A, comprising approximately 7.47 acres of land; from a DR 5.5 zone to a DR 16 zone on Parcel B, comprising approximately 4.92 acres; from a DR 5.5 zone to a DR 16 zone on Parcel C, comprising approximately 4.87 acres; and from a DR 5.5 zone to a BL zone on Parcel E, comprising approximately 7.48 acres of land. At the onset of the hearing, the Petitioner dismissed his request for the reclassification of Parcel D. The Zoning Commissioner granted the requested zoning reclassification on Parcels A and E and ruled that the existing zoning was correct on Parcels C and B. The subject property is located in the Second Election District of Baltimore County on the Northeast side of Timanus Lane and the Northeast side of Windsor Mill Road.

Mr. Paul Lee, a registered professional engineer, testified at length on behalf of the Petitioner, that while adequate utilities existed in the area and cluster residential development was possible, the prevalent rock on the subject tract made the type of development allowed under present zoning economically unfeasible. A real estate expert, Carl Hennmuller, Jr., described the surrounding area generally residential with commercial outlets in the area. He further testified that the Gwynns Falls Sewer Manatorium has stopped new construction in the area and the demand for individual homes without basements was low and the soilability was poor.

The Petitioner, Leon Crane, President and Director of Lane Realty, Inc., explained the history of the property and his involvement in the area since the subject property was purchased in 1952. He presented as evidence, Petitioner's Exhibit #3, a photocopy of Case 69-270-R dated February 3, 1971, which reclassified Parcels A and E to a BL zone. He further stated that it is not economically feasible to develop this property

October 26, 1979

BILLED TO: David G. Willemain, Esquire  
108 Jefferson Building  
Towson, Md. 21204

Cost of certified copies of documents  
Filed in Case No. 78-26-R ..... \$33.00

Lane Realty, Inc., et al  
NE/5 Timanus Lane 960'  
NE of Windsor Mill Road  
2nd District

MAKE CHECKS PAYABLE TO: Baltimore County, Maryland

REMIT TO: County Board of Appeals  
Room 219 Courthouse  
Towson, Md. 21204

494-3180

County Board of Appeals  
Room 219, Court House  
Towson, Maryland 21204  
October 26, 1979

Mr. James Smith  
7407 Millwood Road  
Baltimore, Md. 21207

Re: Case No. 78-26-R  
Lane Realty, Inc., et al

Dear Mr. Smith:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

*Edith T. Eienhart*  
Edith T. Eienhart, Adm. Secretary

Encl.

cc: Mr. Richard Maytin;  
Ms. Yvonne Williams  
Mr. George A. Rao  
John W. Hession, III, Esq.

THE OFFICE OF  
David Grant Willemmain  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1335

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10/24/79

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01/08/80



error by the County Council when it classified the subject property as it did in 1976. Despite several other issues which the Petitioner seemingly wished to have the Board adjudicate, the sole question to be answered is whether or not the County Council erred when they classified the subject property in 1976. This is an onerous burden and in the mind of this Board, the Petitioner's testimony and evidence falls short of carrying this proof. Considering the neighborhood as a whole and reviewing the County Council's actions in this area on the 1976 map, the Board notes logic in the various zoning classifications that resulted in the adoption of the 1976 Comprehensive Map.

The Board can find no evidence nor testimony presented in this case that was not available to the County Council at the time it last considered comprehensive land use classification for this area. Clearly there has been presented no reasons to suggest error by the County Council when it zoned parcels B and C D.R. 5.5. This classification is consistent with the surrounding land. A DR 16 classification most certainly would have then and would now unfairly add to community problems sure to be brought by the added density. The traffic situation on the older roads in this area, like the Windsor Mill Road, is poor. These uncontroverted facts could be the reasons that the County Council zoned these parcels DR 5.5 in 1976. No other facts or reasons have been offered to the Board which would prove error by the County Council in 1976.

As to parcels A and E, which were downshifted in 1976 by the County Council, the Board finds no proof of error by the County Council. The County Council considered this parcel in the normal course of its work on the entire 2nd District Map, and in its wisdom, saw fit to reduce the commercial strip-type zoning along older roads that were not at arterial crossroads. There was maintained several BL parcels near the subject property which have still not found development acceptance in the market place since 1976. This fact would seem to prove that the County Council was correct and not in error when they downshifted the subject property but provided enough BL parcels for the area, in fact,

enough so, that three years later the BL parcels still have not been developed. The shape of the subject property and its orientation to a residential street, i.e. Timanus Lane, in lieu of the limited frontage on the Windsor Mill Road, is perhaps another reason that the County Council decided that the subject property should not be BL. It can be argued that 14.95 acres of BL land on the limited Windsor Mill Road frontage would be reason enough not to continue the BL zoning. Hence the Board can really not fairly say that the County Council erred when it zoned the entire property DR 5.5. This is the only question properly before the Board.

After carefully reviewing all the testimony and evidence, the Board cannot find error by the County Council when it comprehensively zoned the subject property DR 5.5 in 1976, therefore the Petition will be denied.

#### ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of October, 1979, by the County Board of Appeals, ORDERED that the reclassifications petitioned for, be and the same are hereby DENIED.

Any appeal from this decision must be in accordance with Rules 8-1 thru 8-12 of the Maryland Rules of Procedure.

#### COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

*Robert B. Schrier*  
Robert B. Schrier  
*Patricia Millhouse*  
Patricia Millhouse

RE: PETITION OF LANE REALTY, INC.  
AND LEON A. CRANE FOR RECLASSIFICATION  
OF PROPERTY W/S TIMANUS LANE 960 ±  
N/E OF WINDSOR MILL ROAD 24 ED TO  
D.R. 16 AND B.L. ZONES

- \* BEFORE THE
- \* COUNTY BOARD OF APPEALS
- \* OF BALTIMORE COUNTY
- \* Case No. 78-26-R

#### MEMORANDUM IN SUPPORT OF PETITION FOR RECLASSIFICATION

##### FACTS

Petitioners have owned the subject property for more than 25 years. During this time and, in fact, shortly after Baltimore County first adopted a Comprehensive Zoning Plan for the County, part of this property was zoned for a community neighborhood shopping center in a business zone E in May, 1954, and Baltimore County rezoned the balance of the subject property B.L. and R.A. by Zoning Order 69-270-R.

Petitioner, LEON A. CRANE, testified before the Zoning Commissioner on September 9, 1977, as to factors beyond his control which had hindered his attempts to develop the subject property as previously zoned. He had encountered substantial rock strata in developing single family residences and replacing utilities near Timanus Lane beyond the subject property at tremendous expense. He also testified that the moratorium on development related to the Gwynns Falls sewerage problem had also delayed development of this property.

Petition was shocked when the Planning Board for Baltimore County, in preparing the proposed 1976 Comprehensive Zoning Plan for submission to the County Council, implicitly rejected the Planning Staff recommendation to retain the existing commercial zoning for the subject property, and urged the County Council to downshift the subject property to D.R. 5.5. The County Council did downshift the subject property, as recommended, while

DAVID GRANT WILLEMANN  
ATTORNEY AT LAW  
SUITE 100, 1000 WINDSOR MILL ROAD  
BALTIMORE, MARYLAND 21204

concurrently retaining B.L. zoning to a smaller parcel on Windsor Mill Road to the southeast now developed as a commercial use.

The Petitioner seeks reclassification of the subject property to reinstate the previous zoning based on map error by the County Council in formulating the 1976 Comprehensive Zoning Plan for Baltimore County.

By an Order dated March 3, 1978, the then Zoning Commissioner, S. Eric DiMenna, did grant your Petitioners' request for reclassification of Parcels A and E from D.R. 5.5 Zones to B.L. Zones and denied the requested reclassification of Parcels C and B. Timely appeals of this Order were taken by both Petitioners and the Office of the People's Counsel.

A hearing before this Board was finally held on May 9, 1979, and continued on May 15, 1979.

Mr. Paul Lee of Paul Lee Engineering Inc., a highly qualified professional Civil Engineer who was accepted by the Board as an expert witness, testified that he had performed professional services for the Petitioners since approximately 1954, at which time he was employed by the firm then known as Matz, Childs and Associates.

Mr. Lee further testified that the Petitioners had developed residential subdivisions conforming to the Subject Property and that he had recommended to the Petitioners that they not develop this property for single family homes either detached or townhouse because of the very serious rock problems they had encountered.

Mr. Lee further testified that his experience had been that if the Petitioners attempted to develop the Subject Property for single family homes, the additional excavation costs due to the rock condition would be between Five Thousand Dollars (\$5,000.00) and Seven Thousand Dollars (\$7,000.00) per unit.

Mr. Carl Heilmuller, a Real Estate Appraiser and

Consultant with more than fifty (50) years of experience in the Greater Baltimore Metropolitan area. He was duly qualified as an expert witness and testified for the Petitioners.

Mr. Heilmuller testified that the maximum value of the Subject Property as now zoned would be Three Thousand Dollars (\$3,000.00) per unit without any unusual difficulties in development such as rock.

Mr. Heilmuller further testified that he had studied the neighborhood and the marketplace in general, and that his findings showed that the single family homes without basements could not be constructed in the neighborhood and sold except at a loss. He further testified that there is a large demand for apartments in the area and that the Subject Property could be developed into garden apartments without suffering a loss only if it was rezoned to D.R. 16 because of the small number of units which could be erected under D.R. 5.5 zone in part because of transition zone requirements.

Bernard M. Willemann, M.C.P., a professional City Planner and consultant on the feasibility of land development projects. Mr. Willemann is without question one of, if not the, most highly qualified and respected experts in his field in the State of Maryland. He was, of course, duly qualified as an expert witness.

Mr. Willemann testified as to the nature of his study of the Subject Property which included a study of the neighborhood, all pertinent public records, and the market for various ways this property might be utilized. His findings were that:

- (a) There exists a need for the B.L. zoning requested on parcels A and E; and
- (b) Because of the configuration of Parcels A and E and the contiguous business and industrial uses, these parcels could not be developed for residential uses; and

(c) None of the Subject Property could be developed as it is presently zoned without actual economic loss to the Petitioners; and

(d) There is a serious need for apartments in the area; and

(e) The only economically possible use of Parcels C and B would be for commercial or industrial use; or in the alternative, for the development of garden apartments under D.R. 16 zoning; and

(f) The neighborhood would suffer no adverse effects if the zoning requested was granted.

Leon Crane, Esquire, one of the Petitioners, testified as to the history of the Subject Property and the nearby projects built by Petitioners. The uncontroverted testimony was that the Petitioners have suffered substantial losses on these projects and that the economics of today are such that much greater losses would be sustained if Petitioners attempted to develop all or any part of the Subject Property as it is presently zoned.

Mr. Crane further testified that the Petitioners suffered extreme losses due to astronomical costs installing utilities and in attempting to sell houses without basements.

The matter of the ownership of the Subject Property was brought up and the uncontroverted evidence before the Board was that only a portion of Parcel A was "downshifted" on the 1976 map and that the Petitioners did not receive the notices of the proposed action as required by law including the regulations governing such actions and the Due Process provisions of the United States and Maryland State constitutions.

The People's Counsel produced as a witness Mr. James G. Hoswell of the Planning Office of Baltimore County. Because of the academic and work experience offered in support of his qualifications as an expert witness in the area of City Planning, Petitioners objected vigorously to his acceptance by the Board as an expert. Nevertheless, the Board chose to accept him as such.

Mr. Hoswell testified:

(a) That the records of the Office of Planning show that apparently the Petitioners did not receive proper notice of the proposed downshift on the 1976 map; and

(b) That the development in the neighborhood since 1969 has been primarily apartments and commercial and industrial uses; and

(c) That the Petitioners obtained the zoning they are requesting be restored to there in two reclassification actions in 1969 and before; and

(d) That the transition zone requirements apparently make it impossible for your Petitioners to develop the Subject Property under the present D.R. 5.5 zoning and utilize all of the units available to them.

Mr. Hoswell testified on other matters as well. Generally, his testimony may be most kindly characterized as confused and contradictory.

The People's Counsel also offered Mr. Stephen Korn, a building engineer for Baltimore County, who was offered and accepted as an expert witness. Mr. Korn's responsibilities include the review of applications for building permits.

Mr. Korn explained to the Board the differences in the construction of houses with basements as opposed to "slab" houses without basements. He had reviewed the records of permits issued for slab houses in the region and testified as to the location of the sites for which the permits had been issued. All of the few sites were a substantial distance from the Subject Property and, by any definition, out of the neighborhood.

The People's Counsel also offered Mr. Michael F. Flannigan, a Traffic Engineering Associate II with Baltimore Coun-

ty, who was offered as an expert witness in the area of traffic engineering and accepted as such.

Mr. Flannigan testified as to the computations made by his office as to the traffic that would be generated by Petitioners obtaining the zoning they have requested. Mr. Flannigan was unable to adequately explain to the Board the manner in which these figures are calculated and conceded that they are not very accurate and amount to mere guesses. This part of the Witness' testimony should be ignored.

Mr. Flannigan also testified that the traffic situation in the neighborhood and affecting it has improved from both the date Petitioners originally obtained their commercial and apartment zoning and from the date of the enactment of the 1976 zoning map. He further testified that there are major improvements planned which would greatly improve the traffic problems in the neighborhood, but admitted that he had not reviewed these plans and could not testify regarding them.

In response to a question from the Chairman of the Board, Mr. Flannigan testified that the traffic situation in the neighborhood was very common in all of the urban areas of Baltimore County, and that it would be very difficult to find an area of the County which did not have similar problems at least as severe.

The People's Counsel produced numerous lay witnesses who testified to traffic conditions in the neighborhood. Such testimony should be ignored by the Board or given very little weight because it was contradictory to the testimony of their expert witness, they were unqualified to offer the opinions that they gave, and because the testimony was confused, contradictory and emotional.

Many of the Witnesses for both parties identified the unsightly commercial and industrial uses in the neighborhood

and agreed that they would not want to live on Parcel E and A as a result. The Board has before it detailed pictures showing these unsightly locations.

The Board has extensive testimony from the neighborhood opponents of the Project. Their testimony showed a serious lack of understanding of the process under which the Subject Property would be developed. Many of the situations which formed their objections would have to be rectified in order for the Petitioners to build on the Subject Property.

The testimony of the lay opponents was, to be most kind, emotional. There was testimony that the opposition was, in substantial part, due to a fear that the Petitioners might build apartment units which would be subsidized with federal housing funds. The fear was also expressed that crime rates in the neighborhood would increase because of the construction of apartments. No evidence in support of these fears was produced even though it was readily available with such projects as Liberty Gardens in the area. To the contrary, testimony was produced that there is little crime in the neighborhood and that property values have continued to increase.

Several of the People's Counsel lay witnesses testified to the very serious rock problem that they experienced in building or improving their own homes, and to the difficulty others, including your Petitioners, had had in the neighborhood, due to the serious rock problem.

#### ISSUES

I. WERE THE PETITIONERS PROVIDED WITH LEGALLY SUFFICIENT NOTICE OF THE PROPOSED DOWNSHIFTING ON THE 1976 ZONING MAP?

II. WAS PARCEL A OF THE SUBJECT PROPERTY DOWNSHIFTED ON THE 1976 ZONING MAP?

presume that the subject property parcel for which Petitioner seeks reinstatement of B.L.-CNS zoning can be economically developed only as a pad based neighborhood shopping center. The soil structure for this area has been a matter of public record for years and lends credible support for the previous zoning while it at once raises a question about the soundness of the County Planning Board's reasoning for downshifting the property.

The fears of increased traffic, while a valid consideration in zoning deliberations, is but one of many factors to be considered by the officials in processing a zoning petition. Vetry of St. Mark's on the Hill Episcopal Church v. Doubt, 219 Md. 387, 149 A.2d 779 (1959). The fears concerning additional trips generated by this development evidenced by the Planning Board for the 1976 Map by the Planning Department concerning the instant Petition, and by the Protestants who spoke on September 9, 1977, before the Zoning Commissioner and on May 9 and 15, 1978, before the Board primarily arose from the present width of Timanus Lane, lack of traffic controls at Windsor Mill Road, lack of sidewalks on Timanus Lane towards Hebbville Elementary School, and purported traffic feeder routes to the site.

If the Petitioners' zoning is granted, present Baltimore County policy for site development will require the widening of Timanus Lane, construction of sidewalks and, in all probability, traffic controls at Windsor Mill Road. This would obviously alleviate several concerns and it is fair to note that these improvements may not be made as speedily if Petitioners' rezoning is not granted. As to the purported traffic trips generated along various routes of ingress to the subject property, two observations are in order.

First, the "F" level intersections at Rolling Road; and, at Washington Avenue and Liberty Road were disputed as legitimate routes of ingress by Protestants' own witnesses at the hearing. The number of shopping centers along the Liberty Road corridor, as

III. IS THE BOARD BARRED BY THE DOCTRINE OF RES JUDICATA TO DENY PETITIONER'S REQUESTED RECLASSIFICATION?

IV. DID THE BALTIMORE COUNTY COUNCIL ERR IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS ENACTED INTO LAW?

V. DOES THE ACT OF DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 CONSTITUTE AN UNCONSTITUTIONAL CONFISCATION OF PETITIONER'S REAL PROPERTY, WITHOUT CONSIDERATION, IN VIOLATION OF THE UNITED STATES CONSTITUTION AS AMENDED?

VI. HAS THE PETITIONER PRESENTED A COMPELLING CASE, SUPPORTED BY REASONABLE PROOF, THAT THE SUBJECT PROPERTY SHOULD BE RECLASSIFIED AS PETITIONED UNDER THE PREVAILING STANDARD OF BALTIMORE COUNTY?

#### ARGUMENT

I. THE PETITIONERS DID NOT RECEIVE LEGALLY SUFFICIENT NOTICE.

The record on this issue is very clear and the legal principles are so clearly established that this issue will not be further pursued.

II. PARCEL A OF THE SUBJECT PROPERTY WAS NOT DOWNSHIFTED ON THE 1976 ZONING MAP.

The official records all show that at all times that portion of the Petitioners' property downshifted was 8.5 acres, approximated 0.5 acres more than Parcel E. At the most, 0.5 acres of A was downshifted. Under the circumstances, it is our position that none of it was downshifted.

III. THE BOARD IS BARRED FROM DENYING PETITIONERS REQUESTED RECLASSIFICATION.

The record is clear that this Board granted your Petitioners' zoning which was equivalent to the zoning they are requesting be restored to them in the 1954 and 1969 Zoning cases.

well as the Protestants' shopping habits of travelling to relatively distant centers, must be considered in concert with the trips which would be generated if Petitioners developed their property for D.R. 5.5 density.

The Petitioners had a legal right to rely upon the rule that a zoning classification made by ordinance will not be changed unless the change is required for the public good, and is not made merely to accommodate private interests which are detrimental to the welfare of other property owners of the same neighborhood. Offutt v. Board of Zoning Appeals of Baltimore County, 204 Md. 551, 105 A.2d 219 (1954). This rule indicates Council error since, while downshifting Petitioners' property in 1976, it retained a strip zoned nearby B.L. parcel for commercial use which could not help but increase traffic on Windsor Mill Road as it is an uncontrolled location. Petitioners' neighborhood shopping center site would reduce traffic stops - starts along Windsor Mill Road by channeling traffic to the shopping center tenants, reducing the number of multiple errand trips.

As indicated above in the Section on Facts, the only testimony on traffic to the Board should give any weight, is such that it clearly supports Petitioners' position.

The County Council was, at best, inconsistent in its reasoning and treatment of parcels in the same area. Its action further strains reason when Petitioners' two Exhibits are reviewed. The changes in and about the area of the subject property since 1954 and 1969 make the downshift zoning stand out like a sore thumb.

The County had constructed a storage yard to house Baltimore County School buses and a maintenance building, as well as a service yard for the County Maintenance and Highways Department, on parcels contiguous to the subject parcel. These developments certainly did not enhance the development of the subject parcel to D.R. 5.5 which Petitioner testified was economically in-

In addition, Petitioners retained this zoning on the 1972 Zoning Map.

The general rule is that "at least some of the principles of the doctrine of res judicata are applicable to decisions by zoning boards." Board of County Commissioners of Cecil County v. Racine, 24 Md. App. 435, 332 A2d 306 (1975); 3 American Law of Zoning section 20.50, p. 568.

The earlier Maryland law confined the res judicata doctrine to judicial tribunals and not administrative boards (Knob v. Hall, 180 Md. 88, 23 A2d 15 (1941)), but recognized:

"The general rule, where the question has arisen, seems to be that after the lapse of such time as may be specified by the ordinance, a zoning appeals board may consider and act upon a new application for a special permit previously denied, but that it may properly grant such a permit only if there has been a substantial change in conditions. This rule seems to rest not strictly on the doctrine of res judicata, but upon the proposition that it would be arbitrary for the board to arrive at opposite conclusions on substantially the same state of facts and the same law."

Whittle v. Board of Zoning Appeals, 211 Md. 36, 45, 125 A2d 41, 46 (1956)

The modern rule in Maryland was recognized in Woodlawn Assn. v. Board, 241 Md. 197, 216 A2d 149 (1965), where it was said at 193, 216 at 153:

"In light of the administrative procedures and adjudications which the District Council is required to follow and make in the process of rezoning, the principles of public policy which underlie the rule of res judicata logically would seem to be applicable to its actions in this respect."

See also: Rohde v. County Bd. of Appeals of Balto. County, 199 A2d 216, 234 Md. 259 (1964); Chatham Corp. v. Betram, 243 Md. 138, 220 A2d 589 (1966).

Thus, whether the principle of res judicata is applied to a second action based on the same subject matter, the

feasible due to the condition of the land.

All of these reasons point up the error made by the County Council and its subordinate inputs when it rejected the professional advice of the Planning Staff and downshifted this property to D.R. 5.5.

V. THE DOWNSHIFTING OF THE SUBJECT PROPERTY TO D.R. 5.5 GIVEN THE CONDITION OF THE LAND CONSTITUTES A CONFISCATORY TAKING OF PRIVATE LAND, WITHOUT COMPENSATION, WHICH VIOLATES THE UNITED STATES CONSTITUTION AS AMENDED.

Petitioners spoke at length before the Baltimore County Council, testified at length before the Zoning Commissioner for Baltimore County on September 9, 1977, and before this Board on May 9, 1979, concerning the tenure of his ownership of this tract, the economic loss he earlier sustained in residential development nearby during the 1960's, the land and soil conditions, the contiguous uses and the neighborhood development over the years. Numerous other witnesses, for both the Petitioners and People's Counsel also testified to these conditions and the impossibility of developing the Subject Property as it is now zoned without suffering serious economic losses.

If the Subject Property is worth a maximum of Three Thousand Dollars (\$3,000.00) per unit without any unusual difficulties in development such as rock, and if the rock problem increases the costs of construction between Five Thousand Dollars (\$5,000.00) and Seven Thousand Dollars (\$7,000.00) per unit, what is the value of the Property? The answer is clear, it is worth NOTHING as presently zoned.

Every zoning restriction which regulates use of property does not constitute a confiscatory taking. In the instant petition, however, it is eminently clear that the downshift in zoning goes beyond the constitutional ambit and restricts the use of Petitioners' land in the realities of life as hard as the sub-

same property, the same parties and especially the same circumstances or the older principle that an administrative board cannot act in an arbitrary and capricious manner, the result is the same - the issue has already been brought to a final disposition and should not be changed.

The record also clearly shows that all of the changes which have taken place have been in favor of the Petitioners' request.

IV. THE BALTIMORE COUNTY COUNCIL ERRED, AS A MATTER OF LAW, IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM ITS LONGSTANDING PREVAILING ZONING OF B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS ENACTED.

From 1954 until late 1976, part of the Petitioners' subject property had been earmarked to allow development as a neighborhood shopping center on County Zoning Plans to serve the ever swelling number of residents who chose to live in the general vicinity of this property. Later, in 1969, and thereafter concurrently until late 1976, another parcel of the subject property was zoned D.R. 16 by zoning reclassification order 69-270-R following full procedural compliance to allow development of density apartment units to meet the demand for such housing in the general vicinity.

The developer encountered severe obstructions to the development of this property, including extensive rock strata on the site and the sewer moratorium which proscribed the earlier development of this property. Despite extreme economic hardship, the Petition did install utilities along Timanus Lane to the residential area which would, when coupled with existing utility lines in Windsor Mill Road, provide adequate sewer and water facilities for the subject properties.

The rock strata on this site predated the first Comprehensive Zoning Maps of 1945 and it is further logical to

surface rock strata on Petitioners' land to no reasonable use of its land which, Petitioners submit, constitutes taking of property without compensation in violation of the United States Constitution 5th Amendment. (See Congressional School of Aeronautics, Inc. v. State Roads Commission, 218 Md. 236, 146 A.2d 558 (1959); City of Baltimore v. Cohn, 204 Md. 523, 105 A.2d 482 (1954); Stephens v. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); Arnold v. Prince George's County, 270 Md. 285, 311 A.2d 223 (1973)).

VI. PETITIONERS PRESENTED CLEAR AND COMPELLING PROOF OF MAP ERROR BY THE COUNTY COUNCIL IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 AND SHOULD BE ALLOWED TO DEVELOP THE SUBJECT PROPERTY UNDER THE CORRECT ZONING REQUESTED.

Zoning must be in accordance with a comprehensive plan and it can be upheld only as part of the general plan for the community which sets apart certain areas for agricultural, residential and business uses where these areas are obviously suitable and needed. Hunter v. Board of County Commissioners of Carroll Co., 252 Md. 305, 250 A.2d 81 (1969). Without reiterating the extensive testimony before the Board, it seems clear first that the Petitioners presented at least a clear and convincing case mandating an affirmative decision to their requested zoning. The ordinary presumption of the correctness of the 1976 Comprehensive Zoning Map cannot stand the weight of reason presented by the Petitioners for the propriety and reasonableness of the earlier zoning classification prior to 1976. Mr. Crane spoke as well to the economic obstacles to development as presently zoned as he had earlier spoken to the County Council prior to the adoption of the 1976 Map. Why they chose to retain present zoning on the nearby B.L. tract on Windsor Mill Road while downshifting Petitioners' land for traffic concerns boggles the mind, but it happened. It is the proper function of this Board to correct such errors and Petitioners submit that, on its case, the Board can properly cor-



rect the map error by granting the requested zoning which Petitioners respectfully pray be done.

Respectfully submitted,

DAVID GRANT WILLMAIN  
108 Jefferson Building  
Towson, Maryland 21204  
296-1555

Attorney for Petitioners

**CERTIFICATE OF SERVICE**

I Hereby Certify that on this \_\_\_\_\_ day of August, 1979, a copy of the foregoing Memorandum In Support of Petition for Reclassification was mailed, postage prepaid, to John Hession, Esquire, People's Counsel, County Office Building, Towson, Maryland, 21204.

DAVID GRANT WILLMAIN

-15-

RE: PETITION FOR RECLASSIFICATION  
from D.R. 5.5 and D.R. 16 to B1  
NE/3 Timonius Lane 960'  
NE of Windsor Mill Road  
2nd District

Lane Realty, Inc., et al  
Petitioners - Appellants

Case No. 78-26-R

IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE COUNTY  
AT LAW

Misc. Docket No. 12  
Folio No. 13  
File No. 6963

**CERTIFIED COPIES OF PROCEEDINGS BEFORE THE  
ZONING COMMISSIONER AND BOARD OF  
APPEALS OF BALTIMORE COUNTY**

**TO THE HONORABLE, THE JUDGE OF SAID COURT:**

And now come LaRoy S. Spurrer and Patricia Millhouser, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, have with return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Zoning Department of Baltimore County:

**ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER  
OF BALTIMORE COUNTY**

No. 78-26-R

April 29, 1977 Petition of Lane Realty, Inc. and Leon A. Crane for reclassification from a D.R. 5.5 zone to D.R. 16 and B1L zone, on property located on the west side of Timonius Lane 960 feet northeast of Windsor Mill Road, 2nd District, filed

April 29 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for September 9, 1977, at 10 a.m.

May 2 Comments of Baltimore County Zoning Advisory Committee filed

August 18 Certificate of Publication in newspaper - filed

August 22 Certificate of Posting of property - filed

AT ISSUE SEP 3 1979 CENTRAL ASSIGNMENT UNIT

MISCELLANEOUS

No. 6963 LAW Docket 12 Folio 13

**CIRCUIT COURT FOR BALTIMORE COUNTY**

RE: PETITION FOR RECLASSIFICATION  
NE/3 Timonius Lane 960' NE of  
Windsor Mill Road,

LANE REALTY, INC.  
LEON A. CRANE  
Petitioners

David Grant Willmain  
Suite 108 Jefferson Bldg.  
(4) 296-1555

No. 6963

Mr. James Smith,  
Mr. Richard Maytin, President,  
Hobbsville Elementary School, P. T. A.  
Mrs. YVONNE WILLIAMS, GEORGE A. REA,  
LIBERTY ROAD COMMUNITY COUNCIL, INC.  
People's Counsel for Baltimore County  
Town n (4) 494-2188

John W. Hession III  
Peter Max Zimmerman  
County Office Bldg.  
Town n (4) 494-2188

| DATE        | CLERK'S MEMORANDUM                                                                                                                                                                                                 | NO. |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|
| 10/25/79    | Petitioners' Appeal from decision of the Order of the Board of Appeals                                                                                                                                             | 1   |
| 10/26/79    | Certificate of Notice fd.                                                                                                                                                                                          | 2   |
| 11/5/79     | Petitioners-Appellants' (LANE A. CRANE & LANE REALTY INC.)<br>Petition on Appeal fd.                                                                                                                               | 3   |
| 11/23/79    | Motion to Extend time for Filing of Record and Order of Court<br>that the time for the filing of the record in the above<br>captioned matter, be and the same hereby is extended to<br>December 17, 1979 fd. (PFA) | 4   |
| 11/28/79    | Appellees (YVONNE WILLIAMS, EMILY WOLFSON, JOSSE M. COLLINS,<br>AND PEOPLE'S COUNSEL FOR BALTIMORE COUNTY) Answer to Petition<br>on Appeal fd.                                                                     | 5   |
| 11/30/79    | Certified Copies of Proceedings before the Zoning Commissioner<br>and Board of Appeals of Baltimore County and Transcript of<br>Record fd.                                                                         | 6   |
| APR 20 1980 | APR 20 1980 Notice of MD Rule 530 Sent<br>JUN 4 1980 DISMISSED FOR WANT OF<br>PROSECUTION OR PROSECUTION WITHOUT<br>PREJUDICE. MD. RULE 530                                                                        |     |

Lane Realty, Inc., et al  
Case No. 78-26-R

September 9, 1977 At 10 a.m. hearing held on petition by Zoning Commissioner

March 3, 1978 Order of Zoning Commissioner granting that Parents A and E should be reclassified

March 20 Order of Appeal to County Board of Appeals from Order of Zoning Commissioner

May 15, 1979 Hearing on appeal before County Board of Appeals

October 9, Order of County Board of Appeals denying reclassification

October 25 Order for Appeal filed in Circuit Court for Baltimore County by David G. Willmain, Esq., on behalf of Petitioners

October 26 Certificate of Notice sent to all interested parties

November 5 Petition to accompany Order for Appeal filed in Circuit Court for Baltimore County

November 26 Motion to extend time for filing record to 12/17/79, filed

November 30 Transcript of testimony filed -

Petitioner's Exhibit No. 1 & 1A - Aerial Map with photos inserted (in appeals office)

" " " 2 - Composite of photos including Gas & Electric & County property (Appeals Office)

" " " 3 - Case No. 69-270-R consisting of 3 plots in Feb. 3, 1971 - used in Zoning

" " " 4 - Map of subject property outlined in red - green arrows

People's Counsel Exhibit 2 - Comprehensive Zoning Map, 3/4/76

" " " 3 - Baltimore County Council Log 1978 Renaming

" " " 4 - Excerpts of testimony on Sept. 30, 1976

" " " 5 - Letter, June 23, 1976, from Leon Crane to Councilman O'Rourke

Protestants' Exhibit No. A-1 to A-10 - Photos

" " " B-1 to B-19 - Photos

" " " C-1 to C-2 - Photos

November 30 Record of proceedings filed in the Circuit Court for Baltimore County

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

RE: Petition for Reclassification  
NE/3 Timonius Lane Windsor Mill Rd.  
Lane Realty, Inc.  
Leon A. Crane  
Petitioners

Plaintiff  
VS.  
People's Counsel for Baltimore Co. et al  
Defendant

Docket No. 12 Folio No. 13  
Case No. 6963  
LAW - EQUITY

NOTIFICATION TO PARTIES OF CONTEMPLATED DISMISSAL

12 No proceedings of record in the above styled action having been taken within a period of \_\_\_\_\_ months, Counsel of record or the parties herein are hereby notified, as provided by Maryland Rule 530, that this proceeding will be "DISMISSED FOR WANT OF JURISDICTION OR PROSECUTION WITHOUT PREJUDICE", thirty (30) days after service of this notice, (computed according to Section C 3 of Rule 206), unless prior to that time a motion for the suspension of the operation of this rule is filed pursuant to section e of Maryland Rule 530. The motion must show "good cause" for the delay. Costs thereafter shall be assessed against the plaintiff.

Clerk

Copy of notice mailed to:  
David Grant Willmain Esq.  
Suite 108, 105 W. Chesapeake Ave.  
Towson, Md. 21204

Direct all inquires to:  
J. McCLAIN  
494-2021

John W. Hession III Esq.  
Peter Max Zimmerman Esq.  
County Office Bldg.  
Towson, Md. 21204

County Board of Appeals  
Room 417 Court House  
Towson, Md. 21204

by regular mail, postage prepaid, this \_\_\_\_\_ day of April, 19 \_\_\_\_\_

Lane Realty, Inc., et al  
Case No. 78-26-R

Record of proceedings pursuant to which said Order was entered and valid Board acted are permanent records of the Zoning Department of Baltimore County, and are also the use district maps, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations, together with the zoning use district maps at the hearing on this petition, or whenever directed to do so by this Court.

Respectfully submitted,

June Holman  
County Board of Appeals  
Baltimore County

cc: David G. Willmain, Esq.  
John W. Hession, III, Esq.  
File

RE: PETITION FOR RECLASSIFICATION  
from D.R. 5.5 to D.R. 16 and B1L  
NE/3 Timonius Lane, 960'  
NE of Windsor Mill Road  
2nd District

Lane Realty, Inc., et al  
Petitioners - Appellants

Zoning Case No. 78-26-R

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY  
AT LAW

Misc. Docket No. 12  
Folio No. 13  
File No. 6963

**ANSWER TO PETITION ON APPEAL**

Yvonne Williams, Emily Wolfson, Josse M. Collins, and People's Counsel for Baltimore County, Appellees herein, for their Answer to the Petition on Appeal heretofore filed respectfully say:

- That the Appellants, upon whom falls the burden of demonstrating that there does not exist a reasonable use for their property as presently zoned, failed to meet that burden, a conclusion made by the County Board of Appeals and amply substantiated by the record in this case.
- That there is no basis of fact in the record of this case which substantiates any of Petitioners' claimed errors committed either by the County Council for Baltimore County or the County Board of Appeals with regard to the zoning classification on this property.

WHEREFORE, Appellees pray that the Order of the Board of Appeals of Baltimore County under date of October 9, 1979 be affirmed, and the action of the County Council of Baltimore County in zoning the subject property D.R. 5.5 be affirmed and reinstated.

John W. Hession, III  
People's Counsel for Baltimore County

Peter Max Zimmerman  
Deputy People's Counsel  
County Office Building  
Towson, Maryland 21204  
494-2188

I HEREBY CERTIFY that on this 28th day of November, 1979, a copy of the foregoing Answer to Petition on Appeal was presented to the Administrative Secretary, County Board of Appeals, Rm. 219, Court House, Towson, Maryland 21204; and a copy mailed to David Grant Willemain, Esquire, Suite 108, Jefferson Building, Towson, Maryland 21204, Attorney for Petitioners.

*John W. Hession, III*  
John W. Hession, III

RE: PETITION FOR RECLASSIFICATION \* BEFORE THE  
NE/2 of Timanus Lane, 960' NE of \* ZONING COMMISSIONER  
Windsor Mill Road - 2nd Election \*  
District \* OF  
LANE REALTY, INC. and LEON \*  
A. CRANE, Petitioners \*  
No. 78-26-R (Item No. 5) \* BALTIMORE COUNTY

**ORDER FOR APPEAL**

Now come LANE REALTY, INC. and LEON A. CRANE, Petitioners, and respectfully note an Appeal from the Order of the Zoning Commissioner of Baltimore County dated March 3, 1978, to the Board of Zoning Appeals of Baltimore County.

DAVID GRANT WILLEMMAIN, P.A.

*David Grant Willemmain*  
By DAVID GRANT WILLEMMAIN

*Michael P. Tancern*  
By MICHAEL P. TANCERN  
108 Jefferson Building  
Towson, Maryland 21204  
296-1535

Attorneys for Petitioners,  
Lane Realty, Inc. and  
Leon A. Crane

cc: Mr. James Smith  
7407 Hillwood Road  
Baltimore, Maryland 21207

John W. Hession, III, Esquire  
Peoples Counsel

NOV 20 78 PM



DAVID GRANT WILLEMMAIN  
ATTORNEY AT LAW  
SUITE 108, JEFFERSON BUILDING  
TOWSON, MARYLAND 21204  
(410) 296-1535

IN THE PETITION OF  
LANE REALTY, INC. AND  
LEON A. CRANE, FOR  
RECLASSIFICATION OF PROPERTY  
AT THE NORTHWEST CORNER OF  
WINDSOR MILL ROAD AND  
TIMANUS LANE

\* BEFORE THE  
\* ZONING COMMISSIONER  
\* OF BALTIMORE COUNTY  
\* NO.

**BRIEF**

Your petitioners, LANE REALTY, INC. and LEON A. CRANE, by their attorney, DAVID GRANT WILLEMMAIN, respectfully represent that there follows your petitioners' reasons for requesting a change in zoning on the subject property from a D. R. 5.5 zone to B. L. and D. R. 16 zones.

**BACKGROUND**

Petitioners have owned this property for more than twenty-five (25) years, and, in 1954, your petitioners had part of the property rezoned for retail commercial use and later had the balance of the property rezoned for garden apartments. These rezoning changes were granted due to the economic impossibility of constructing and selling single family homes which had to be constructed without basements due to the severe rock problems on the property and also because of the need for a neighborhood shopping center.

During the period petitioners have owned this property, numerous changes have taken place which have made development of the property into single family homes absolutely impossible. These reasons will be set forth below.

By 1976, the neighborhood had become highly developed and several neighborhood organizations, such as Windsor Neighborhood Community Association and Ripplewood Community Association, had developed considerable political strength in the rezoning process which has degenerated into little more than a plebiscite. The object of these organizations has been to prevent any further

development in their neighborhood, at any cost, particularly shopping centers and apartment projects. In this climate, Windsor Neighborhood Community Association and Ripplewood Community Association were able to exert their considerable political strength to cause the Baltimore County Council to downshift the zoning on Parcel E of this property from B.L.-C.N.S. to D.R. 5.5, despite the Planning Staff's recommendations that the property remain B.L.-C.N.S., and to downshift the zoning on Parcels A, B, C and D of this property from D.R. 16 to D.R. 5.5. The rationale used by these organizations was that development of the subject property would cause serious traffic problems on roads connecting with Timanus Lane. A superficial study of the situation will show that this alleged concern is totally frivolous.

**REASONS FOR THE REQUESTED REZONING**

1. Single family homes will not sell because of the hazardous and unsightly use of nearby properties.
2. Current construction costs are such that even moderately priced houses will not sell in the area because of the nature of the neighborhood.
3. Soil conditions on the property are such that any houses built on the property would be without basements and such homes are in disfavor with purchasers in the area.

Parcels A and E of the property should be placed in a B.L. zone because:

1. There is a need for a local shopping center in this area on Windsor Mill Road.
2. The lack of such a shopping center causes local residents to travel to the Liberty Road or Security Boulevard corridors to accomplish even their everyday shopping, and, as a result, causes traffic problems in the roadways linking Windsor Mill Road with Liberty Road and Security Boulevard.
3. The surrounding commercial, industrial and public uses are such

that only a commercial use for the front portion of this property is economically possible.

Parcels B, C and D of the property should be placed in a D.R. 16 zone because:

1. There is a critical need for apartments in both the metropolitan area and in this neighborhood.
2. The surrounding commercial, industrial and public uses are such that apartments are the only feasible residential use of this property.

**CONCLUSION**

The action of the Baltimore County Council in zoning this property D. R. 5.5 was clearly illegal because it has resulted in a confiscation of petitioners' property and because it was clearly contrary to the health, safety and general welfare of the public. Parcels A and E of the property should be rezoned B.L. and Parcels B, C and D should be rezoned D.R. 16.

Respectfully submitted,

*David Grant Willemmain*  
By DAVID GRANT WILLEMMAIN  
108 Jefferson Building  
Towson, Maryland 21204  
296-1535

Attorney for Petitioners

RE: PETITION FOR RECLASSIFICATION \* BEFORE THE  
NE/2 of Timanus Lane, 960' NE of \* ZONING COMMISSIONER  
Windsor Mill Road - 2nd Election \*  
District \* OF  
Lane Realty, Inc. - Petitioner \*  
No. 78-26-R (Item No. 5) \* BALTIMORE COUNTY

!!! !!! !!! !!! !!! !!!

This matter comes before the Zoning Commissioner as a result of a Petition filed by Lane Realty, Inc., for a Reclassification from a D.R. 5.5 Zone to a B.L. Zone on Parcel A, comprising 7.47 acres of land, more or less; from a D.R. 5.5 Zone to a D.R. 16 Zone on Parcel B, comprising 4.92 acres of land, more or less; from a D.R. 5.5 Zone to a D.R. 16 Zone on Parcel C, comprising 4.87 acres of land, more or less; and from a D.R. 5.5 Zone to a B.L. Zone on Parcel E, comprising 7.48 acres of land, more or less. Parcel D, comprising 3.86 acres of land, more or less, is presently zoned D.R. 16 and is not the subject of this request. The subject property is located on the northeast side of Timanus Lane, 960 feet northeast of Windsor Mill Road, in the Second Election District of Baltimore County.

Testimony on behalf of the Petitioner indicated that the subject property, more specifically Parcels A and E, were previously zoned in a B.L. classification and, upon the adoption of the Comprehensive Zoning Map on March 7, 1976, were classified in a D.R. 5.5 Zone. The property owner indicated that he planned to develop the subject property as a small retail center but has been awaiting development in the area, in order to provide shopping services for the immediate vicinity. At this time, the properties in the general vicinity are basically developed, and the developer is ready to proceed with his commercial development. The adjoining properties are zoned commercial and quasi-commercial.

Further, this property has been the subject of the moratorium of the Gwynns Falls Sanitary Sewer System and is, additionally, subject to the State Health Department regulations. The subject property does, however,

have accessibility to public water and sewer.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner, Parcels A and E are incorrectly zoned and should be reclassified. This small retail center will be advantageous to the surrounding area as a convenient shopping area. The nearest shopping area is at least a mile away, located in the Woodlawn corridor. The proposed facility will relieve a certain amount of traffic congestion.

Further, it is the opinion of the Zoning Commissioner that Parcels C and B are correctly zoned, and these properties should not be reclassified.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 3rd day of March, 1978, that Parcels A and E should be and the same are hereby reclassified from D.R. 5.5 Zones to B.L. Zones, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works, the Health Department, and the Office of Planning and Zoning.

It is further ORDERED that the Reclassification for Parcel C and B be and the same are hereby DENIED.

*David Grant Willemmain*  
Zoning Commissioner of  
Baltimore County

RE: PETITION OF  
LANE REALTY, INC. AND  
LEON A. CRANE FOR  
RECLASSIFICATION OF PROPERTY  
N/2S TIMANUS LANE  
960' ± N/2 OF WINDSOR MILL ROAD  
2d ED TO D.R. 16 AND B.L. ZONES

\* BEFORE THE  
\* ZONING COMMISSION  
\* OF BALTIMORE COUNTY  
\* NO. 78-26-R  
\* Item 5-Cycle 1

**MEMORANDUM IN SUPPORT  
OF PETITION FOR RECLASSIFICATION**

**FACTS**

Petitioners have owned the subject property for more than 25 years. During this time and, in fact, shortly after Baltimore County first adopted a Comprehensive Zoning Plan for the County, part of this property was zoned for a community neighborhood shopping center in a business zone E in May 1954, and Baltimore County rezoned the balance of the subject property B.L. and R.A. by zoning Order 69-270-R.

Petitioner, LEON A. CRANE, testified before the Zoning Commissioner on September 9, 1977, as to factors beyond his control which had hindered his attempts to develop the subject property as previously zoned. He had encountered substantial rock strata in developing single family residences and employing utilities near Timanus Lane beyond the subject property at tremendous expense. He also testified that the moratorium on development related to the Gwynns Falls sewerage problem had also delayed development of this property.

Petitioner was shocked when the Planning Board for Baltimore County, in preparing the proposed 1976 Comprehensive Zoning Plan for submission to the County Council, implicitly rejected the Planning Staff recommendation to retain the existing commercial zoning for the subject property, and urged the County

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ORDER RECEIVED FOR FILING

DATE 2/26/78

BY *John P. Ray*

ORDER RECEIVED FOR FILING

DATE 2/26/78

BY *John P. Ray*

DAVID GRANT WILLEMMAIN  
ATTORNEY AT LAW  
SUITE 108, JEFFERSON BUILDING  
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Council to downshift the subject property to D.R. 5.5. The County Council did downshift the subject property, as recommended, while concurrently retaining B.L. zoning to a smaller parcel on Windsor Mill Road to the southeast now developed as a commercial use.

The Petitioner seeks reclassification of the subject property to reinstate the previous zoning based on map error by the County Council in formulating the 1976 Comprehensive Zoning Plan for Baltimore County.

#### ISSUES

I. DID THE BALTIMORE COUNTY COUNCIL ERR IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS APPROVED AND ENACTED INTO LAW?

II. DOES THE ACT OF DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM B.L.-CNS AND D.R. 16 CONSTITUTE AN UNCONSTITUTIONAL CONFISCATION OF PETITIONER'S REAL PROPERTY, WITHOUT CONSIDERATION, IN VIOLATION OF THE UNITED STATES CONSTITUTION AS AMENDED?

III. HAS THE PETITIONER PRESENTED A COMPELLING CASE, SUPPORTED BY REASONABLE PROOF, THAT THE SUBJECT PROPERTY SHOULD BE RECLASSIFIED AS PETITIONED UNDER THE PREVAILING STANDARDS OF BALTIMORE COUNTY?

#### ARGUMENT

I. THE BALTIMORE COUNTY COUNCIL ERRED, AS A MATTER OF LAW, IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 FROM ITS LONGSTANDING PREVIOUS ZONING OF B.L.-CNS AND D.R. 16 ON THE 1976 COMPREHENSIVE ZONING MAPS AS ENACTED.

From 1954 until late 1976, part of the Petitioner's subject property had been earmarked to allow development as a neighborhood shopping center on County zoning plans to serve the ever swelling number of residents who chose to live in the general vicinity of this property. Later, in 1969, and thereafter

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currently until late 1976, another parcel of the subject property was zoned D.R. 16 by zoning reclassification order 69-270-R following full procedural compliance to allow development of density apartment units to meet the demand for such housing in the general vicinity.

The developer encountered severe obstructions to the development of this property, including extensive rock strata on the site and the sewer moratorium which proscribed the earlier development of this property. Despite extreme economic hardship, the Petitioner did install utilities along Timanus Lane to the residential area which would, when coupled with existing utility lines in Windsor Mill Road, provide adequate sewer and water facilities for the subject properties.

The rock strata on this site predated the first Comprehensive Zoning Maps of 1945 and it is further logical to presume that the subject property parcel for which Petitioner seeks reinstatement of B.L.-CNS zoning can be economically developed only as a pad based neighborhood shopping center. The soil structure for this area has been a matter of public record for years and lends credible support for the previous zoning while it at once raises a question about the soundness of the County Planning Board's reasoning for downshifting the property.

The fears of increased traffic, while a valid consideration in zoning deliberations, is but one of many factors to be considered by the officials in processing a zoning petition. Vestry of St. Mark's on the Hill Episcopal Church vs. Uoub, 219 Md. 387, 149 A.2d 779 (1959). The fears concerning additional trips generated by this development evidenced by the Planning Board for the 1976 Map by the Planning Department concerning the instant Petition, and by the Protestants who spoke on September 9, 1977, arose from the present width of Timanus Lane, lack of traffic

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controls at Windsor Mill Road, lack of sidewalks on Timanus Lane towards Hebbville Elementary School, and purported traffic feeder routes to the site.

If the Petitioner's zoning is granted, present Baltimore County policy for site development will require the widening of Timanus Lane, construction of sidewalks and, in all probability, traffic controls at Windsor Mill Road. This would obviously alleviate several concerns and it is fair to note that these improvements may not be made as speedily if Petitioner's rezoning is not granted. As to the purported traffic trips generated along various routes of ingress to the subject property, two observations are in order.

First, the "F" level intersections at Rolling Road; and, at Washington Avenue and Liberty Road were disputed as legitimate routes of ingress by Protestants' own witnesses at the hearing. The number of shopping centers along the Liberty Road corridor, as well as the Protestant's shopping habits of travelling to relatively distant centers, must be considered in concert with the trips which would be generated if Petitioner developed his property for D.R. 5.3 density.

The Petitioner had a legal right to rely upon the rule that a zoning classification made by ordinance will not be changed unless the change is required for the public good, and is not made merely to accommodate private interests which are detrimental to the welfare of other property owners of the same neighborhood. Offutt vs. Board of Zoning Appeals of Baltimore County, 204 Md. 551, 105 A.2d 219 (1954). This rule indicates Council error since, while downshifting Petitioner's property in 1976, it retained a strip zoned nearby B.L. parcel for commercial use which could not help but increase traffic on Windsor Mill Road as it is an uncontrolled location. Petitioner's neighborhood shopping

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center site would reduce traffic stops - starts along Windsor Mill Road by channeling traffic to the shopping center tenants, reducing the number of multiple errand trips.

The County Council was, at best, inconsistent in its reasoning and treatment of parcels in the same area. It's action further strains reason when Petitioner's two Exhibits are reviewed. The changes in and about the area of the subject property since 1954 and 1969 make the downshift zoning stand out like a sore thumb.

The County had constructed a storage yard to house Baltimore County School buses and a maintenance building, as well as a service yard for the County Maintenance and Highways Department, on parcels contiguous to the subject parcel. These developments certainly did not enhance the development of the subject parcel to D.R. 5.5 which Petitioner testified was economically infeasible due to the condition of the land.

All of these reasons point up the error made by the County Council and its subordinate inputs when it rejected the professional advice of the Planning Staff and downshifted this property to D.R. 5.5.

II. THE DOWNSHIFTING OF THE SUBJECT PROPERTY TO D.R. 5.5 GIVEN THE CONDITION OF THE LAND CONSTITUTES A CONFISCATORY TAKING OF PRIVATE LAND, WITHOUT COMPENSATION, WHICH VIOLATES THE UNITED STATES CONSTITUTION AS AMENDED.

Petitioner spoke at length before the Baltimore County Council, and has testified at length before the Zoning Commissioner for Baltimore County on September 9, 1977, concerning the tenure of his ownership of this tract, the economic loss he earlier sustained in residential development nearby during the 1960's, the land and soil conditions, the contiguous uses and the neighborhood development over the years. Every zoning

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ATTORNEY AT LAW  
SUITE 219, COURT HOUSE  
TOWSON, MARYLAND 21204  
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restriction which regulates use of property does not constitute a confiscatory taking. In the instant petition, however, it is eminently clear that the downshift in zoning goes beyond the constitutional ambit and restricts the use of Petitioner's land in the realities of life as hard as the subsurface rock strata on Petitioner's land to no reasonable use of his land which, Petitioner submits, constitutes taking of property without compensation in violation of the United States Constitution 5th Amendment. (See Congressional School of Aeronautics, Inc. vs. State Roads Commission, 218 Md. 236, 146 A.2d 558 (1959); City of Baltimore vs. Cohn, 204 Md. 522, 105 A.2d 482 (1954); Stephens vs. City of Salisbury, 240 Md. 556, 214 A.2d 775 (1965); Arnold vs. Prince George's County, 270 Md. 285, 311 A.2d 223 (1973)).

III. PETITIONER PRESENTED CLEAR AND COMPELLING PROOF OF MAP ERROR BY THE COUNTY COUNCIL IN DOWNSHIFTING THE SUBJECT PROPERTY TO D.R. 5.5 AND SHOULD BE ALLOWED TO DEVELOP THE SUBJECT PROPERTY UNDER THE CORRECT ZONING REQUESTED.

Zoning must be in accordance with a comprehensive plan and it can be upheld only as part of the general plan for the community which sets apart certain areas for agricultural, residential and business uses where these uses are obviously suitable and needed. Hunter vs. Board of County Commissioners of Carroll Co., 252 Md. 305, 250 A.2d 81 (1969). Without reiterating the extensive testimony of Petitioner and Protestants, it seems clear first that the Petitioner presented at least a prima facie case mandating an affirmative decision to his requested zoning. The ordinary presumption of the correctness of the 1976 Comprehensive Zoning Map cannot stand the weight of reason presented by this Petitioner for the propriety and reasonableness of the earlier zoning classification prior to 1976. He spoke as well to the economic obstacles to development as presently zoned as he had earlier spoken to the County Council prior to the adoption of the

DAVID GRANT WILLEMANN  
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1976 Map. Why they chose to retain present zoning on the nearby B.L. tract on Windsor Mill Road while downshifting Petitioner's land for traffic concerns boggles the mind, but it happened. It is the proper function of the Zoning Commissioner to correct such errors and Petitioner submits that, on it's case, the Zoning Commissioner can properly correct the map error by granting the requested zoning which Petitioner respectfully prays be done.

Respectfully submitted,

DAVID GRANT WILLEMANN, P.A.

by David Grant Willemann  
DAVID GRANT WILLEMANN  
108 Jefferson Building  
Towson, Maryland 21204  
296-1535  
Attorney for Petitioner

#### MAIL CERTIFICATIONS

I HEREBY CERTIFY that on this 6th day of October 1977, one of the foregoing Memorandum in Support of Petition for Reclassification was mailed, postage prepaid, to James Smith, 7407 Millwood Road, Baltimore, Maryland 21207, pro se and representing Protestants, and to John Hessian, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

David Grant Willemann  
DAVID GRANT WILLEMANN

DAVID GRANT WILLEMANN  
ATTORNEY AT LAW  
SUITE 219, COURT HOUSE  
TOWSON, MARYLAND 21204  
296-1535

LAW OFFICES OF  
DAVID GRANT WILLEMANN  
SUITE 219, COURT HOUSE  
108 WEST CHESTER AVENUE  
TOWSON, MARYLAND 21204

(301) 296-1535

January 23, 1978

Mr. Walter A. Reiter, Jr., Chairman  
County Board of Appeals  
Suite 219, Court House  
Towson, Maryland 21204

Re: Petition of Lane Realty, Inc.,  
et al., Case No. 78-26-R,  
Our File No. 334C

Dear Mr. Reiter,

Enclosed herewith please find the original and three copies of a Motion for Leave to Strike Appearance by Michael P. Tanczyn, Esquire and an Order Striking his Appearance which we would appreciate your docketing and executing at your earliest opportunity. When the order has been signed, please "true test" the enclosed copies and forward them to Messrs. Hessian, Tanczyn and to myself.

Please acknowledge receipt of this letter and the enclosures by signing the enclosed copy of this letter and returning the same in the self-addressed envelope.

Your anticipated cooperation in this matter is sincerely appreciated.

Very truly yours,

David Grant Willemann  
David Grant Willemann

cc: Michael P. Tanczyn, Esquire  
John W. Hessian, III, Esquire  
Leon A. Crane, Esquire

Received: \_\_\_\_\_ Date: \_\_\_\_\_

DGW/bn

Enc.

38/04

R-2 12/15/78  
2:15 PM

LAW OFFICES OF  
DAVID GRANT WILLEMANN  
SUITE 219, COURT HOUSE  
108 WEST CHESTER AVENUE  
TOWSON, MARYLAND 21204

(301) 296-1535

January 25, 1978

Mr. Walter A. Reiter, Jr., Chairman  
County Board of Appeals  
Suite 219, Court House  
Towson, Maryland 21204

Re: Petition of Lane Realty, Inc.,  
et al., Case No. 78-26-R,  
Our File No. 334C

Dear Mr. Reiter,

Enclosed herewith please find the original and three copies of a Motion for Leave to Strike Appearance by Michael P. Tanczyn, Esquire and an Order Striking his Appearance which we would appreciate your docketing and executing at your earliest opportunity. When the order has been signed, please "true test" the enclosed copies and forward them to Messrs. Hessian, Tanczyn and to myself.

Please acknowledge receipt of this letter and the enclosures by signing the enclosed copy of this letter and returning the same in the self-addressed envelope.

Your anticipated cooperation in this matter is sincerely appreciated.

Very truly yours,

David Grant Willemann  
David Grant Willemann

cc: Michael P. Tanczyn, Esquire  
John W. Hessian, III, Esquire  
Leon A. Crane, Esquire

Received: \_\_\_\_\_ Date: \_\_\_\_\_

DGW/bn

Enc.

38/04

RE: PETITION FOR RECLASSIFICATION\*  
N/2 of Vinson Lane 949 NE of  
Windor Mh Road, 2nd District  
LANE REALTY, INC., et alia,  
Petitioners  
BEFORE THE  
COUNTY BOARD  
OF APPEALS  
Case No. 78-26-R

**ORDER TO ENTER THE APPEARANCE OF DAVID GRANT WILLEMAIN**

Enter the appearance of David Grant Willemain for Petitioners in the above-captioned matter.

*David Grant Willemain*  
DAVID GRANT WILLEMAIN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1535

**MOTION FOR LEAVE TO STRIKE APPEARANCE**

Michael P. Tanczyn, attorney for Petitioners in the above-captioned matter, after noting the appearance of David Grant Willemain has been entered in the above-captioned matter, hereby moves that his appearance be stricken in this matter.

*Michael P. Tanczyn*  
MICHAEL P. TANCZYN  
P. O. Box 10133  
Towson, Maryland 21204  
296-1648

**CERTIFICATE OF SERVICE**

I hereby certify that on this 23<sup>rd</sup> day of January, 1979 a copy of the foregoing was mailed, postage prepaid to John W. Heslin, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

*David Grant Willemain*  
DAVID GRANT WILLEMAIN

**ORDER**

Upon the foregoing Motion of Michael P. Tanczyn for leave to strike his appearance, the appearance of David Grant Willemain having been entered therein and no objection having been filed herein it is this \_\_\_\_\_ day of January, 1979 by this

The Board of Appeals for Baltimore County:  
**ORDERED** that the appearance of Michael P. Tanczyn be stricken as requested.

WALTER A. REITER, JR.  
Chairman

28/04

RE: PETITION FOR RECLASSIFICATION\*  
N/2 of Vinson Lane 949 NE of  
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LANE REALTY, INC., et alia,  
Petitioners  
BEFORE THE  
COUNTY BOARD  
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**ORDER TO ENTER THE APPEARANCE OF DAVID GRANT WILLEMAIN**

Enter the appearance of David Grant Willemain for Petitioners in the above-captioned matter.

*David Grant Willemain*  
DAVID GRANT WILLEMAIN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1535

**MOTION FOR LEAVE TO STRIKE APPEARANCE**

Michael P. Tanczyn, attorney for Petitioners in the above-captioned matter, after noting the appearance of David Grant Willemain has been entered in the above-captioned matter, hereby moves that his appearance be stricken in this matter.

*Michael P. Tanczyn*  
MICHAEL P. TANCZYN  
P. O. Box 10133  
Towson, Maryland 21204  
296-1648

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of January, 1979 a copy of the foregoing was mailed, postage prepaid to John W. Heslin, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

DAVID GRANT WILLEMAIN

**ORDER**

Upon the foregoing Motion of Michael P. Tanczyn for leave to strike his appearance, the appearance of David Grant Willemain having been entered therein and no objection having been filed herein it is this \_\_\_\_\_ day of January, 1979 by this

The Board of Appeals for Baltimore County:  
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WALTER A. REITER, JR.  
Chairman

28/04

RE: PETITION FOR RECLASSIFICATION\*  
N/2 of Vinson Lane 949 NE of  
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Petitioners  
BEFORE THE  
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**ORDER TO ENTER THE APPEARANCE OF DAVID GRANT WILLEMAIN**

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*David Grant Willemain*  
DAVID GRANT WILLEMAIN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1535

**MOTION FOR LEAVE TO STRIKE APPEARANCE**

Michael P. Tanczyn, attorney for Petitioners in the above-captioned matter, after noting the appearance of David Grant Willemain has been entered in the above-captioned matter, hereby moves that his appearance be immediately stricken in this matter.

*Michael P. Tanczyn*  
MICHAEL P. TANCZYN  
P. O. Box 10133  
Towson, Maryland 21204  
296-1648

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of January, 1979 a copy of the foregoing was mailed, postage prepaid to John W. Heslin, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

DAVID GRANT WILLEMAIN

**ORDER**

Upon the foregoing Motion of John W. Heslin, III for leave to strike his appearance, the appearance of David Grant Willemain having been entered therein and no

The Board of Appeals for Baltimore County:  
**ORDERED** that the appearance of Michael P. Tanczyn be stricken as requested.

WALTER A. REITER, JR.  
Chairman

28/04

RE: PETITION FOR RECLASSIFICATION\*  
N/2 of Vinson Lane 949 NE of  
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*David Grant Willemain*  
DAVID GRANT WILLEMAIN  
Suite 108, Jefferson Building  
Towson, Maryland 21204  
296-1535

**MOTION FOR LEAVE TO STRIKE APPEARANCE**

Michael P. Tanczyn, attorney for Petitioners in the above-captioned matter, after noting the appearance of David Grant Willemain has been entered in the above-captioned matter, hereby moves that his appearance be stricken in this matter.

*Michael P. Tanczyn*  
MICHAEL P. TANCZYN  
P. O. Box 10133  
Towson, Maryland 21204  
296-1648

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of January, 1979 a copy of the foregoing was mailed, postage prepaid to John W. Heslin, III, Esquire, People's Counsel, County Office Building, Towson, Maryland 21204.

DAVID GRANT WILLEMAIN

**ORDER**

Upon the foregoing Motion of Michael P. Tanczyn for leave to strike his appearance, the appearance of David Grant Willemain having been entered therein and no objection having been filed herein it is this \_\_\_\_\_ day of January, 1979 by this

The Board of Appeals for Baltimore County:  
**ORDERED** that the appearance of Michael P. Tanczyn be stricken as requested.

WALTER A. REITER, JR.  
Chairman

28/04



File  
3513 Ruppel Rd.  
Baltimore, Md. 21207  
Sept. 7, 1977  
Mr. S. Eric Di Renzo  
Zoning Commissioner  
Baltimore County,  
Towson



Dear Mr. Di Renzo,  
In reference to property at Windsor Mill & Timonium Ave. - we are very much against the building of a shopping center & apartment complex.  
1. the area is crowded enough  
2. more cars would add to the polluting the environment.  
3. Sewage is a problem already & this would add a further burden.  
4. there is not enough fire & police protection for the proposed area  
5. this would add a burden to the area  
6. our area is a fine, integrated area with well kept grounds.  
Why do the residents try to destroy this area in making it another like the why don't you try this in Towson or Baltimore. I'll leave your area alone. It's so close to the city. Thank you  
Sincerely,  
Martha Brinkley

File  
3522 Green Avenue  
Baltimore, Maryland 21207  
September 7, 1977.

Dear Mr. Di Renzo:  
It has been brought to the attention of the residents of this area that a petition to reclassify the 25 acres of property at Windsor Mill and Timonium Ave. has been made.  
As a concerned resident I would like you to know that I'm very much opposed to reclassifying the property for several reasons.



2.  
1. Our school condition here at the present time would not be able to hold more students. I presently have a child in Midway Middle School who because of lack of room will have to be moved to another school. This would increase the problem greatly.  
2. Our need for additional streets is indeed abundantly clear to the fact that in the last couple years we have had two large food stores close, one like the B&P closed the summer and the other a Super Super, closed a couple years ago. Also it may be noted that a new Farm Store 5 blocks from the property in question is about to open.  
3. I've stated that single homes could not be built there due to rocky conditions, the fact remains that the development which I live in and the surrounding area are indeed built on rocky condition. Some homes were and could not be built.



3.  
A couple years ago. Also it may be noted that a new Farm Store 5 blocks from the property in question is about to open.  
3. I've stated that single homes could not be built there due to rocky conditions, the fact remains that the development which I live in and the surrounding area are indeed built on rocky condition. Some homes were and could not be built.



4.  
I respectfully urge you to give careful thought to our condition that are existing and hope you will deny the request for the classification.  
SEP 8 1977 PM  
Sincerely,  
Mrs. Anne Carl Schmitt  
This Friday there will be residents who are planning to attend the hearing.



File  
Sept 7, 1977  
Dear Sir:  
I am writing to you regarding the property on Timonium Lane and Coddlestone Ave.  
I feel there is no need for any more Apts. or Shopping Center in this area. We have a brand new food store on the corner of Roland Rd. and Windsor Mill Rd. Also a old food store that has been there for years.  
We have a vacant A + P food store on Liberty Rd. that had to close due to lack of business. there

is another food store on Liberty Rd that had to close for the same reason.  
We have enough Apts. in this area and our roads will not take all the traffic.  
Mrs. Rose Danielle  
7301 Doonan Rd.  
Baltimore, Md.



File  
3525 Liberty Road Rd.  
Baltimore, Maryland 21207  
September 5, 1977  
Dear Mr. Di Renzo,  
Zoning Commissioner  
Baltimore County  
Dear Sir:  
On Friday, September 9, 1977 there is a hearing scheduled for a 25 acre tract of land in my neighborhood. According to the points listed on the developers petition, our neighborhood is a "critical" need of a shopping center and 255 additional apartments.  
The purpose of my letter is to refute these points and to present points of my own as to why there is no critical need whatsoever.  
Point 1: There is no need for an empty store sitting next to the vacant A + P food store on Liberty Rd. that had to close for the same reason.



Point 2: There is no reason why the area cannot be single family dwellings or the school to develop another store to help the community of its character and well-being.  
Point 3: Homeowners work long and hard and our community organizations see it that our area stays clean and trouble free. Gardening residents do well as the vacancies and houses make no commitment to a community.  
Point 4: There are 2 "B" and 1 "C" in between these stores listed above and I can get to all of them within 5 minutes.  
Point 5: The Security Square Mall, Shopping

Point 6: There are 2 "B" and 1 "C" in between these stores listed above and I can get to all of them within 5 minutes.  
Point 7: The Security Square Mall, Shopping

Point 8: There are 2 "B" and 1 "C" in between these stores listed above and I can get to all of them within 5 minutes.  
Point 9: The Security Square Mall, Shopping

Linda Cicero  
Linda Cicero





LAW OFFICES OF  
DAVID GRANT WILLIAMS  
SUITE 100, JEFFERSON BUILDING  
100 WEST CHESTERPEAKE AVENUE  
TOWSON, MARYLAND 21204

**CERTIFIED**  
No. 756136  
**MAIL**

CLAW CHECK NO.  
531197

DATE  
3/30/72

FILE NO.  
21204

Mr. Walter A. Reiter, Jr., Chairman  
County Board of Appeals  
Suite 219, Court House  
Towson, Maryland 21204

CUT TO LENGTH 4100

Yvonne Williams  
2205 Timmons Lane  
Baltimore Co. Md.  
21207

Please inform me of when  
the hearing for case  
#9826 R-Love Realty, Inc.  
will take place  
Thank you

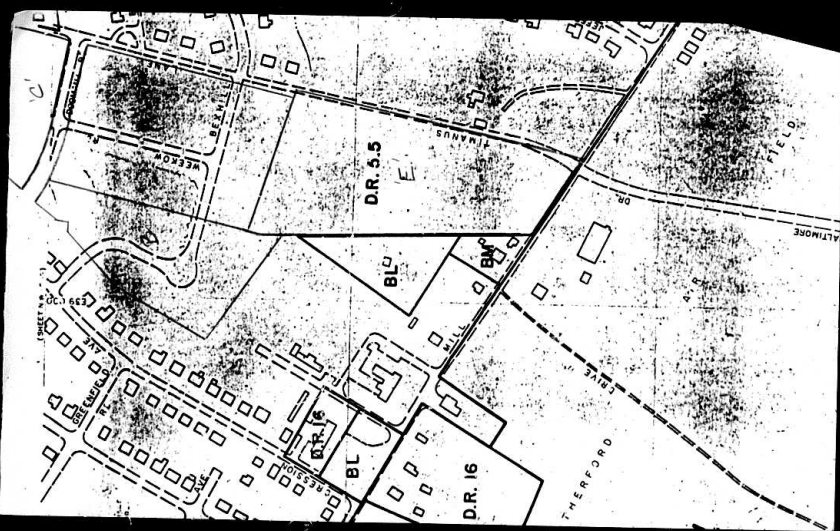
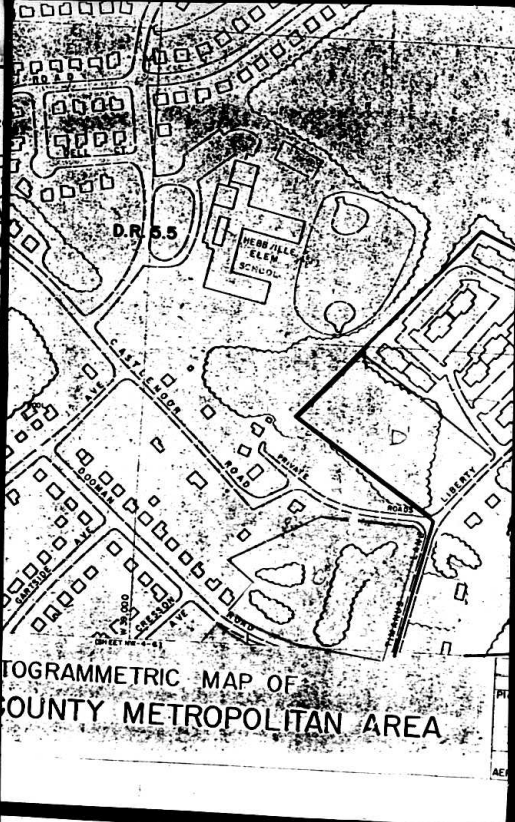
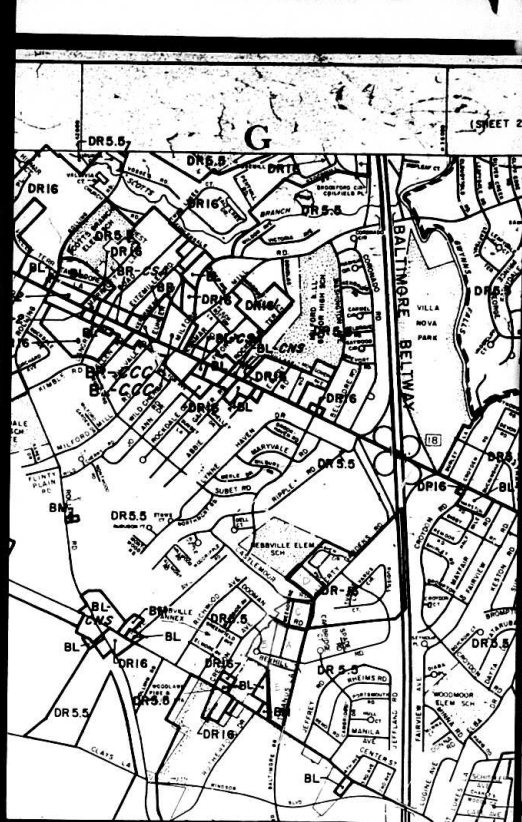
**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 2nd Date of Posting: MAY 3, 1972  
Posted for: APPEAL  
Petitioner: LANS, RERRY, INC., ET AL  
Location of property: NE 1/4, TIMMONS LANE, 460' NE of WINDSOR  
MILL ROAD  
Location of Signs: NE 1/4, TIMMONS LANE, AT DEAD END of BETHUEL RD.  
ON N/S. of WINDSOR MILL RD. AT DEAD END of BETHUEL RD.  
Remarks: OF LORD BALTIMORE DR.  
Posted by: William L. Beland Date of return: MAY 4, 1972

2-SIGNS

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 2nd Date of Posting: APRIL 1, 1978  
Posted for: APPEAL  
Petitioner: LANS, RERRY, INC., ET AL  
Location of property: NE 1/4, TIMMONS LANE, 460' NE of WINDSOR  
MILL ROAD  
Location of Signs: NE 1/4, TIMMONS LANE, AT DEAD END of BETHUEL RD.  
ON N/S. of WINDSOR MILL RD. AT DEAD END of BETHUEL RD.  
Remarks: OF LORD BALTIMORE DR.  
Posted by: William L. Beland Date of return: APRIL 1, 1978





NOTE: ORIGINAL PLAT PREPARED BY  
MATZ, CHILDS & ASSOCIATES,  
THIS REVISED PLAT PREPARED  
BY B.D. LYNCH & CO., INC.  
4907 HARFORD RD  
BALTO, MD. 21214



| DR-16-DENSITY          | CALCULATION |          |         |  |
|------------------------|-------------|----------|---------|--|
|                        | Area "B"    | Area "C" | Area    |  |
| Grassy Area            | 4.25 Ac     | 5.66 Ac  | 5.95 Ac |  |
| Area in Streets        | 1.02 Ac     | 0.89 Ac  | 0.10 Ac |  |
| Net Area               | 4.30 Ac     | 4.86 Ac  | 5.71 Ac |  |
| Available Grass Yards  | 75 Units    | 20 Units | 60      |  |
| Available Net          | 77 Units    | 56 Units | 60      |  |
| Available No. of Units | 77 Units    | 56 Units | 60      |  |
| Proposed No. of Units  | 77 Units    | 56 Units | 60      |  |
| Actual Grass Density   | 15.85       | 15.32    | 15.20   |  |
| Actual Net Density     | 17.70       | 17.24    | 16.50   |  |

[illegible]

### GENERAL NOTES:

- [illegible]

PLAT TO ACCOMPANY PETITION FOR  
ZONING RECLASSIFICATION  
FOR

28.6 ACRE+ PROPERTY LOCATED AT  
TIMANUS LANE, WINDSOR MILL ROAD,  
LIBERTY GARDEN ROAD, DOOMAN ROAD,  
& CASTLEMOOR ROAD

2<sup>ND</sup> ELECTION DISTRICT; BALTIMORE COUNTY, MD  
SCALE: 1"=100' DATE: MARCH 24, 1977

OWNER AND PETITIONER:  
LEON A. CRANE, ETAL  
1800 NORTH CHARLES ST.  
BALTO, MD. 21201  
727-7630

DATE: MARCH 29, 1977

NOTE: THIS PLAT REPRESENTS  
THE SAME PROPERTY PREVIOUSLY  
RECLASSIFIED BY ZONING ORDER  
69-270-R DURING 1968-69







LORD BALTIMORE  
DRIVE

NOTE: ORIGINAL PLAT PREPARED BY  
MATZ, CHILDS & ASSOCIATES,  
THIS REVISED PLAT PREPARED  
BY B.D. LYNCH & CO., INC.  
4907 HARFORD RD.  
BALTO., MD. 21214



| DR-16-DENSITY           | CANADIAN   | PERCENT    |
|-------------------------|------------|------------|
| GROSS AREA              | 4.25 AC    | 5.50 AC    |
| AREA IN TREES           | 0.08 AC    | 2.10 AC    |
| NET AREA                | 4.17 AC    | 4.40 AC    |
| ALLOWABLE GROSS DENSITY | 12 DENSITY | 20 DENSITY |
| ALLOWABLE NET DENSITY   | 11 DENSITY | 50 DENSITY |
| PERMITTED N° OF CUTS    | 11 CUTS    | 80 CUTS    |
| PERMITTED N° OF DENSITY | 11 CUTS    | 36 DENSITY |
| ACTUAL GROSS DENSITY    | 10.55      | 13.20      |
| ACTUAL NET DENSITY      | 17.50      | 17.50      |

| OFF-PILOT PLANNING REQUIREMENTS  |           |          |           |           | APT DENSITY UNITS |     |     |     |
|----------------------------------|-----------|----------|-----------|-----------|-------------------|-----|-----|-----|
| Area                             | Base Area | W of Apt | East Wdg. | Thru Wdg. | 1BR               | 2BR | 3BR | 4BR |
| Commoning, Corridor, Lobby, etc. | -         | 77       | 77        | 104       | 35                | 42  | 68  | 104 |
| Access "B"                       | -         | 77       | 77        | 104       | 35                | 42  | 68  | 104 |
| Access "C"                       | -         | 86       | 86        | 119       | 30                | 56  | 78  | 120 |

[illegible]

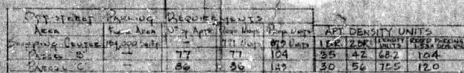
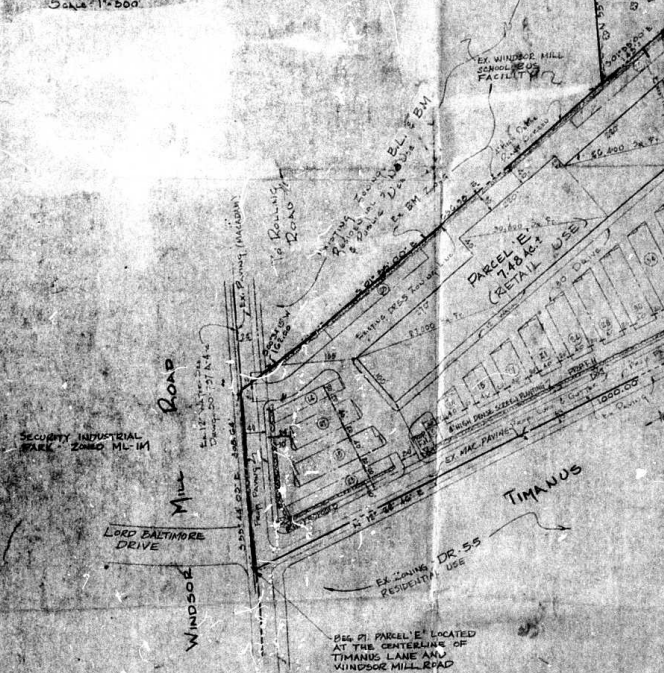
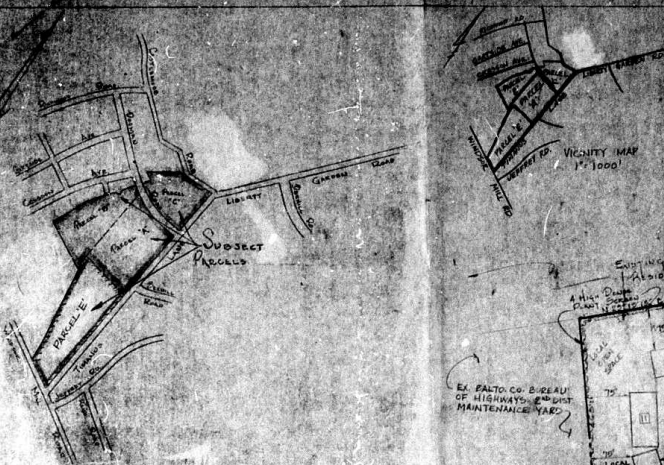
PLAT TO ACCOMPANY PETITION FOR  
:ONING RECLASSIFICATION  
FOR

24.74 - ARE+ PROPERTY LOCATED AT  
TIMANIS LANE, WINDSOR MILL ROAD,  
LIBERTY GARDEN ROAD, DOOMAN ROAD,  
& CASTLEMOOR ROAD

2ND ELECTION DISTRICT: BALTIMORE COUNTY, MD  
SCALE 1"=100' DATE: MARCH 28, 1977, REV. 5/80/77  
OWNER AND PETITIONER: NOTE: THIS PLAT REPRESENTS  
LEON A. (RANE), ETAL THE SAME PROPERTY PREVIOUSLY  
1800 NORTH CHARLES ST. RECLASSIFIED BY ZONING ORDER  
BALTO, MD 21201 69-270-R DURING 1960-69  
727-7030







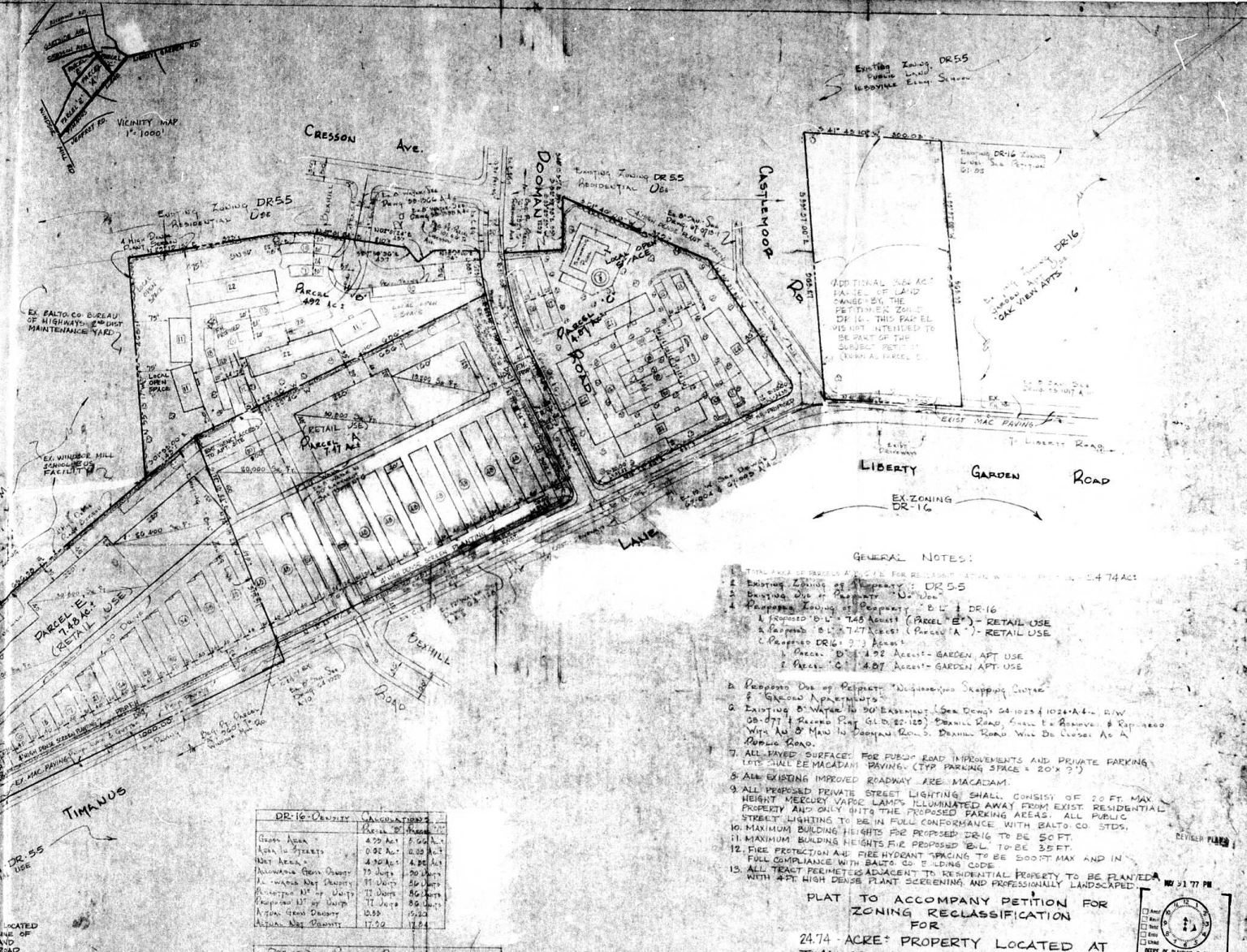
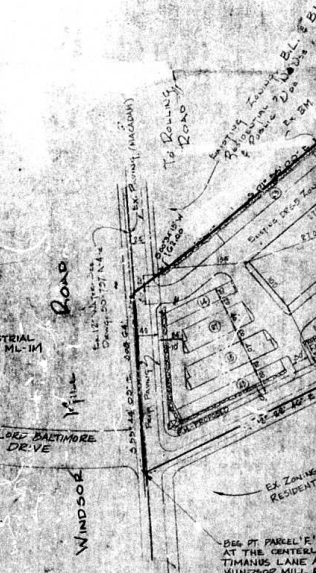
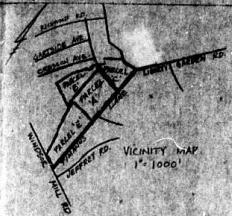
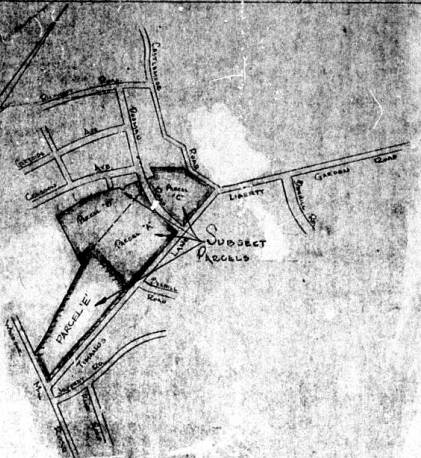
6. TOTAL AREA OF PLANTING: 1.17 AC. FOR RELATIONSHIP WITH SITE PLAN ON 2.47 AC.
7. EXISTING ZONING OF PROPERTY: DR-5.5
8. EXISTING USE OF PROPERTY: No Use
9. PROPOSED ZONING OF PROPERTY: B-1 & DR-16
  1. PROPOSED B-1: 140 ACRES (PARCEL 1) - RETAIL USE
  2. PROPOSED B-1.5: 747 ACRES (PARCEL 2) - RETAIL USE
  3. PROPOSED DR-16: 277 ACRES
  4. PROPOSED B-1 & DR-16 ACRES - GARDEN APT USE
  5. PROPOSED B-1 & DR-16 ACRES - GARDEN APT USE
10. PROPOSED USE OF PROPERTY: Neighborhood Shopping Center
  1. GARDEN APT. COMMUNITY
  2. EXISTING B-1 MAXIMUM 100 EXHIBITS (See Demos 40,1022,4,1022,4,4 - B-1W 40,071 & Related Plans 41,0,2,12,102) DORVILLE ROAD, SOUTH OF RIVERVIEW & RIVERVIEW WITH AC. 0.1 MILE IN DORVILLE ROAD, DORVILLE ROAD WILL BE CLOSED AS A PUBLIC ROAD.
11. ALL PAVED SURFACES FOR PUBLIC ROAD IMPROVEMENTS AND PRIVATE PARKING LOT WILL BE LEASABLE, PAVING (TYP. PARKING SPACE 8'0" X 2'0")
12. ALL EXISTING IMPROVED ROADWAY ARE MAINTAINABLE
13. ALL PROPOSED PRIVATE STREET LIGHTING IS MAGNOLIA, CONSIST OF 2.0 FT. MAX. HEIGHT MERCURY VAPOR LAMPS ILLUMINATED FROM EXISTING PUBLIC UTILITY PROPERTY AND ONLY ON THE PROPOSED PARKING AREAS. ALL PUBLIC STREET LIGHTING SHALL BE IN FULL CONFORMANCE WITH BALTO. CO. STDS.
14. MAXIMUM BUILDING HEIGHTS FOR PROPOSED DEVELOPMENT SHALL BE 50 FT.
15. MAXIMUM BUILDING HEIGHTS FOR PROPOSED DEVELOPMENT SHALL BE 35 FT.
16. FENCE PROTECTION AND FIRE HYDRANT SPACING TO BE 300 FT. MAX. AND IN FULL CONFORMANCE WITH BALTO. CO. BUILDING CODE
17. ALL TRACTS SHALL BE MAINTAINED AS OPEN SPACE AND ALL PROPERTY TO BE PLANTED WITH APT. HIGH DENSE PLANT SCREENING AND PROFESSIONALLY LANDSCAPED.

24.74 - ACRE\* PROPERTY LOCATED AT  
TIMANUS LANE, WINDSOR MILL ROAD,  
LIBERTY GARDEN ROAD, DOOMAN ROAD,  
& CASTLEMOOR ROAD

NOTE: THIS PLAT REPRESENTS  
THE SAME PROPERTY PREVIOUSLY  
RECLASSIFIED BY ZCNING ORDER  
69-270-R DURING 1968-69







| DR-16-DENSITY              | CALCULATED | PERCENT  |
|----------------------------|------------|----------|
|                            | PERCENT    | PERCENT  |
| Green Area                 | 4.50 AC.   | 9.66 AC. |
| Area in Streets            | 0.82 AC.   | 0.85 AC. |
| Net Area                   | 4.50 AC.   | 4.80 AC. |
| Municipal Green Density    | 79 Units   | 20 Units |
| Non-Municipal Net Density  | 91 Units   | 56 Units |
| Non-Municipal Net of Units | 73 Units   | 86 Units |
| Non-Municipal Net of Units | 73 Units   | 86 Units |
| Actual Green Density       | 10.50      | 15.22    |
| Actual Net Density         | 17.50      | 17.64    |

| APT DENSITY REQUIREMENTS |            |             |           |           | APT DENSITY UNITS |      |      |      |
|--------------------------|------------|-------------|-----------|-----------|-------------------|------|------|------|
| Area                     | Acres Area | 1/2 of Apts | Min Units | Max Units | 1 BR              | 2 BR | 3 BR | 4 BR |
| ENTRANCE DRIVE           | 1.00       | -           | 171       | 81        | 12                | 24   | 36   | 48   |
| DRIVE - 15'              | -          | 77          | 77        | 104       | 35                | 42   | 52   | 104  |
| PARKWAY - 6'             | -          | 86          | 86        | 149       | 30                | 56   | 78   | 120  |

NOTE: ORIGINAL PLAT PREPARED BY  
MATZ, CHILDS & ASSOCIATES,  
THIS REVISED PLAT PREPARED  
BY B.D. LYNCH & CO., INC.  
4907 HARFORD RD.  
BALTO., MD. 21214



GENERAL NOTES:

2. EXISTING ZONING OF PROPERTY: DR-55
3. EXISTING USE OF PROPERTY: "No Use"
4. PROPOSED ZONING OF PROPERTY: B-1 & DR-16
  1. PROPOSED B-1: 745 ACRES (PARCEL "B") - RETAIL USE
  2. PROPOSED DR-16: 7.747 ACRES (PARCEL "A") - RETAIL USE
  3. PROPOSED DR-16: 1.7 ACRES
  4. PROPOSED B-1: 1.92 ACRES - GARDEN, APT USE
  5. PROPOSED B-1: 4.89 ACRES - GARDEN APT USE
5. PROPOSED USE OF PROPERTY: "Neighborhood Shopping Center"
  1. GARDEN APARTMENTS
  2. EXISTING 6" WATER IN SUB-BASINMENT (See Drawing 34-1022 & 1024-A-1, R/W
  3. 05-071 & 2-0600 PLAN GL-05-02-120) DRAINAGE DRAIN, 4" DIA. & 4'-0" DIA. 10'-000
  4. WITH AN 8" MAN IN DOWNHILL SLOPE. DRAINAGE RADIUS WILL BE LARGER AS A
  5. PUBLIC ROAD.
6. ALL PAVED SURFACES: FOR PUBLIC ROAD IMPROVEMENTS AND PRIVATE PARKING
7. ALL EXISTING IMPROVED PAVING, (TYP. PARKING SPACE = 20' x 9')
8. ALL PROPOSED PRIVATE STEEL LIGHTING SHALL CONSIST OF 20 FT. MAX. HEIGHT MERCURY VAPOR LAMP LATERED AWAY FROM EXIST. RESIDENTIAL PROPERTY AND ONLY INTO THE PROPOSED PARKING AREAS. ALL PUBLIC STREET LIGHTING TO BE IN FULL CONFORMANCE WITH BALTO CO. STD'S.
9. MAXIMUM BUILDING HEIGHTS FOR PROPOSED: DR-16 TO BE 35 FT.
10. MAXIMUM BUILDING HEIGHTS FOR PROPOSED: B-1 TO BE 30 FT.
11. FIRE PROTECTION AND FIRE HYDRANT SPRING TO BE 300 FT. MAX. AND IN FULL COMPLIANCE WITH BALTO CO. S.D. BUILDING CODE
12. ALL TRACT PROJECTS MUST BE IN FULL COMPLIANCE WITH ALL CITY ORDINANCES WITH APT. HIGH DENSE PLANT SCREENING AND PROFESSIONAL LANDSCAPE

PLAT TO ACCOMPANY PETITION FOR  
ZONING RECLASSIFICATION  
FOR

24.74 - ACRE+ PROPERTY LOCATED AT  
TIMANUS LANE, WINDSOR MILL ROAD,  
LIBERTY GARDEN ROAD, DOOMAN ROAD,  
& CASTLEMOOR ROAD

2ND ELECTION DISTRICT; BALTIMORE COUNTY, MD  
SCALE: 1" = 100' EXT: 11/20/2007

OWNER AND PETITIONER:  
LEON A. CRANE, ETAL  
1800 NORTH CHARLES ST.  
BALTO. MD. 21201  
727-7630

DATE: MARCH 29, 1977, REV. 5/20/77  
NOTE: THIS PLAT REPRESENTS  
THE SAME PROPERTY PREVIOUSLY  
RECLASSIFIED BY ZONING ORDER  
69-270-R DURING 1968-69

