PETITION FOR SPECIAL HEARING 74-309-3PH TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve honor and protect the CRG approval of July 29, 1982, for proposed Silver Woods property pursuant to Sections 1801.B. and 1802.3 and other applicable of the Baltimore County Zoning Regulations and Section 22-62 of the Baltimore County Code, and any other applicable provisions of either the Regulations or the Code.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

P.O. Box 7. Laurel Brook Road

Phone No. 823-7800

Fallston, Maryland 21047

City and State

Legal Owner(s): Joseph D. Deigert, et al 5411 Storm Drift

(Type or Print Name) Columbia, Maryland 21045 City and State

Attorney for Petitioner: Stephen J. Nolan and Nolan. Plumhoff & Williams Type or Print Name) 1 Molan, Molan Phrodupt Pennsylvania Avenue

Name, address and phone number of legal owner, contract purchaser or representative to be contacted Maryland 21204 s's Telephone No.: 823-7800 204 W. Penn. Ave., Towson, MD 21204

ADERED By The Zoning Commissioner of Baltimore County, this ______5th___day ____, 19_84_, that the sul t matter of this petition be advertised, as our Baltimore County, that property be posted, and that the public hearing be had before the Zoning

Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the ______loth___day of _____May ____, 19.84 , at 10:00 o'clock

Z.C.O.-No. 1

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Arnold Jablon TO Zoning Commissioner. Norman E. Gerber, Director FROM Office of Planning and Zoning

Joseph D. Deigert, et al SUBJECT 84-309-SPH

This plan was approved by the CRG on July 29, 1982.

Norman E. Gerber, Directon
Office of Plans! Office of Planning and Zoning

Date April 27, 1984

NEG/JGH/sf

Stephen J. Helan, Require Holan, Flumboff & Villians 204 V. Permeylvenia Avenue Towarn, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this day of _______, 1984.

Petitioner Joseph D. Deigert, et al Received by: Petitioner's Stephen J. Welson

Chairman, Zoning Plans

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

COUNTY OFFICE BLDG.
111 W. Chesapeaks Ave.
Towson, Maryland 21204 Stephen J. Nolan, Esquire Nolan, Plumhoff & Williams 204 W. Pennsylvania Avenue

Department of

State Roads Commission Bureau of Fire Prevantion Health Department Project Planning Building Department Board of Education

MEMBLRS

· Bureau of

Industrial

April 30, 1984

Towson, Maryland 21204

RE: Case No. 84-309-SPH (Item No. 267)
Petitioner - Joseph D. Deigert, et al Special Hearing Petition

Dear Mr. Nolan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

This hearing is required because of your client's proposal to determine if their proposed development is subject to Bill #109-82. Since this particular Bill further limited how a proposed development, adjacent to one with dissimilar housing types, could be developed, this hearing is required to prove that the plan, approved by the CRG (County Review Group), prior to the adoption of said Bill, should be applicable.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

> Meholas B. Commodow/w NICHOLAS B. COMMODARI Chairman Zoning Advisory Committee

NBC:mch Enclosures

cc: The Shenk Corp. 43 East Lee Street Belair, Maryland 21014 BALTIMORE COUNTY FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE

Gentlemen:

Mr. William Hammond Coming Commissioner Office of Planning and Zoning Baltimore County Office Building Towson, Maryland 21204

Attention: Nick Commodari, Chairman Zoning Plans Advisory Committee

RE: Property Owner: Joseph D. Deigert, et al

Location: SW/Cor. Silver Knoll Drive and Hilltop Acres Road Zoning Agenda: Meeting of 4/17/84 Item No.: 267

May 3, 1984

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

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____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.

EXCEEDS the maximum allowed by the Fire Department.

() 3. The vehicle dead end condition shown at

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(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", 1976 Edition prior

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

Planning/Group

Special Inspection Division

BALTIMORE COUNTY
DEPARTMENT OF PERMITS & LICENSES TOWSON MARYLAND 21204 494-3610

Mr. Arnold Jablon, Zoning Commissioner County Office Building

April 23, 1984

Comments on Item #267 Zoning Advisory Committee Meeting are as follows:

Property Owner: Joseph D. Deigert, et al Location: SW/Cor. Silver Knoll Drive and Hilltop Acres Road Existing Zoning: D.R. 5.5 Proposed Zoning: Special hearing to honor and protect the CRG approval of July 29, 1982 for proposed Silver Woods.

Acres: 9.57 District: 33+1

All structures shall conform to the Baltimore County Building Code 1981/Council Bill 4-82 State of Maryland Code for the Handicapped and Aged; and other appli-

B. A building/ & other / permitshall be required before beginning construction. C. Residential: Three sets of construction drawings are required to file a permit application. Architect/Engineer seal is/is not required. Non-reproduced seals and signatures are required on Plans and Technical Data.

D. Commercial: Three sets of construction drawings with a Maryland Registered Architect or Engineer shall be required to file a permit application.

E. An exterior wall erected within 6'0 for Commercial uses or 3'0 for One & Two Family use group of an adjacent lot line shall be of one hour fire resistive construction, no openings permitted within 3'0 of lot lines. A firewall is required if construction is on the lot line, see Table 401, line 2, Section 1407 and Table 1402, also Section 503.2.

F. Requested variance appears to conflict with the Baltimore County Building Code,

G. A change of occupancy shall be applied for, along with an alteration permit application, and three required sets of drawings indicating how the structure will meet the Code requirements for the proposed change. Drawings may require

H. Before this office can comment on the above structure, please have the owner, thru the services of a Registered in Maryland . rehitect or Engineer certify to this office, that, the structure for which a proposed change in use is proposed can comply with the height/area requirements of Table 505 and the required construction classification of Table 401.

NOTE: These comments reflect only on the information provided by the drawings submitted to the office of Planning and Foning and are not intended to be construed as the full extent of any permit. If desired, additional information may be obtained by visiting Room 122 (Plans Review) at 111 W. Chesarsake Ave.,

> Mark I Lumber Charles E. Parthan, Chief

ilana heview



BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

HARRY J. PISTEL, P. E. DIRECTOR

May 17, 1984

Mr. Arnold Jablon Zoning Commissioner County Office Building Towson, Maryland 21204

> Re: Item #267 (1983-1984) Property Owner: Joseph D. Deigert, et al S/W corner Silver Knoll Drive and Hilltop Acres: 9.57 District: 11th

Dear Mr. Jablon:

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

This property (Project 81192) was the subject of review by the Baltimore County Joint Subdivision Planning Committee December 3, 1981, and by the County Review Group July 29, 1982.

The Baltimore County Bureau of Public Services provided comments to the Petitioner August 10, 1982 and August 16, 1982. This office has no further comment in regard to the plan submitted for

Zoning Advisory Committee review in connection with this Item 267 (1983-1984).

RAM: EAM: FWR: SE

cc: R. Covahey

M-NE Key Sheet 33 & 34 NE 31 & 32 Pos. Sheets NE 9 H Topo 72 Tax Map

Rev. 12/82

- 5. A new church or other building for religious worship, the site plan for which has been approved after a public hearing in accordance with Section 500.7. Any such hearing shall include a finding that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that said plan can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises. [Bill No. 109, 1982.]
- 7. Shoreline fishing and shellfish facilities. Such uses shall be governed by the provisions of Section 500.4 and subparagraphs 1A01.2.C.9, 1A02.2.B.10, 1A04.2.B.7, and 1B01.1.C.7A of these regulations. [Bill No. 124, 1981; No. 109, 1982.]
- 8. An addition to an existing trailer park or mobile home park or to property which is a part of such park or contiquous to such park, if the park is lawfully in existence in a D.R. Zone on the effective date of this act. [Bill No. 109, 1982.]
- 9. An addition to an existing community building, or other structures devoted to civic, social, recreational, fraternal or educational activity, including parking areas and driveways, provided all other applicable zoning regulations, including setback, parking, and screening requirements, are maintained. [Bill No. 109, 1982.]
- 10. A new community building, or other structures devoted to civic, social, recreational, fraternal or educational activity, if the zoning commissioner determines during the special exception process that the proposed improvements are planned in such a way that compliance, to the extent possible with RTA use requirements, will be maintained and that the special exception can otherwise be expected to be compatible with the character and general welfare of the surrounding residential premises. [Bill No. 109, 1982.]
- 11. Any zoning petition prepared in accordance with Bill No. 124-81 and filed prior to June 30, 1982. [Bill No. 109, 1982.]
- 12. Privately sponsored day care and nursery programs for children before, during, and after regular school hours as an ancillary use, in all public and private schools as otherwise permitted by these regulations. [Bill No. 47, 1982.]
- d. The provisions of Sub-subpar-graphs a and b of this subparagraph shall not apply to existing developments as described in Sub-paragraph A.1 of Subsection 1802.3, nor to subdivision tracts for which tentatively approved plans remain in effect as described in Subparagraph A.2 of said subsection. [Bill No. 100, 1970; No. 124, 1981.]
- 2. This provision was added by Bill No. 47, 1982. Although it does not appear as part of Bill No. 109-82, that Act did not specifically repeal this provision and it has therefore been continued in these Regulations.

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTERED

7 r

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

KNOW ALL MEN BY THESE PRESENTS, that I, ALFRED KASSER of Satsuma, Florida, desiring to execute a specific Power of Attorney, have made, constituted and appointed, and by these presents, do make constitute and appoint JOSEPH D. [GERT, my Attorney-in-Fact, for me and in my name, place and stead to wo and perform all acts, deeds, matters and things whatsoever concerning the property, situate in the Eleventh Election District of Baltimore County, consisting of 9.574 acres and to be developed for proposed Silver Woods Subdivision, which property is more fully described in a Deed recorded among the Land Records of Baltimore County in Liber OTG5003, folio 529, which description is incorporated herein be reference, which may be necessary and desirable in the judgment of my said Attorney-in-Fact as fully and effectually to all intents and purposes as I could do if personally present and acting, including but not limited to, each and every one of the following matters:

POWER OF ATTORNEY

1. APPLICATIONS FOR ZONING AND OTHER APPROVALS:

- (a) to request, petition and apply on my behalf as co-cwner, for any and all governmental approvals, including zoning approvals, whether from Baltimore County, Maryland or the State of Maryland which may be necessary in connection with the sale and/or development of the said property as my Attorney-in-Fact shall deem proper, in my name or jointly in my name and that of any other party or parties including my Attorney-in-Fact;
- (b) pursue, appear, participate and cooperate in any and all hearings or administrative or other proceedings which may be

nect wary or required in order to obtain any and all such governmental approvals as my Attorney-in-Fact shall deem proper, including the hearing on the Petition for Special Hearing (Item #267) before the Zoning Commissioner of Baltimore County;

- (c) to sign, seal, execute, acknowledge and deliver any and all instruments or petitions in writing of any kind and nature, as may be necessary or proper, containing such terms and conditions, and such zoning requests, if any, as my said Attorney-in-Fact shall deem
 - 2. REPRESENTATION AND EMPLOYMENT OF ASSISTANCE:
- (a) On my behalf and in my name or the name of my Attorney, to institute, prosecute, appear in, any legal, equitable or administrative hearings, actions, or other proceedings, with respect to the aforesaid approvals and to which I am or may become a party or in which I have an interest, and to engage counsel in connection therewith, authorizing my Attorney-in-Fact to assent or to waive any or all rights, privileges, and defenses available to me under the Laws of the United States of America, State Laws and Laws and Ordinances of Loc-1 Subdivision of the various States and Amendments thereto.
 - 3. MISCELLANEOUS:

To sign, seal, acknowledge and deliver any instrument necessary to accomplish any of the powers herein granted.

- 4. GENERAL PROVISIONS:
- (a) All business transacted hereunder for me or for my account shall be transacted in my name, and all endorsements and instruments executed by my Attorney-in-Fact shall be withthe designation "Attorney-in-Fact";

(b) I hereby ratify and confirm all lawful acts done and caused to be done by my said Attorney-in-Fact pursuant to this Power of Attorney, and I direct that it shall continue in effect until terminated by me or by operation of law.

(c) If the authority contained herein shall be revoked or terminated by operation of law without notice, I hereby agree for myself, executors, administrators, heirs and assigns, in consideration of my Attorney's willingness to act pursuant to this Power of Attorney, to save and hold harmless from any loss suffered or any liability incurred by my Attorney in so acting after such revocation or termination without notice.

(d) This Power of Attorney shall not be affected by my respective subsequent disability or incapacity, and the power and authority conferred herein on my said Attorney shall continue in full force and effect, and shall be exercisable by said Attorney notwithstanding my later disability or incapacity of any of usor later uncertainty as to whether I am dead or alive.

I hereby certify that as of the date of the execution of this instrument, I am of sound and disposing mind and capable of executing a valid deed or contract. I hereby further certify that I am not under any medical treatment for mental disability or disorder, or subject to any type of mental disability or disorder.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 30th day of ______, 1984.

NOLAN, PLUMHOFF

& WILLIAMS,

TOWSON, MD.

FLORIDA

STATE OF PUTNAM I, Sonya L. Hugher, a Notary Public of the State of

****Yhand, in and for the County aforesaid, do hereby certify that on the 30th day of April , 1984, before me, personally appeared Alfred L. Kasser , identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, he personally acknowledged to me that he signed and sealed the same on the date it bears as his true, free and voluntary act, and deed for the uses, purposes and considerations therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

My Commission expires: NOTARY PUBLIC, STATE OF FLORIDA My Commission Expires Jan. 26, 1986 BONDED BY U.S.F. & G. CO.

OLAN, PLUMHOFF & Williams, CHARTERED

SJN/ehf 4/26/84

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that I, BETTY LENNARD of Framingham, Massachusetts, desiring to execute a specific Power of Attorney, have made, constituted and appointed, and by these presents, do make constitute and appoint JOSEPH D. DEIGERT, my Attorney-in-Fact, for me and in my name, place and stead to do and perform all acts, deeds, matters and things whatsoever concerning the property, situate in the Eleventh Election District of Baltimore County, consisting of 9.574 acres and to be developed for proposed Silver Woods Subdivision, which property is more fully described in a Deed recorded among the Land Records of Baltimore County in Liber OTG5003, folio 529, which description is incorporated herein be reference, which may be necessary and desirable in the judgment of my said Attorney-in-Fact as fully and effectually to all intents and purposes as I could do if personally present and acting, including but not limited to, each and every one of the following matters:

1. APPLICATIONS FOR ZONING AND OTHER APPROVALS:

(a) to request, petition and apply on my behalf as co-owner, for any and all governmental approvals, including zoning approvals, whether from Baltimore County, Maryland or the State of Maryland which may be necessary in connection with the sale and/or development of the said property as my Attorney-in-Fact shall deem proper, in my name or jointly in my name and that of any other party or parties including my Attorney-in-Fact;

(b) pursue, appear, participate and cooperate in any and all hearings or administrative or other proceedings which may be

necessary or required in order to obtain any and all such governmental approvals as my Attorney-in-Fact shall deem proper, including the hearing on the Petition for Special Kearing (Item #267) before the Zoning Commissioner of Baltimore County;

(c) to sign, seal, execute, acknowledge and deliver any and all instruments or petitions in writing of any kind and nature, as may be necessary or proper, containing such terms and conditions, and such zoning requests, if any, as my said Attorney-in-Fact shall deem
(4) This power of attorney may be terminated advisable. on May 8, 1985 or upon notice in writing to the attorney in fact of such termination and such termination is binding on all parties.

2. REPRESENTATION AND EMPLOYMENT OF ASSISTANCE:

(a) On my behalf and in my name or the name of my Attorney, to institute, prosecute, appear in, any legal, equitable or administrative hearings, actions, or other proceedings, with respect to the aforesaid approvals and to which I am or may become a party or in which I have an interest, and to engage counsel in connection therewith, authorizing my Attorney-in-Fact to assent or to wrive any or all rights, privileges, and defenses available to me under the Laws of the United States of America, State Laws and Laws and Ordinances of Iocal Subdivision of the various States and Amendments thereto.

3. MISCELLANEOUS:

To sign, seal, acknowledge and deliver any instrument necessary to accomplish any of the powers herein granted.

4. GENERAL PROVISIONS:

(a) All business transacted hereurder for me or for my account shall be trans atted in my name, and all endorsements and instruments executed by my Attorney-in-Fact shall be withthe designation "Automey-in-Fact";

The Commonwealth of Massachusetts

Office of the Secretary of State

I hereby certify. That at the date of the attestation hereunto annexed,

Jeremiah O'Connor

whose name is signed to the attached certificate of acknowledgment, proof or affidavit, was at the time of taking the same, a NOTARY PUBLIC for the said Commonwealth duly commissioned and constituted; that to his/her acts and attestations, as such, full faith and credit are and ought to be given in and out of Court; that as such Notary Public, he/she was by law authorized to take depositions, to administer oaths and take acknowledgments or deeds or conveyances of lands, tenements or hereditaments and other instruments throughout the Commonwealth to be recorded according to law.

In testimony of which, I have hereunto affixed the

Great Seal of the Commonwealth

LAW OFFICES NOLAN, PLUMHOFF CHARTERED

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTÉRED

univ 23 565

(b) I hereby ratify and confirm all lawful acts done and caused to be done by my said Attorney-in-Fact pursuant to this Power of Attorney, and I direct that it shall continue in effect until terminated by me or by operation of law.

(c) If the authority contained herein shall be revoked or terminated by operation of law without notice, I hereby agree for myself, executors, administrators, heirs and assigns, in consideration of my Attorney's willingness to act pursuant to this Power of Attorney, to save and hold harmless from any loss suffered or any liability incurred by my Attorney in so acting after such revocation or termination without notice.

(d) This Power of Attorney shall not be affected by my respective subsequent disability or incapacity, and the power and authority conferred herein on my said Attorney shall continue in full force and effect, and shall be exercisable by said Attorney notwithstanding my later disability or incapacity of any of usor later uncertainty as to whether I am dead or alive.

. . .

I hereby certify that as of the date of the execution of this instrument, I am of sound and disposing mind and capable of executing a valid deed or contract. I hereby further certify that I am not under any medical treatment for mental disability or disorder, or subject to any type of mental disability or disorder.

IN WITNESS WHERE, ?, I have hereunto set my hand and seal this

8-6 day of ______, 1984.

According to a letter dated April 21, 1983 from Robert A. Morton, Chief of the Bureau of Public Services of the Baltimore County Department of Public Works, to The Shenk Corporation, the plan for this project was approved by the County Review Group on July 29, 1982, as mentioned hereinbefore, and plan approval will expire three years from the date of such approval.

The issue before the Zoning Commissioner on the instant Petition is whether the Residential Transition Area (RTA) regulations of \$1801.18(1) are applicable to the CRG approved plan or whether those RTA regulations are not applicable due to the express exemption provided in subsection (d) of the aforesaid section because the plans for the subject property were, at a minimum "tentatively approved [and] remain in effect". §1B01.1B(1)(d). The Petitioners respectfully contend that the facts and history of this property, particularly the CRG approval dated July 29, 1982, amply warrant the grandfathering protection of subsection (d) and confirmation and concurrence by the Commissioner in the approval of the plan.

THE COUNTY COUNCIL HAS AFFIRMED, ON AT LEAST THREE OCCASIONS, THE SUFFICIENCY AND VALIDITY OF THE UNDERLYING PLAN APPROVAL

In a direct sense, the Baltimore County Council affirmed the CRG approval of the proposed Silver Woods development of forty-six townhouse lots and six single family lots when it resolved to accept the gift of 3.8± acres from the owners for Honeygo Run Park. Mindful of the nature and manner in which the

- 2 **-**

The Commonwealth of Massachusetts

Office of the Secretary of State

C 17874

I hereby certify. That at the date of the attesta: 'rereunto annexed,

Jeremiah O'Connor

whose name is signed to the attached certificate of acknowledgment, proof or affidavit, was at the time of taking the same, a NOTARY PUBLIC for the said Commonwealth duly commissioned and constituted; that to his/her acts and attestations, as such, full faith and credit are and ought to be given in and out of Court; that as such Notary Public, he/she was by law authorized to take depositions, to administer oaths and take acknowledgments or deeds or conveyances of lands, tenements or hereditaments and other instruments throughout the Commonwealth to be recorded according to law.

In testimony of which, I have hereunto affixed the

Great Seal of the Commonwealth

balance of the Petitioners' property (9.574 A±) was being so

developed, the Council recognized the substantial benefit to the

community of this public open space and approved the dedication

on or about June 14, 1982. Consummation of the agreement between

the owners and the County is expressly contingent upon the owners'

sites and forty-six (46) townhouse lots)..." A copy of said Offer

approved by the County Council is attached hereto and incorporated

the actions of the County Council which resulted in amendments of

the RTA provisions pursuant to Bill Nos. 124-81 (passed August 3,

1981; effective September 25, 1981) and 109-82 (passed July 6,

1982; effective August 26, 1982). Although the Council had the

opportunity to modify or delete the subsection which is at issue

leaving this safe harbor for approved plans intact. In view of

the projects which would have otherwise been adversely affected

above, it may be reasonably inferred that the Council sought to

by elimination of the grandfather provision of subsection (d), as

preserve the scope and protective nature of §1B01.1B(1)(d) thereby

eliminating the certain hardship which would result to those pro-

instant Petitioners. In addressing these provisions, the Council

- 3 -

perty owners who had reasonably relied on their CRG approval

while diligently proceeding with development plans such as the

here, it confirmed its continued viability and importance by

Indirectly, the Petitioners derive further support from

ability "to develop the balance of their property into approxi-

mately fifty-two (52) dwelling units (six (6) individual home

of Dedication and Agreement which is dated June 14, 1982 as

herein by reference.

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTERED

TOWSON, MD.

NOLAN, PLUMHOFF & WILLIAMS. CHARTERED

TOWSON, MD.

SJN/ehf 4/26/84

MASSACHUSETTS SLATE OF MARYLAND, COUNTY OF

My Commission expires:

7/8/88

I, Termial O'Corner ; a Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 8-4 day of Mar, 1984, before me, personally appeared Berry Leven!, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, she personally acknowledged to me that she signed and sealed the same on the date it bears as her true, free and voluntary act, and deed for the uses, purposes and considerations therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

RE: PETITION FOR SPECIAL HEARING N end of Silver Knoll Drive, 363' NW of the Center line of Hilltop

BEFORE THE ZONING COMMISSIONER

Acres Road, 11th District BALTIMORE COUNTY JOSEPH D. DEIGERT, et al

NOLAN, PLUMHOFF

& WILLIAMS.

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTERED

PETITIONERS' MEMORANDUM OF LAW

JOSEPH D. DEIGERT et al., owners, and LAZEROV/RAY PARTNERSHIP, contract purchaser, all of whom are Petitioners herein, by their attorneys, Stephen J. Nolan and Nolan, Plumhoff & Williams, Chartered, respectfully submit this pre-hearing memorandum in support of the Petition for Special Hearing filed herein.

STATEMENT OF THE CASE

On April 5, 1984, a Petition for Special Hearing was filed with the Zoning Commissioner for Baltimore County by Joseph D. Deigert et al. as owners and Lazerov/Ray Partnership as Contract Purchaser of the proposed Silver Woods property north of Silver Spring Road. The Petition requests a hearing to determine whether the Commissioner should approve, honor and protect the CRG approval of July 29, 1982, for the proposed Silver Woods property. In support of their request in this regard, Petitioners cite as authority Sections 1B01.B and 1B02.3 and other applicable sections of the Baltimore County Zoning Regulations and Section 22-62 of the Baltimore County Code.

had full opportunity to abrogate and remove subsection (d) had it determined to subject all development plans alike, whether approved or not, to the RTA provisions as amended.

Clearly, the Council recognized the onerous effect, lack of predictability and great potential for harm which would result for property owners and thus preserved this important exception. Although not expressly defined in \$1801.1B, recent experience and the C.R.G. process as embodied in the Development Regulations dictate that C.R.G. approval of the plan more than sufficiently satisfies the criterion that the plans be "tentatively approved" in order to trigger the subsection (d) exemption. Petitioners further contend that questions of procedural due process would be raised if they are not permitted to proceed inasmuch as fundamental principles of fairness militate against burdensome and arbitrary regulatory action that tends to subject an owner to duplicative and unnecessary tiers of plan submission and resubmission.

> THE PETITION SHOULD BE GRANTED BECAUSE PETITIONERS HAVE A VESTED CONTRACTUAL INTEREST TO DEVELOP * THE BALANCE OF THEIR PROPERTY

Petitioners respectfully contend that the Zoning Commissioner may also grant the Petition herein by reason of the express provisions of the aforesaid Offer of Dedication and Agreement, specifically Section 2 thereof. Throughout the Agreement, specific reference is made to the affirmative covenant on the party of Baltimore County, Maryland to:

- 4 -

process the Deigerts' application for preliminary plan of subdivision whereby the remaining property not subject to the public reservation will be subdivided into approximately fifty-two (52) dwelling units (six (6) individual lots and forty-six (46) townhouse lots) in substantially the manner as shown on the plat attached hereto.

Both in the fourth "Whereas" clause and in Sections 3 and 5, the Agreement is made expressly contingent upon the owners' ability to develop the balance of their property into a minimum of fifty (50) dwelling units. To the extent that the RTA amendments might be deemed to apply, without admitting their applicability in fact or otherwise, proposed Silver Hill Court would have to be moved northward at the expense of certain lots as shown on the plat and at the added expense of a significant portion of dedicated park area.

In Mayor and Council of Baltimore vs. Crane, 277 Md. 198,206 (1976), the Court of Appeals found no vested right attached in the usual sense but did hold that the developer acquired a vested contractual interest which was derived from their acceptance of an offer contained in a municipal regulation which gave density credit for areas dedicated to public use.

Just as the Court could perceive no real difference between the Crane case and Ward vs. City of New Rochelle, 197 N.Y.S. 2d 64 (copy attached) which it cited with approval, we can detect no difference between the vested contractual interest recognized by the Court in Crane and the vested contractual interest which clearly exists here due to the June 14, 1982 Agreement. The County Council and the Executive Office approved the fifty-two (52) unit development concept for the balance of the property

LAW OFFICES NOLAN, PLUMHOFI & WILLIAMS, CHARTERED

LAW OFFICES CHARTERED

JAN 23 **565**

NOLAN, PLUMHOFI & WILLIAMS,

NOLAN, PLUMHOFI & WILLIAMS,

CHARTERED

in consideration of the dedication. The development plan approval by the C.R.G. on July 29, 1982 resulted not only because the plan complied with all then-existing regulations but also because such approval was in partial performance of the County's contractual obligations to process the plan so that the balance of the Deigert property could be developed for fifty-two (52) dwelling units.

The Deigerts, having relied in good faith on the underlying Agreement and having spent considerable time and money to diligently pursue final approval, are ready, willing and able to consummate the dedication as contemplated in the June 14, 1982 Agreement as soon as <u>final</u> development approval is granted.

Based upon the aforegoing, Petitioners urge the Zoning Commissioner to join with the Baltimore County Council and County Keview Group and concur in and confirm the plan approval dated July 29, 1982 in order that the subject plan may be finalized and the Agreement conveying park area to Baltimore County fully consummated.

Respectfully submitted,

Stephen J. Nolan

Chartered
204 West Pennsylvania Avenue
Towson, Maryland 21204
(301) 823-7800

Attorneys for Petitioners

I HEREBY CERTIFY, that on this ______ day of May, 1984, a copy of the foregoing Petitioners' Memorandum of Law and Order were mailed postage prepaid, to Phyllis Cole Friedman, People's Counsel for Baltimore County, and Peter Max Zimmerman, Deputy People's Counsel, Room 223, Court House, Towson, Maryland, 21204.

Stephen J. Nolan

LAW OFFICES
NOLAN, PLUMHOFF
& WILLIAMS,
CHARTERED
TOWSON, MD.

SJN/tms 5/9/84

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OFFER OF DEDICATION AND AGREEMENT

THIS OFFER OF DEDICATION AND AGREEMENT, Made this day of day of deemen to the day of the deemen to the deemen to the deemen to the deemen deeper, lester deigert, leonard deigert, raymond deigert, florence d. Meeks, anna d. Mullhausen, alvin kasser, alfred kasser, John Benda and Betty Leonard, hereinafter collectively called "Deigerts", and Baltimore County, Maryland, a body corporate and politic, hereinafter called the "County".

WHEREAS, the Deigerts are the owners of a 9.6 acre tract of land located in the 11th Election District of Baltimore County, as shown on the plat dated January 5, 1982, a copy of which is attached hereto and incorporated by reference herein; and

WHEREAS, the Deigerts have filed an application for the approval of a preliminary plan of subdivision for individual and townhouse development, (21 individual lots and 31 townhouse lots) with the County; and

WHEREAS, the County, pursuant to the provisions of Section 22-18 of the Baltimore County Code, 1978, 1980 Cumulative Supplement, as amended, is considering a public reservation of the entire 9.6 acre Deigert Parcel for a period of eighteen (18) months in order to determine whether the land shail be acquired the County as part of the County's proposed Honeygo Run Park; and

WHEREAS, the Deigerts, in consideration of the County's agreement not to place the entire 9.6 acre parcel under public reservation and in consideration of the County's agreement not to acquire the entire 9.6 acres for park purposes, are willing to give, at no cost to the County, a tract of land containing approximately 3.9 acres to be used by the County as part of Honeygo Run Park, upon condition that the Deigerts are allowed to develop the balance of their property into approximately fifty-two (52) dwelling units (six (6) individual home sites and forty-six (46) townhouse lots) as indicated on the plat

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein and for other good and valuable considerations the receipt and sufficiency of which the parties hereby acknowledge, the parties hereto agree as follows:

1. The County will delears a public reservation of that portion of the Deigert property containing approximately 3.9 acres and shown # on the plat attached hereto and incorporated by reference herein. The County further agrees to relinquish and forego, subject to the terms of this agreement, its right to declars a public reservation of the entire property and, during the term of this agreement, the County will not acquire the entire property for park purposes.

2. The County will, subject to and in accordance with the County's Subdivision and Zoning Regulations, process the Deigerts' application for preliminary plan of subdivision whereby the remaining property not subject to the public reservation will be subdivided into approximately fifty—two (52) dwelling units (six (6) individual lots and forty—six (46) townhouse lots) in substantially the manner as shown on the plat attached hereto.

3. It is further agreed that neither the public reservation imposed by Resolution of the County Council nor this agreement shall in any way affect the Deigerts' ability to develop the balance of their property, containing approximately 5.7 acres, to the fullest extent allowed by the County's Zoning and Subdivision Regulations. It is the expressed intent of this agreement that the Deigerts shall be entitled to utilize the D.R.5.5 zoning density from the said 3.9 acre tract of land, or so much thereof as is allowed by the County's laws and regulations, in the development of the balance of the property.

4. The Deigerts, for themselves, their heirs, personal representatives and assigns, hereby offer to dedicate and give to the County, free of charge and free of liens and encumbrances, the said parcel of land containing approximately 3.9 acres and indicated 4 on the plat attached hereto. The Deigerts further agree that in consideration of the County's agreement not to acquire the entire parcel and not to place the entire parcel under public reservation, that this offer of gift and dedication shall be and remain irrevocable and may not be withdrawn unless and until the County, during the subdivision review process, shall have notified the Deigerts that the subject property cannot be developed into a minimum of fifty (50) dwelling units in substantially the manner shown on the atttached plat.

5. It is further agreed between the parties hereto that the offer of

dedication and gift contained herein is expressly conditioned upon the Deigerts' ability to develop the balance of their property into a minimum of fifty (50) dwelling units and if, after processing the development plans, it is determined that the Deigerts cannot develop said tract into a minimum of fifty (50) dwelling units, then this offer may, upon written notice from the Deigerts, be withdrawn.

NOLAN. PLUMHO!

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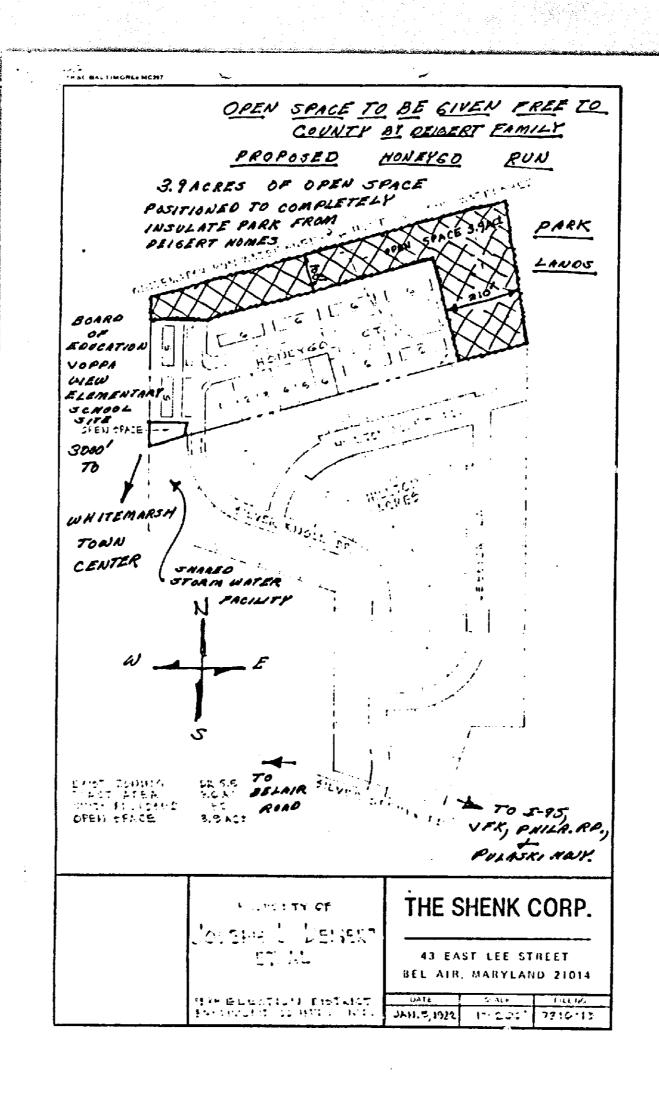
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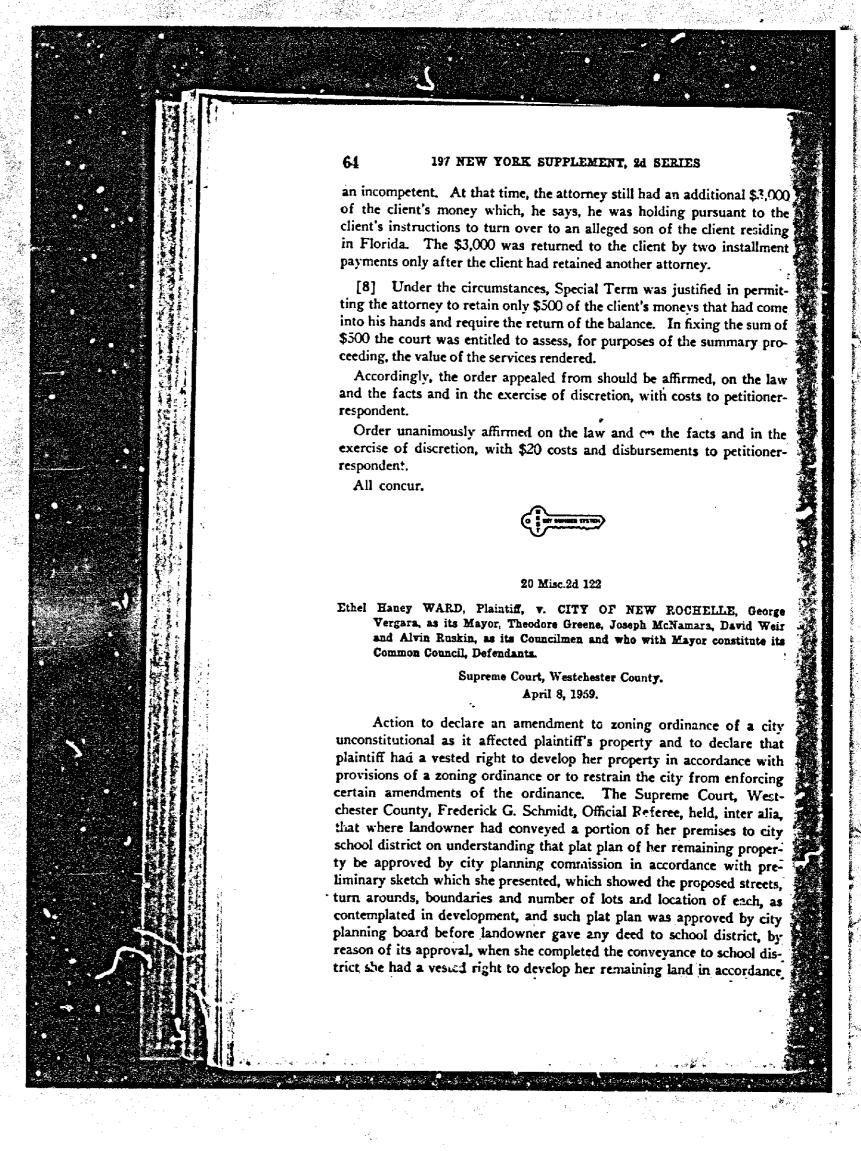
6. If the Deigerts shall have withdrawn this offer of dedication in accordance with the provisions of paragraph 5 hereof, it is agreed that the County may reinstitute the public reservation process contained in Section 22-18 of the County Code without prejudice and without liability for having previously reserved the said 3.9 acre parcel. The Deigerts further agree that the two-year limitation on the reservation procedure contained in Section 22-18(b) of the Code shall not prevent the County from reinstituting the reservation procedure if the offer of dedication is withdrawn in accordance with the provisions of this agreement.

7. At such time as the Deigerts shall have received final approval for the development of a minimum of fifty (50) dwelling units on the parcel of land to be retained and recorded a plat of the subdivision, this offer shall become irrevocable and the Deigerts shall execute a deed, prepared at the County's expense conveying the subject property to the County in fee simple, free of liens and encumbrances. Final approval shall be deemed to have occurred when the development plan shall have received all necessary linal approvals by all required county agencies or officials and such plan is not under any appeal procedure.

8. This Offer of Dedication and Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their heirs, successors, personal representatives and assigns.

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ing ordinance of a city erty and to declare that perty in accordance with the city from enforcing Supreme Court, West-Referee, held, inter alia, of her premises to city of her remaining properin accordance with preand location of each, as n was approved by city ed to school district, by onveyance to school disning land in accordance WARD V. CITY OF NEW ROCHELLE

with her plan, as approved by the planning board, and zoning ordinance which was in effect at the time of conveyance, and hence the upzoning of her premises was illegal as to landowner. Judgment for plaintiff in accordance with opinion.

Affirmed 9 A.D.2d 911, 197 N.Y.S.2d 128.

. Municipal Corporations 😂 43 There is no statutory authority for a planning board, having once approved a plat plan, to disapprove it later, and only when plat plan is presented does the board have the right to approve, modify and approve, or disapprove, and if it disapproves, it must state its reasons and hence where board approved plan and later purported to disapprove it, because

one condition allegedly had not been met, but in fact such condition had been met, attempted disapproval was void.

2. Constitutional Law \$=93(1) Where landowner had conveyed a portion of her premises to city school district on understanding that plat plan of her remaining property be approved by city planning commission in accordance with preliminary sketch which she presented, which showed the proposed streets, turnarounds, boundaries and number of lots and location of each, as contemplated in development, and such plat plan was approved by city planning board before landowner gave any deed to school district, by reason of its approval, when she completed the conveyance to school district she had a vested right to develop her remaining land in accordance with her plan, as approved by the planning board, and zoning ordinance which was in effect at the time of conveyance, and hence the upzoning of her premises was illegal as to landowner.

3. Municipal Corporations 6=43 A condition of approval by planning board of plat plan that playground area be made available to community in consideration of board's waiving 10% on subdivision was met by landowner who conveyed to a school district 13.3 acres, of which only a small portion was to be used for building and landscaping, a substantial portion remained for playground and recreational purposes, and in any event, the landowner's obligation was to make it available for use by community and that was done when it become available through school district for recreational

Under facts including showing that zoning ordinance had been adopted after an exhaustive study of 18 months, that after approval of plat plan, but before giving of deeds by landowner to school district there appeared in the minds of some members of board the desirability of upzoning in city and immediately after conveyance to district and 197 NEW YORK SUPPLEMENT, 2d SERIES

without notice to landowner the matter of upzoning was put into action but no special study was given to particular lands involved, and that one large tract was omitted because it was "covered by property restrictions", amendment did not indicate a well-considered plan adopted for general health, safety, and welfare of the whole city and hence was not applicable to landowner's property.

5. Zoning \$\infty\$601 Legislative action with regard to zoning must be left with legislative bodies and not with the courts.

6. Municipal Corporations -252 Courts should not endeavor to enable a municipal corporation to disavow its just obligations or to act unfairly respecting them.

Kent, Hazzard, Jaeger & Wilson, White Plains, for plaintiff, by William J. Greer, White Plains, of counsel. Murray Fuerst, New Rochelle, for defendants, by Herman D.

FREDERICK G. SCHMIDT, Official Referee.

Schmier, New Rochelle, of counsel.

This action, to declare an amendment to the zoning ordinance of the City of New Rochelle, unconstitutional, as it affects the plaintiff's property, and to declare that she has a vested right to develop her property in accordance with the provisions of the R-1A district zone of the 1955 New Rochelle Zoning Ordinance, and to restrain the City from enforcing certain amendments to its zoning ordinance as they affect the plaintiff's property, was referred to me to hear and determine.

This case presents an unusual situation unlike any of the usual zoning cases. In 1955, after extensive study, the City adopted a comprehensive zoning ordinance, in which the plaintiff's property was placed in an R-1A District, the highest residence district then provided. Lots were required to contain 10,000 square feet, with a 100-foot frontage at the building line, rather than 7,500 square feet formerly permitted.

In 1956 the New Rochelle City School District requested the plaintiff to give it 13.3 acres of her property, referred to in the testimony as 131/2 acres, to be used for the erection of an elementary school, with its surrounding recreational area. She had a total of 62.2 acres in her entire property. Mrs. Ward was willing to make this gift of land, admittedly worth \$140,000, and constituting more than 20% of her property, on condition that the school parcel conform to the overall development of her property, which could only mean a development in accordance with the zoning ordinance as it then existed. Mrs. Ward was interested primarily in knowing what she could later do with the remaining portion of her property, if she gave the school site to the City Board of Educa-

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tion. The Board of Education of the City School District was required by the Education Law 1 to apply to the City Planning Board for approval of the proposed school site.

Thus, the City Planning Board, as the representative of the City, had a duty in connection with this school site, as well as a duty as the representative of the same City, to pass on the plat plan, which showed location of the school site and the location of streets and lots. Obviously, these must be correlated in a complete and harmonious plan of the whole

Mrs. Ward engaged Leland H. Lyon, an architect, to prepare a plat plan of her entire property, showing its subdivision, including the school site. He represented her in her negotiations with the Board of Education and the Planning Board. He had died prior to the hearing before

The Planning Board meeting of December 10, 1956, is crucial in the matter. At the hearing before me, Charles A. Hughes, the City Planning Engineer, read from the minutes of this meeting, as follows: "Mr. Brace explained to the Board that the Board of Education asked Mrs. Ward to give a piece of land for an elementary school and she said that she was willing if it conformed to an over-all development of her property. She commissioned Mr. Leland H. Lyon to set aside 131/2 acres for the school, and plan a proposed temporary subdivision of the remaining land. This subdivision of the remainder of her land was not for building at this time but for the placement of the school and the preserving of her better pasture lands. Mrs. Ward stated that there would be no additional land for a park, and also requested that the Board of Education pave and extend Broadfield Road. Mr. Brace continued by stating that in this subdivision some things were obtained that were hard to get formerly and the Board had been striving for-namehen provided. Lots were

ly, that no lots are fronting on Pine Brook Boulevard or Quaker Ridge
Road, and land was provided for the widening and straightening of
formerly permitted.

Pine Brook Boulevard and Quaker Ridge Road. Mr. Lyon remarked rict requested the plaintiff that the school building itself only takes up one acre of the land, and o in the testimony as 13½ that the rest could be planned for landscaping and a school recreation ntary school, with its surof 62.2 acres in her entire upon condition that the property which Mrs. Ward proposed to give to is gift of land, admittedly the Board of Education is accepted by the Board of Education and used by the property, on by the Board for school purposes, and the playground area made available overall development of able to the community in consideration of the Board waiving the 10% opment in accordance with:

on this subdivision. The motion was seconded by Mr. Jacobson and Irs. Ward was interested unanimously approved by the Board."

with the remaining portion the City Board of Education Law, \$ 2512.

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Mr. Brace, referred to in the minutes, was an assistant to Mr. Hughes. Thus, the plat plan was approved by the Planning Board at this meeting, with three conditions:

1. That the Board of Education of the City School District accept the gift of the property, and

2. That the land be used for school purposes, and

3. That the playground area be made available to the community in consideration of the Board waiving 10% on this subdivision under the ordinance regulating approval of subdivisions, 10% of the land; in this case, 6.2 acres would have been required to be given for recreational purposes. Since testimony showed that the school itself was to occupy only one acre, this third provision more than met the usual requirements. Attention is also called to the benefit the City obtained under this plat plan in having no lots face on two important highways, Pine Brook Boulevard, and Quaker Ridge Road, and further, in receiving land for the widening and straightening of these roads, without cost to the City. The plaintiff was duly notified in writing by the Planning Board of

the approval of the subdivision map and of the three conditions imposed. The Board also approved the school site. On December 19, 1956, the Planning Board again met and considered an upzoning of vacant tracts of land in the City and asked Mr. Hughes and the Corporation Counsel for a report on the Ward property

and as to whether the gift of the school site was dependent on certain conditions. Mr. Raymond, the Planning Consultant of the City, at that meeting commented that regardless, the Planning Board cannot commit the Council with respect to zoning. Mrs. Ward was not informed of this meeting or of anything that transpired there, until after the delivery of her deeds.

By deeds dated December 29, 1956, and January 8, 1957, Mrs. Ward conveyed the school site to the City Board of Education. No conditions appeared in the deeds, probably because she believed, and with good reason, that the plat plan had been approved, and that all three conditions, of which she had been notified, had been met, and because she knew nothing of the matters considered at the Board's meeting on December 19, 1956. Mr. Hughes testified that she had met the three

The Planning Board met again on January 14, 1957, after Mrs. Ward, in apparent reliance on the action of the Board, taken on December 10, 1956, had delivered her deeds. At this meeting the Board deleted the third condition and disapproved the subdivision map and recommended to the Common Council that the zoning ordinance be amended by placing the undeveloped areas of the City in a new district, where 20,000-square foot lots, with a width of 150 feet at the building line,

assistant to Mr. Hughes.

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ble to the community in is subdivision under the 10% of the land; in be given for recreational ool itself was to occupy t the usual requirements. obtained under this plat highways, Pine Brook er, in receiving land for without cost to the City. the Planning Board o

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WARD V. CITY OF NEW ROCHELLE

[1] There is no statutory authority for a Planning Board, having once approved a plat plan, later to disapprove it. Only when the plat plan is presented does the Board have the right to approve, modify and approve, or disapprove. If it disapproves, it must state its reasons. Here, the Board approved the plan and later purported to disapprove it, because one condition, that with reference to recreation, had not been met. It, however, had been met, as shown by the testimony of the City Planning Engineer, Mr. Hughes. This attempted disapproval is therefore null and void.

By ordinances, dated May 15, 1957, August 19, 1957, and September 11, 1957, the Common Council followed this recommendation to upzone, with the result that the plaintiff's property was placed in this new district. Land belonging to the Wykagil Country Club, the Hudson School, Cherry Lawn Farm and a Golf Driving Range, were also placed in this new district. Undeveloped land at Premium Point was not placed therein, because, it was testified, "deed restrictions" made this unneces-

[2] The evidence in this case shows that the plaintiff conveyed a portion of her premises to the City School District on the understanding that the plat plan of her remaining property be approved by the City Planning Commission in accordance with a preliminary sketch which she presented, which showed the proposed streets, turn-arounds, boundaries and number of lots and the location of each, as contemplated in the development. As mentioned above, this plat plan was approved by the City Planning Board before Mrs. Ward gave any deed to the School District. By reason of its approval, when she completed the conveyance to the School District, she had a vested right to develop her remaining land in accordance with her plan, as approved by the Planning Board. At that point, she had given up land of the value of at least \$140,000 and had agreed, as shown on the plat plan, to convey to the City certain land at the boundary of her remaining premises for street widening. By the plat plan, the City also secured an advantage that it admitted it desired, but could not compel, namely, that no lots in the plat would face or have access to either of the two heavily travelled highways abutting on the premises. Certainly she had changed her position and had acquired a vested right. This vested right thus acquired gave her the right to make and develop the subdivision in accordance with the approved plat plan and the zoning ordinance which was in effect at the time of the conveyance. Having this vested right, the upzoning of her premises by the City Council was illegal and without

irect. O como mai em mante, o finir di como empir como de como e [3] . The record contains some discussion about the third condition pertaining to the approval of the plat plan, viz., that the playground area 197 NEW YORK SUPPLEMENT, 2d SERIES

ing 10% on this subdivision. This condition was mer by her in the following manner: She conveyed to the School District 13.3 acres, of which only a small portion was to be used for building and landscaping. A substantial portion remained for playground and recreational purposes. The proof shows that customarily school playgrounds were placed under the control of the City Recreation Department by the Board of Education. In any event, her obligation was to make it avail-, able for use by the community, and this she did when it became available, through the School District for recreational purposes.

The sequence of events, as noted above, which are hereafter referred to, places emphasis on the fact that some relief should be afforded to the plaintiff.

1. December 10, 1956, plat plan and school location approved by Planning Board and plaintiff notified of the approval and the three conditions thereof.

2. December 19, 1956, Planning Board discussed the upzoning of large vacant parcels in the City, including the plaintiff's premises, but gave no notice to the plaintiff.

3. December 29, 1956, and January 8, 1957, plaintiff conveyed 13.3 acres to the City Board of Education as a site for the school and recreational area.

4. January 14, 1957, the School District having received deeds with no conditions therein set forth, the Planning Board again approved the school site and discussed upzoning of the remaining Ward premises, and, upon withdrawing the third condition, disapproved the previously approved plat plan, all without notice to Mrs. Ward or to anyone else representing her.

Thus, the net result was that Mrs. Ward, relying on the approval given on December 10th, was induced to make her valuable gift in the well-founded belief that she could develop her property in lots of 10,000 square feet, and when she had done this, it was proposed to deprive her of what was the true and equitable consideration for her gift of land. She was given no opportunity to withdraw her proffered gift, as she might well have justly done, had she known that the approval, which had been the consideration or basis for the gift, was to be withdrawn. It seems self-evident that in consideration of the gift to the School District, the plaintiff sought something more than the approval of her plan, which could be withdrawn shortly after her conveyance was made.

Vested rights are variously defined in various cases, and no case has been found which is the parallel of this case. Most cases of vested rights grow out of circumstances in which a permit has been issued by some municipal official with authority, and pursuant to that permit, the permittee proceeds with his improvements, spends money to further it, and obligates himself in reference to it. It should be pointed out that if.

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in such cases, a vested right comes into being, although such expendiin such cases, a vested right comes into being, annough tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more treatile sale and the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more tures are expected to be recouped by the sale of lots, how much more than the sale of lots are the sale of lots are the sale of lots. where the permittee has actually permanently parted with land of great value for the benefit of the School District and the City, as well, with no chance of recoupment, as in the case of the usual permittee, who claims a vested right.

The case of Elsinore Property Owner's Ass'n, v. Morwand Homes, 286 App.Div. 1105, at pages 1106-1107, 146 N.Y.S.2d 78, 80, is an authority for this determination. In that case, certain property owners in a subdivision brought an action against a developer (the successor to the original developer) for violations of an amended building zone ordinance, which had upzoned the size of lots in the development. The plaintiffs in that case made no complaint that the buildings erected in the subdivision violated the ordinance in either construction or use, but claimed that the amended zoning ordinance was violated by reason of certain lots not having the width and area required by the amended zoning ordinance. Permits for building on some of these lots were granted by the Building Inspector, and the action sought an injunction against the construction and the issuance of such permits and the construction. of buildings pursuant to such permits. The complaint was dismissed, and on appeal, the dismissal was sustained. The following is a quotation

from the decision in that case: "Municipal planning and zoning, while closely akin, are not identical. The former is the broader term. The type of municipal development planning provided for in sections 32 and 33 of the General City Law Iwas a new field of legislation comparable with the development of zoning laws and regulations. Brous v. Smith, 304 N.Y. 164, 106 N.E.2d 503; Village of Lynbrook v. Cadoo, 252 N.Y. 308, 314, 169 N.E. 394,

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at the approval, which was to be withdrawn.

The spectrum with reasonable conditions designed for the protection both of the ultimate purchasers of the homes and of the gift to the School Disc. public. By regulating subdivision of land, the municipality may avoid being saddled with an onerous burden involved in the completion or installation of necessary street and sanitation facilities. Brous v. Smith,

supra, 304 N.Y. at pages 169, 170, 106 N.E.2d at pages 505, 506. "In our opinion, the original developer which furnished a perform-Most cases of vested. In our opinion, the original developer which improvements, ance bond and expended a substantial sum on required improvements, ance bond and expended a substantial sum on required improvements, and that permit the sum of ids money to further it.

It is a second to complete the development as planned, notwithstanding the pointed out that if it is the area amendment of the zoning ordinance. Therefore, because Morthly the area amendment of the zoning ordinance. 197 NEW YORK SUPPLEMENT, 2d SERIES

wand had the right to continue to develop, the complaint was properly

This Elsinore case differs from the instant one in only two significant ways. 1. In Elsinore, the owner had acquired its vested right by expending moneys in developing the property and had furnished a performance bond to the municipality. In this case, the owner had acquired her vested right by changing her position by giving to the City School District over 20% of her land available for development. 2. In Elsinore, the approved plan had been filed with the County Clerk. In this case, the approved plat plan could not be so filed because of the action of the Planning Board in disapproving the previously approved plat plan. Although I have held this disapproval to have been illegal, no County Clerk would file a plat plan which bore the notation "Disap-

[4, 5] Although it is not necessary to a determination of this case, in the light of the preceding holding, it should be pointed out that this amendment of the Zoning Ordinance in question was not based on a well-considered plan. The facts are these-after an exhaustive study of 18 months, the 1955 Zoning Ordinance for the City was adopted. After approval of the plat plan, but before the giving of deeds by the plaintiff to the School District, there appears to have arisen in the minds of some of the members of the Planning Board the desirability of upzoning in the City, because of the rapid growth and development in the northern end of the City and attendant traffic situation. In line with that thought, immediately after the plaintiff had conveyed to the School District, and without notice to her, the matter of upzoning was put into action. The testimony shows that this was done on the basis of upzoning all large undeveloped tracts in the northern end of the City to provide for lots one-half acre in area, rather than one-quarter acre, and with a greater width at the building line. No special study was given to the particular lands involved, and no consideration to the existing developments in the several neighborhoods, nor to schools, driving range, vegetable stand, etc., in the neighborhood of this land. One large tract, at Premium Point, not in the northern end of the City, was omitted from upzoning, because, as it was testified, "they were covered by property restrictions." This does not indicate a well-considered plan adopted for the general health, safety and welfare of the whole city. Legislative action must, of course, be left with the legislative bodies and not with the courts, and the oft-repeated and familiar rules governing the enactment and amendment of zoning ordinances must be adhered to; but giving consideration to all that, it cannot be said that there was any plan, other than to upzone, regardless of varying conditions in the different areas, in this amendment to the Zoning Ordinance. [6] As indicated at the opening of this decision, this is an unusual

case. There are many questions in it which have not previously been

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PEOPLS v. O'HARA Cite as 197 N.Y.S.2d 73 passed upon by any Court, so far as I am able to determine. Recognizing all the frailties in the case, it is still one where equity should protect the rights of the plaintiff, not by setting aside the zoning amendment adopted by the City as wholly invalid, but by holding it not approximately the state of the plaintiff. plicable to the plaintiff's property by reason of the sequence of events, as set forth above. If the amendment were held applicable to the plainas set forth above. If the amendment were held applicable to the plaintiff's property, a great injustice would be done to one who had dealt tiff's property, a great injustice would be done to one who had dealt most generously with her community by depriving her of the just consideration contemplated by all parties at the time she made her gift. As the late Justice Carswell said in Lowe v. City of New York, 240 App. Div. 484, at page 489, 270 N.Y.S. 216 at page 221, affirmed 265 N.Y.

This memorandum shall constitute findings of fact and conclusions of law.

This memorandum shall constitute findings of fact and conclusions of law. Submit judgment for the plaintiff accordingly, on two days' notice. y was adopted. After of deeds by the plainconveyed to the School PEOPLE of the State of New York ex rel. Onie D. COATES, Sr., Relator, V. Edward J. O'HARA, as Warden of the Nassau County Jail, Hempstead, N. Y. and the Hon. Jesse P. Combs, Sheriff of Nassau County, Long Island, on the basis of upzonend of the City to pro-New York, the above-named officers having custody of the said Relator, Supreme Court, Special Term, Nassau County, Part I. July 30, 1959. Proceeding on application of prisoner. The Supreme Court, Nassau County, Bernar S. Meyer, J., held that points which were in many respects identical with those previously determined adversely to contentions of relator in his prior proceeding for coram nobis order wherein he had not appealed were foreclosed and that as at time of instant application wherein relator raised issue of propriety of pending resentence which had been directed by Appellate Division upon determining that he had been improperly given credit on sentence, defendant was lawfully in custody, as original sentence allowing such credit had not expired, his application was premature.

JAN 23 1365

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that we, RAYMOND H. DEIGERT, LESTER P. DEIGERT, Individually and as Personal Representative of the Estate of Leonard Deigert, ALVIN R. KASSER, FLORENCE D. MEEKS, ANNA D. MULLHAUSEN and JOHN BENDA, and each of them, all of the State of Maryland, desiring to execute a specific Power of Attorney, have made, constituted and appointed, and by these presents, do make constitute and appoint JOSEPH D. DEIGERT, our Attorney-in-Fact, for us and in our names, places and steads to do and perform all acts, deeds, matters and things whatsoever concerning the property, situate in the Eleventh Election District of Baltimore County, consisting of 9.574 acres and to be developed for proposed Silver Woods Subdivision, which property is more fully described in a Deed recorded among the Land Records of Baltimore County in Liber OTG5003, folio 529, which description is incorporated herein be reference, which may be necessary and desirable in the judgment of my said Attorney-in-Fact as fully and effectually to all intents and purposes as we could do if personally present and acting, including but not limited to, each and every one of the following matters:

1. APPLICATIONS FOR ZONING AND OTHER APPROVALS::

(a) to request petition and apply on our behalf as co-owners, for any and all governmental approvals, including zoning approvals, whether from Baltimore County, Maryland or the State of Maryland which may be necessary in connection with the sale and/or development of the said property as my Attorney-in-Fact shall deem proper, in my name or jointly in our names or jointly in our name and

that of any other party or parties including our Attorney-in-Fact;

(b) to pursue, appear, participate and cooperate in any and all hearings or administrative or other proceedings which may be necessary or required in order to obtain any and all such governmental approvals as our Attorney-in-Fact shall deem proper, including the hearing on the Petition for Spe. al Hearing (Item #267) before the Zoning Commissioner of Baltimore County;

(c) to sign, seal, execute, acknowledge and deliver any and all instruments or petitions in writing of any kind and nature, as may be necessary or proper, containing such terms and conditions, and such zoning requests, if any, as my said Attorney-inFact shall deem advisable.

2. REPRESENTATION AND EMPLOYMENT OF ASSISTANCE:

(a) On our behalf and in our name or the name of our Attorney, to institute, prosecute, appear in, any legal, equitable or administrative hearings, actions, or other proceedings, with respect to the aforesaid approvals and to which we are or may become parties or in which we have an interest, and to engage counsel in connection therewith, authorizing our Attorney-in-Fact to assent or to waive any or all rights, privileges, and defenses available to me under the Laws of the United States of America, State Laws and Laws and Ordinances of Local Subdivision of the various States and Amendments thereto.

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTERED

To sign, seal, acknowledge and deliver any instrument necessary to accomplish any of the powers herein granted;

4. GENERAL PROVISIONS:

(a) All business transacted hereunder for us or for our

THE TOTAL CONTRACTOR

account shall be transacted in our names, and all endorsements and instruments executed by our Attorney-in-Fact shall be with the designation "Attorney-in-Fact";

(b) We hereby ratify and confirm all lawful acts done and caused to be done by our said Attorney-in-Fact pursuant to this Power of Attorney, and we direct that it shall continue in effect until terminated by us or by operation of law.

(c) If the authority contained herein shall be revoked or terminated by operation of law without notice, we hereby agree for ourselves, our executors, administrators, heirs and assigns, in consideration of our Attorney's willingness to act pursuant to this Power of Attorney, to save and hold harmless from any loss suffered or any liability incurred by our Attorney in so acting after such revocation or termination without notice.

(d) This Power of Attorney shall not be affected by our respective subsequent disability or incapacity, and the power and authority conferred herein on our said Attorney shall continue in full force and effect, and shall be exercisable by said Attorney notwithstanding my later disability or incapacity of any of us or later uncertainty as to whether we are dead or alive.

Each party hereto hereby certifies that as of the date of the execution of this instrument, each is of sound and disposing mind and capable of executing a valid deed or contract. Each party hereby further certifies that he or she is not under any medical treatment for mental disability or disorder, or subject to any type of mental disability or disorder.

NOLAN, PLUMHOFF & WILLIAMS, CHARTERED TOWSON, MD.

LAW OFFICES

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

IN WITNESS WHEREOF, each of the parties has hereunto set his or her hand and seal this The day of MAY

Chercula Weaver John & Benda (SEAL)

CITY OF BALTIMORE to wit:

I, John & Jackson, a Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 4th. day of My, 1984, before me, personally appeared RAYMOND H. DEIGERT, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, he personally acknowledged to me that he signed and sealed the same on the date it

I, Zoeann Beers, a Notary Public of the State

of Maryland, in and for the County aforesaid, do hereby certify that on

subscribed to, and who signed and executed the aforegoing instrument,

and having first made known to me the contents thereof, The personally

acknowledged to me that he signed and sealed the same un the date it

IN WITNESS WHEREOF, I have hereunto set my hand and official

HER bears as his true, free and voluntary act, and deed for the uses,

purposes and considerations therein set forth.

seal the day and year first above written.

STATE OF MARYLAND

COUNTY OF Hurtord

bears as his true, free and voluntary act, and deed for the uses, purposes and considerations therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

COUNTY OF Belfraire to wit:

My Commission expires: 070/86

I. Michael J. Dieta a Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 464 day of 1984, before me, personally appeared LESTER P. DEIGERT, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, he personally acknowledged to me that he signed and sealed the same on the date it bears as his true, free and voluntary act, and deed for the uses,

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

My Commission expires: 7-1- 26

STATE OF MARYLAND COUNTY OF BALTIMENE to wit:

I, CHESTER WERLEL, a Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 4 day of MRI, 1984, before me, personally appeared ALVIN R. KASSER, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, he personally acknowledged to me that he signed and sealed the same on the date it bears as his true, free and voluntary act, and deed for the uses, purposes and considerations therein set fortn.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

MOTANT PUBLIC My Commission expires: Ouly 1, 1986

county of BALTIMORE

I, Christy Colonia Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 4 day of May, 1984, before me, personally appeared FIGHENCE D. MEERS, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, she personally

bears as her true, free and voluntary act, and deed for the uses, purposes and considerations therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

Chate & Weller

My Commission expires: July 186 STATE OF MARYLAND

COUNTY OF BALTIMGIE

to wit:

I. John C. Jackson, a Notary Public of the State of Maryland, in and for the County aforesaid, do hereby certify that on the 4th day of May, 1984, before me, personally appeared ANNA D. MULLHAUSEN, identical person who is described in, whose name is subscribed to, and who signed and executed the aforegoing instrument, and having first made known to me the contents thereof, she personally acknowledged to me that she signed and sealed the same on the date it bears as her true, free and voluntary act, and deed for the uses, purposes and considerations therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year first above written.

My Commission expires: 070/86 **NOLAN, PLUMHOFF** & WILLIAMS,

A TO THE STORY OF STREET STREET

LAW OFFICES

TOWSON, MD.

NOLAN, PLUMHOFF

4/26/84

LAW OFFICES & WILLIAMS, CHARTERED

LAW OFFICES

NOLAN, PLUMHOFF

& WILLIAMS,

CHARTERED

purposes and considerations therein set forth.

NOLAN, PLUMHOFF

JAN 23 585

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS, CHARTERED

J. EARLE PLUMHOFF NEWTON A. WILLIAMS WILLIAM M. HESSON, JR. THOMAS J. RENNER WILLIAM P. ENGLEHART, JR G. SCOTT BARHIGHT ROBERT L. HANLEY, JR.

LAW OFFICES NOLAN, PLUMHOFF & WILLIAMS CHARTERED 204 WEST PENNSYLVANIA AVENUE TOWSON, MARYLAND 21204 (30i) 823-78J0

June 29, 1984

ZONING DEPARTMENT HAND DELIVERY

Phyllis Cole Friedman, Esquire People's Counsel for Baltimore County Court House - Room 223 Towson, Maryland 21204

> Re: Petition for Special Hearing -Joseph D. Deigert et al - Petitioners Case No. 84-309-SPH Before the Board of Appeals

Dear Mrs. Friedman:

In accord with our telephone discussion of Wednesday, June 27, 1984, I met with William Shenk, the engineer for the petitioners in the above-entitled appeal, in order to review his file documents which relate to the submission of the development plan on or about November 16, 1981 to the Joint Subdivision Planning Committee which met on December 3, 1981 as well as those documents concerning the Planning Board's review and consideration of the proposed subdivision of the Deigert property. With regard to this last item, the Planning Board considered this subdivision on January 7, 1982, a copy of the Advance Tentative Agenda is enclosed, and a Resolution was adopted on January 21, 1982 by the Planning Board affecting the Deigert property.

I am hand delivering herewith additional documents from our file which the Planning Board substantially reviewed and, implicit with its January 21, 1982 Resolution, approved the underlying Silver Woods subdivision prior to the adoption of the County review group process as well as the subsequent 1982 RTA

On behalf of the appellee-petioners, we are requesting that you dismiss the Appeal in this case or, in the alternative, that an expedited hearing be held before the Board in order that the extreme hardship which the politioners are experiencing due to the delays occasioned by the Appeal can be minimized.

まるのつへでは ^{はのでき} J. or ili.

Phyllis Cole Friedman, Esq. Re: Deigert et al - Case 84-309-SPH June 29, 1984 Page wo

Thank you for your kind assistance and for meeting with me on Monday, June 25, 1984 to discuss this matter. Although I will on monday, June 23, 1904 to discuss this matter. Although I will be out of the office during the week of July 2, 1984, please contact my associate, Scott Barhight, in the event you desire to schedule an expedited Appeal Hearing should you not be able to proceed to file an outright Dismissal of the Appeal based upon this new information.

- menting

Very truly yours,

SJN:jka Enclosures

cc: The Honorable Arnold Jablon Mr. Joseph D. Deigert Mr. Manuel Lazerov Mr. Norman Ray Mr. William Shenk, P.E. G. Scott Barhight, Esquire

HAPRY J. PISTEL, P. E. DIRECTOR

DALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204

Mr. Joseph D. Deigert P.O. Box 7 Fallston, Maryland 21047

> Re: Deigert Property District 11

November 23, 1981

RECEIVED NOW EN 1301

ZONING DEPARTMENT

Dear Mr. Deigert:

The Joint Subdivision Planning Committee meeting for the referenced proposal is tentatively scheduled for 11:00 a.m., on Thursday, December 3, 1981, in Room 319 of the County Office Building. Upon submission to this office of a certified or cashier's check in the amount of \$1,346.00 payable to Baltimore County, Maryland, to cover preliminary processing, the Committee appointment will be confirmed. This fee must be submitted no later than December 2, 1981.

It is requested that the indicated fee, based on 21 lots and 31 townhouses, be submitted and the appropriate developer interests be notified for attendance at this meeting.

Subsequent fees will be established for further processing.

Very truly yours,

(SIGNED) ROBERT A. MORTON

Robert A. Morton, P.E., Chief Bureau of Public Services

RAM: JAW: jha

cc: The Shenk Corporation, 43 E. Lee Street, Bel Air, Maryland, 21014

and a second

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE * REVENUE DIVISION
TELEPHONE (301) 494-2413 INVOICE NO. 000424 December 1, 1981 COUNTER CASH DUE WHEN RENDERED 2607 Laurel Brook Road Fallston, Maryland 21047 01.8681 Amount \$1,345.00 Bureau of Public Services 23-01 \$1,346.00 DETACH THIS PORTION OF INVOICE AND REEP FOR YOUR RECORDS delinion and the second se Developer's Preliminary Plan Fee Deigert Property Project No. 81192 District 11 C-5 \$1,346.00 BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE . REVENUE DIVISION COURTHOUSE . TOWSON, MARYLAND 21204 JOSEPH D. DEIGERT 2607 LAUREL BROOK ROAD _190ERTHED ---Service of Control of

LETTER OF TRANSMITTAL THE SHENK CORPORATION **Engineers and Surveyors** 43 East Lee Street November 60, 1981 7310-19 BEL AIR, MARYLAND 21014 Silver Spring Baltimore County □ Specifications □ Samples 22 | 11/16/81 | 7310-8 | Silver Spring -- Preliminary Plan THESE ARE TRANSMITTED as checked below: ☐ Resubmit____copies for approval ☐ For approval ☐ Submit _____ copies for distribution ☐ For your use ☐ As requested ☑ For review and comment _ PRINTS RETURNED AFTER LOAN TO US - SIGNED: William Shenk, f.E. 2710000000 If engineers are not as noted, kindly notify us at once.

Special Meeting of the BALTIMORE COUNTY PLANNING BOARD Thursday, January 7, 1982 Room 106, County Office Building Call to order - 3:00 P.M. ADVANCE TENTATIVE AGENDA Approximate Time 3:00 p.m. 1. Introduction of Board Members 2. Review of agenda 3:05 p.m. 3:10 p.m. 3. Public comment 4. Minutes of the meetings of September 10 and September 17, 1981 3:30 p.m. 5. Zoning Reclassification Petitions, Zoning Cycle II, 1981 (correspondence relating to Item No. 10 enclosed) 3:35 p.m. 6. Subdivisions - (list enclosed) 3:50 p.m. a. Final plats, preliminary plans, and extensions of tentative plans and final plats Subdivision Plan No. III-232: Hooks Lane Business Park c. Development plans in R.O. Zones (1) R.O. No. 13-98164 Belair Road: Class A office building (2) R.O. No. 18 - 7715 Old Harford Road: Class A office building (conversion) (3) R.O. No. 19 - S/E side Maple Drive, E. of Franklinville Road: special hearing for parking (4) R.O. No. 20 - 1603 Edmondson Ave.: Class A office building (conversion) (5) R.O. No. 21 - 307 W. Allegheny Ave.: Class A office building Deget d. Potential conflict with Ealtimore County Master Plan: roposed subdivision of Deigert Property, within "take lines" of Honeygo Park 7. Prospective amendments to the Baltimore County Zoning Regulations 4:10 p.m. a. Temporary collection trailers on shopping center properties - (draft enclosed) (County Council Resolution No. 58-81) Church. b. Offices of doctors and dentists (County Council Resolution
No. 59-81) (draft of preliminary report to be available at No. 59-81) (draft of preliminary report to be available at

BALTIMORE COUNTY PLANNING BOARD RESOLUTION January 21, 1982 Directing That the Baltimore County Department of Recreation and Parks Be Requested to Advise the Planning Board Whether Certain Land Should Be Reserved in the Public Interest A plan has been forwarded to the Director of Planning for the WHEREAS, Joseph D. Deigeri et al property, located on the north side of Silver Spring Road, east of Magnolia Avenue, all of which has been designated on the Baltimore County Comprehensive · Plan as Honeygo Run Park; and The Baltimore County Code provides for a certain course of WHEREAS, action in such a case; now, therefore, be it The Baltimore County Planning Board hereby directs, pursuant RESOLVED, to the provisions of Section 22-18 of the Baltimore County Code 1978 as amended by Bill 209-80, that the Director of Planning refer to the Department of Recreation and Parks the question of whether or not the Department believes that it would be in the public interest to reserve any portion or all of the land identified as the Joseph D. Deigert et al property, and be it further That, if the response is affirmative, the Planning Board RESOLVED, requests the Department of Recreation and Parks provide to the Board a map showing the boundaries and area of the parcel to be reserved and an estimate of the time required to complete the acquisition of the land involved. I HEREBY CERTIFY that this resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland on January 21, 1982. 1/21/20 Secretary to the Board

RECEIVED MAY 24 1982 BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204 HARRY J. PISTEL, P. E. DIRECTOR May 19, 1982 Mr. Joseph Deigert P.O. Box 7 Fallston, MD 21047 Re: Deigert Property Project #81192 District 11 Dear Sir: The Office of Planning and Zoning has determined that this proposed development is subject to the requirements of Bill #124-81 and must be posted for a public meeting. Contact must be made with the above mentioned office to determine what plan changes are required as a result of this decision. In addition, we must advise you at this point that, if the plan does not have Tentative Approval by June 11, 1982, the proposal will be subject to the requirements of Bill #56-82 "Development Regulations". We suggest that any re-submission of the plan should probably meet the requirements of this latter legislation. Very truly yours, Adecta. Morton Robert A. Morton, Chief Bureau of Public Services RAY:JAW:vlg cc: Shepk Corporation 43 E: Lee Street Bel Air, MD 21014 AND THE PROPERTY.

Baltimore County, Maryland BOARD OF RECREATION AND PARKS 301 Washington Avenue Towson, Maryland 21204

> ANNUAL MEETING February 10, 1982

TENTATIVE AGENDA

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ANYOUNCEMENTS

February 11, 1982 - 7:30 p.m. - R&P Seminar on POS - Stemmers Run Junior High School-Recreation Center February 13, 1982 - 8:30 a.m. -2:00 p.m. - Loch Raven Senior High School-Recreation Center - 26th Annual Baseball Clinic of Stars

ACTION

- I. Minutes Regular Board meeting January 20, 1982 *
- II. Decertification of Eastwood Recreation and Parks Council
- III. Land acquisition Honeygo Park Deigert property, 1)th Election
 District, 5th Councilmanic District *

REPORTS

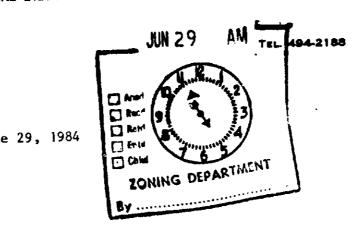
- IV. Recreation, Parks, and Open Space Plan
- V. Board coverage of Recreation and Parks Councils business meetings
- VI. Report of Recreation and Parks Area Superintendent (Mr. Bonnet)
- VII. Board Committee and Department reports
 - - 1. Facilities construction progress report January 1982 *
 - 2. LOS acreage wai 4* 3. Annual report of Vandalism - 1981 *

 - B. Program 1. Program Report - 12/21/81-1/20/82 2. Special Events - 2/15-3/14/82



Baltimore County, Maryland PEOPLE'S COUNSEL OLD COURT HOUSE TOWSON, MARYLAND 21204

PHYLLIS COLE FRIEDMAN People's Counsel PETER MAX ZIMMERMAN Deputy People's Commi



RE: Joseph D. Deigert, et al., Petitioners - Zoning Case No. 84-309-SPH

Dear Arnold:

Arnold Jablon, Esquire Zoning Commissioner

County Office Building Towson, Maryland 21204

As you are aware, my office has appealed your decision in the above-referenced matter because our interpretation of Section 1801.1.8.1(d) is that the exemption requires at the minimum tentative approval by the Planning Board. Based upon your findings of fact, there was C.R.G. approval but not Planning Board approval and we did not believe the exemption should be extended to C.R.G. approvals.

Since this appeal, I have spoken to the attorneys for the Deigerts and have inquired as to whether there was in fact tentative Planning Board approval. In response to my inquiry, they investigated further and have provided me with documentation such that I am now satisfied that there was tentative approval by the that I am now satisfied that there was tentative approval by the Planning Board and that the exemption in Section 1801.1.8.1(d) controls this matter. I am enclosing herewith a copy of the material furnished me by the attorney for the Petitioners so that you may review it. On the basis of this, I am prepared to dismiss my appeal. However, I am reluctant to do so where your Order does not fully reflect the facts. Therefore, before I dismiss my appeal, could these additional facts be somehow incorporated in your Order?

Thank you for your kind consideration of this.

Phyllis Cole Friedman/sh
Phyllis Cole Friedman

cc: Newton A. Williams, Esquire Stephen J. Nolan, Esquire

J. EARLE PLUMHOFF
NEWTON A WILLIAMS
WILLIAM M HESSON, UR
THOMAS J. RENNER
WILLIAM P. ENGLEHART, JR. STEPHEN J. NOLAN G. SCUTT BARHIGHT

ROBERT L. HANLEY, JR

ROBERT & GLUS-AKOW

LAW OFFICES NOLAN, PLUMBOFF & WILLIAMS CHARTERED 204 WEST PENNSYLVANIA AVENUE RANDALLSTOWN, MARYLAND 21133 TOWSON, MARYLAND 21204

(301) 623-7800 June 29, 1984

HAND DELIVERY

OF COUNSEL

RALPH E. DEITZ

9026 LIBERTY ROAD

(301) 922-2121

Phyllis Cole Friedman, Esquire People's Counsel for Baltimore County Court House - Room 223 Towson, Maryland 21204

Re: Petition for Special Hearing -Joseph D. Deigert et al - Petitioners Case No. 84-309-SPH Before the Board of Appeals

Dear Mrs. Friedman:

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I am hand delivering herewith additional documents from our file which the Planning Board substantially reviewed and, implicit with its January 21, 1982 Resolution, approved the underlying Silver Woods subdivision prior to the adoption of the County review group process as well as the subsequent 1982 RTA amendments.

On behalf of the appellee-petioners, we are requesting that you dismiss the Appeal in this case or, in the alternative, that an expedited hearing be held before the Board in order that the extreme hardship which the petitioners are experiencing due to the delays occasioned by the Appeal can be minimized.

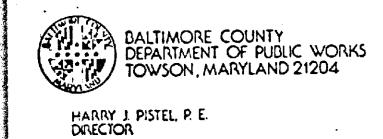
Phyllis Cole Friedman, Esq. Re: Deigert et al - Case 84-309-SPH June 29, 1984 Page Two

Thank you for your kind assistance and for meeting with me on Monday, June 25, 1984 to discuss this matter. Although I will be out of the office during the week of July 2, 1984, please contact my associate, Scott Barhight, in the event you desire to schedule an expedited Appeal Hearing should you not be able to proceed to file an outright Dismissal of the Appeal based upon this new information.

Very truly yours, Stephen J. Nolan

SJN:jka Enclosures

cc: The Honorable Arnold Jablon Mr. Joseph D. Deigert Mr. Manuel Lazerov Mr. Norman Ray Mr. William Shenk, P.E. G. Scott Barhight, Esquire



November 23, 1981

Mr. Joseph D. Deigert P.O. Box 7 Fallston, Maryland 21047

> Re: Deigert Property District 11

Dear Mr. Deigert:

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It is requested that the indicated fee, based on 21 lots and 31 townhouses, be submitted and the appropriate developer interests be notified for attendance at

Subsequent fees will be established for further processing.

Very truly yours, (SIGNED) ROBERT AL MORTON

Robert A. Morton, P.E., Chief Bureau of Public Services

RAM: JAW: jha

cc: The Shenk Corporation, 43 E. Lee Street, Bel Air, Maryland, 21014

	BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE + REVENUE DIVISION TELEPHONE (301) 494-2413	INVOICE NO. 000424
REVEN	CHECKS PAYABLE TO: BALTIMORE COUNTY, MARYLAND TO ATTACH TO THIS FORTION OF INVOICE AND MAR, TO: 10 10 10 10 10 10 10 10 10 10 10 10 10	INVOICE DATE December 1, 1981
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2607 Laurel Brook R		•
Pallston, Maryland	21047	
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Amount \$1,540.00	Bureau of Public Services	23-01 \$1,346.00
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THESE	ARE TRANSP	MITTED as	checked below:			_	
	□ For ap	proval				copies for approval	
	☐ For yo	our use				pies for distribution	
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		view and co	omment 🗆		TO DETUCNED A	TER LOAN TO US	
REMA	RK\$	-			<u> </u>		
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	Special Meeting of the BALTIMORE COUNTY PLANNING BOARD Thursday, January 7, 1982 Room 106, County Office Building Call to order - 3:00 F.M.
Approximate Time	ADVANCE TENTATIVE AGENDA
3:00 p.m.	1. Introduction of Board Members
3:05 p.m.	2. Review of agenda
3:10 p.m.	3. Public comment
3:30 p.m.	4. Minutes of the meetings of September 10 and September 17, 1981
3:35 p.m.	5. Zoning Reclassification Petitions, Zoning Cycle II, 1981 (correspondence relating to Item No. 10 enclosed)
3:50 p.m.	6. Subdivisions - (list enclosed)
	a. Final plats, preliminary plans, and extensions of tentative plans and final plats
	b. Subdivision Plan No. III-232: Hooks Lane Business Park
	c. Development plans in R.O. Zones
	(1) R.O. No. 13-9816% Belair Road: Class \ office building (conversion)
•	(2) R.O. No. 18 - 7715 Old Harford Road: Class A office building (conversion)
	(3) R.O. No. 19 - S/E side Maple Drive, E. of Franklinville Road: special hearing for parking
•	(4) R.O. No. 20 - 1603 Edmondson Ave.: Class A office building (conversion)
	(5) R.O. No. 21 - 307 W. Allegheny Ave.: Class A office building
Degit	d. Potential conflict with Baltimore County Master Plan: proposed subdivision of Deigert Property, within "take lines" of Honeygo Park
4:10 p.m.	7. Prospective amendments to the Baltimore County Zoning Regulations
	a. Temporary collection trailers on shopping center properties - (draft enclosed) (County Council Resolution No. 58-81)
	Check. b. Offices of doctors and dentists (County Council Resolution No. 59-81) (draft of preliminary report to be available at meeting)

BALTIMORE COUNTY PLANNING BOARD RESOLUTION

January 21, 1982

Directing

That the Baltimore County Department of Recreation and Parks Be Requested to Advise the Planning Board Whether Certain Land Should Be Reserved in the Public Interest

WHEREAS,

A plan has been forwarded to the Director of Planning for the Joseph D. Deigert et al property, located on the north side of Silver Spring Road, east of Magnolia Avenue, all of which has been designated on the Baltimore County Comprehensive. Plan as Honeygo Run Park; and

WHEREAS,

The Baltimore County Code provides for a certain course of action in such a case; now, therefore, be it

RESOLVED,

The Baltimore County Planning Board hereby directs, pursuant to the provisions of Section 22–18 of the Baltimore County Code 1978 as amended by Bill 209–80, that the Director of Planning refer to the Department of Recreation and Parks the question of whether or not the Department believes that it would be in the public interest to reserve any portion or all of the land identified as the Joseph D. Deigert et al property, and be it further

RESOLVED,

That, if the response is affirmative, the Planning Board requests the Department of Recreation and Parks provide to the Board a map showing the boundaries and area of the parcel to be reserved and an estimate of the time required to complete the acquisition of the land involved.

I HEREBY CERTIFY that this resolution was duly adopted by the Baltimore County Planning Board at its meeting in Towson, Maryland on January 21, 1982.

1/21/10 Date

Norman E. Gerber Secretary to the Board RECEIVED MAY 24 1002



HARRY J. PISTEL, P. E. DIRECTOR May 19, 1982

Mr. Joseph Deigert P.O. Box 7 Fallston, MD 21047

Re: Deigert Property
Project #81192
District 11

Dear Sir:

The Office of Planning and Zoning has determined that this proposed development is subject to the requirements of Bill #124-81 and must be posted for a public meeting. Contact must be made with the above mentioned office to determine what plan changes are required as a result of this decision.

In addition, we must advise you at this point that, if the plan does not have Tentative Approval by June 11, 1982, the proposal will be subject to the requirements of Bill #56-82 "Development Regulations". We suggest that any re-submission of the plan should probably meet the requirements of this latter legislation.

Very truly yours,

Adeta. Morton

Robert A. Morton, Chief Bureau of Public Services

RAM:JAW:vlg

cc: Shenk Corporation
43 E. Lee Street
Bel Air, MD 21014

File

Baltimore County, Maryland
BOARD OF RECREATION AND PARKS
301 Washington Avenue
Towson, Maryland 21204

ANNUAL MEETING February 10, 1982

TENTATIVE AGENDA

ANNOUNCEMENTS

February 11, 1982 - 7:30 p.m. - R&P Seminar on POS - Stemmers Run

Junior High School-Recreation Center

February 13, 1982 - 8:30 a.m. - 2:00 p.m. - Loch Raven Senior High

School-Recreation Center - 26th Annual

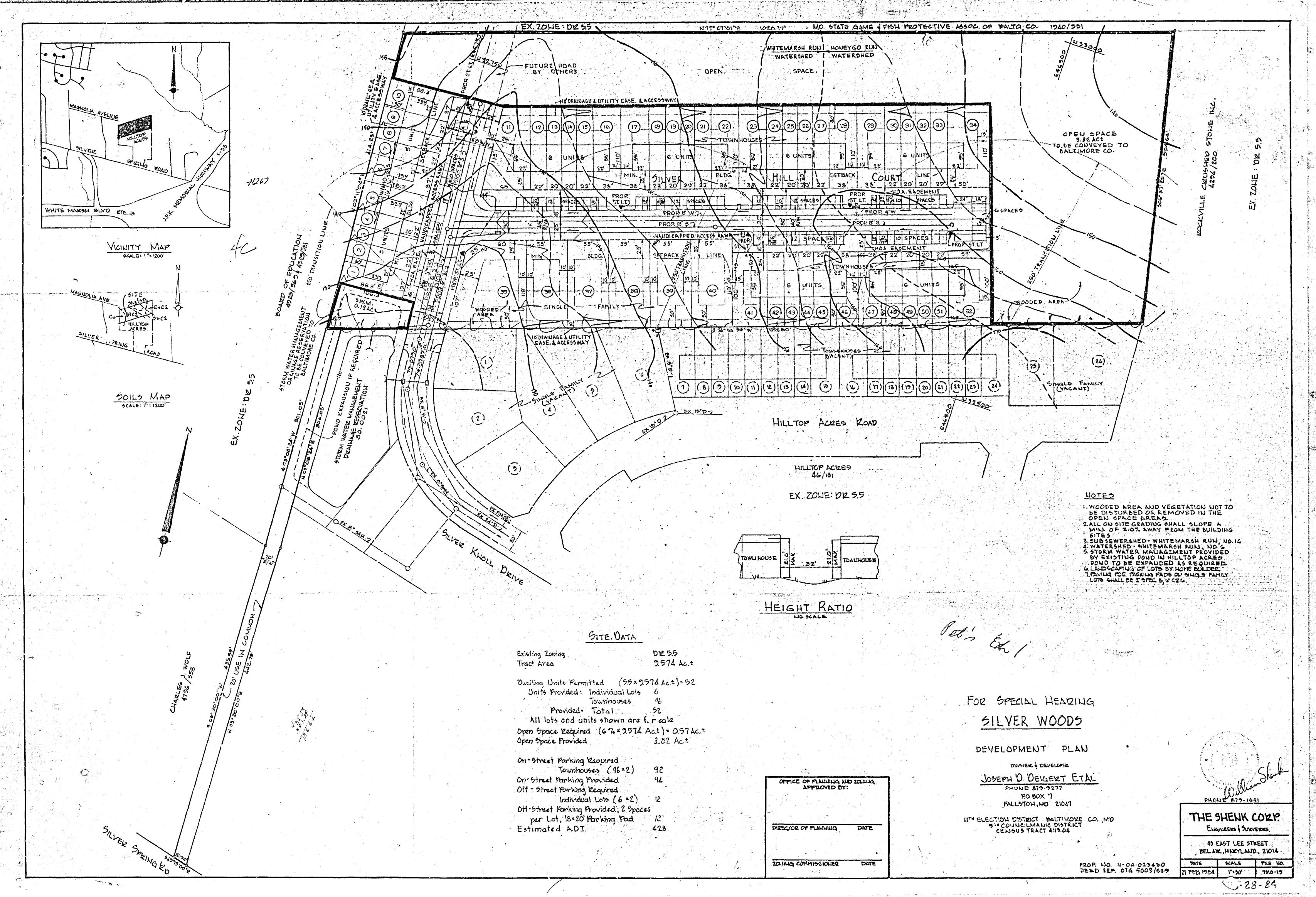
Baseball Clinic of Stars

ACTION

- I. Minutes Regular Board meeting January 20, 1982 *
- II. Decertification of Eastwood Recreation and Parks Council
- III. Land acquisition Honeygo Park Deigert property, 1)th Election
 District, 5th Councilmanic District #

REPORTS

- IV. Recueation, Parks, and Open Space Plan
- V. Board coverage of Recreation and Parks Councils business meetings
- VI. Report of Recreation and Parks Area Superintendent (Mr. Bonnet)
- VII. Board Committee and Department reports
 - A. Facilities
 - 1. Facilities construction progress report January 1982 *
 - 2. LOS acreage waived *
 - 3. Annual report of Vandalism 1981 *
 - B. Program
 - 1. Program Report 12/21/81-1/20/82
 - Z. Special Events 2/15-3/14/82



Ò

Pursuant to the advertisement, posting of property, and public hearing on the Petition and

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

FROM....Ian J. Forrest

SURJECT Zoning Variance Items

Meeting - April 17, 1984

The Baltimore County Department of Health has reviewed the following zoning items and does not anticipate any health hazards at this time regarding these items.

Item #260 - Dennis Fisher, et ux

Item #262 - Arthur B. Singley, III, et ux

Item #266 - William R. DeSandro, et ux

Item #267 - Joseph D. Deigert, et al

Item #268 - Robert N. Loman, et ux

Item #269 - Lutie G. Ports

IJF/fth

RE: PETITION FOR SPECIAL HEARING:
N end of Silver Knoll Dr.,
363' NW of the Centerline of:
Hilltop Acres Rd., 11th Dist.

JOSEPH D. DEIGERT, et al.,

Petitioners

Case No. 84-309-SPH

OF BALTIMORE COUNTY

ENTRY OF APPEARANCE

::::::

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 24th day of April, 1984, a copy of the foregoing Entry of Appearance was mailed to Stephen J. Nolan, Esquire, Nolan, Plumhoff & Williams, 204 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Lazerov/Ray Partnership, 5411 Storm Drift, Columbia, MD 21045, Contract Purchaser.

Peter Max Zimmerman

E: PETITION FOR SPECIAL HEARING:
N/End of Silver Knoll Dr.,
253' NW of the Centerline of:
Hilltop Acres Rd.,

11th District

EARING: BEFORE THE ZONING COMMISS
Dr.,
ine of: OF BALT MORE COUNTY

NOSEPH D. DEIGERT, et al., : Case No. 84-309-SPH Petitioners

NOTICE OF APPEAL

::::::

Please note an appeal from your decision in the above-captioned matter, under date of May 16, 1984, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204

I HEREBY CERTIFY that on this ______day of June, 1984, a copy of the foregoing Notice of Appeal was mailed to Stephen J. Nolan, Esquire, Nolan, Plumhoff & Williams, 204 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Lazerov/Ray Partnership, 5411 Storm Drift, Columbia, MD 21045, Contract Purchaser.

Peter Max Zimmerman

BEFORE IN THE MATTER OF THE APPLICATION OF JOSEPH D. DEIGERT, ET AL COUNTY BOARD OF APPEALS FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE NORTH END OF SILVER KNOLL DRIVE, 363' NORTHWEST OF THE CENTER LINE OF HILLTOP ACRES ROAD BALTIMORE COUNTY 11th DISTRICT No. 84-309-SPH PHYLLIS COLE FRIEDMAN, PEOPLE'S COUNSEL FOR BALTIMORE : COUNTY, APPELLANT

ORDER OF DISMISSAL

Petition of Joseph D. Deigert, et al, for Special Hearing on property

Located at the north end of Silver Knoll Drive, 363' northwest of the center line of

Hilltop Acres Road, in the 11th District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Motion for Dismissal of appeal filed July 9, 1984, (a copy of which Motion is attached hereto and made a part hereof) from the Appellants in the above entitled matter.

WHEREAS, the said Appellants request that the appeal filed on their behalf be dismissed and withdrawn as of July 9, 1984.

IT IS HEREBY ORDERED this <u>10th</u> day of July, 1984, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman

Patricia Phipps

Diana K. Vincent

RE: PETITION FOR SPECIAL HEARING: BEFORE THE COUNTY BOARD OF APPEALS

N/End of Silver Knoll Dr.

363' NW of the Centerline of: OF BALTIMORE COUNTY
Hilltop Acres Rd.,

JOSEPH D. DEIGERT, et al., : Case No. 84-309-SPH Petitioners :::::::

11th District

MOTION FOR DISMISSAL

The Motion of the People's Counsel for Baltimore County respectfully represents, viz:

That your Petitioner has determined that the public interest no longer requires prosecution of the appeal in the above-captioned matter and respectfully prays that it be dismissed.

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204

I HEREBY CERTIFY that on this May of July, 1984, a copy of the foregoing Motion and proposed Order was mailed to Stephen J. Nolan, Esquire, Nolan, Plumhoff & Williams, 204 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioners; and Lazerov/Ray Partnership, 5411 Storm Drift, Columbia, MD 21045, Contract Purchaser.

Applie Cole Friedman

IN RE: PETITION FOR SPECIAL HEARING

N/end of Silver Knoll Drive, 363' NW of the centerline of Hilltop Acres Road 11th Election District * BOARD OF APPEALS

* OF BALTIMORE COUNTY

* Case No. 84-309-SPH

* BEFORE THE

Joseph D. Deigert, et al

Entry of Appearance

Please enter my appearance as a party in the above captioned matter, pursuant to Section 501.6, <u>B.C.Z.R.</u>, and I hereby request that any and all notices be forwarded to my office, including but not limited to hearing dates and/or preliminary or final Orders.

Arnold Jablon

Zoning Commissioner of Baltimore

County

Room 109 - 111 West Chesapeake Avenue

Towson, Maryland 21204

494-3353

Certificate of Mailing

IT IS HEREBY CERTIFIED that on this 22nd day of June,

198 , copies of the foregoing Entry of Appearance were mailed, postage prepaid,

by first class delivery to the County Attorney of Baltimore County, People's

Counsel for Baltimore County, Petitioner(s) and/or Protestant(s) in the above

captioned matter.

Arnold Jablon / aj

May 16, 1984

Stephen J. Nolan, Esquire 204 West Pennsylvania Avenue Towson, Maryland 21204

IN RE: Petition Special Hearing
N/end of Silver Knoll Drive,
363' NW of the centerline of
Hilltop Acres Road - 11th
Election District
Joseph D. Deigert, et al,
Petitioners
Case No. 84-309-SPH

Dear Mr. Nolan:

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

Sincerely,

ARNOLD JABLON Zoning Commissioner

AJ/srl Attachments

cc: People's Counsel



June 22, 1984

Stephen J. Nolan, Esquire 204 West Pennsylvania Avenue Towson, Maryland 21204

> Re: Petition for Special Hearing N/end of Silver Knoll Drive, 363 ft. NW of the c/l of Hilltop Acres Road
>
> Joseph D. Deigert, et al - Petitioners
>
> Case No. 84-309-SPH

Dear Mr. Nolan:

Please be advised that an appeal has been filed by Phyllis Cole Friedman, People's Counsel for Baltimore County, 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 County Board of Appeals.

Zoning Commissioner

AJ:aj

cc: Lazerov/Ray Partnership 5411 Storm Drift

	April 13, 0984	
Stephen J. Nolan, Esquir 204 W. Pennsylvania Ave Towson, Maryland 2120	enue	
	NOTICE OF HEARING Re: Petition for Special Hearing North end of Silver Knoll Drive, 363' NW of the c/l of Hilltop Acres Road Joseph D. Deigert, -t al - Petitioners Case No. 84-309-S.	
TIME: 10:00 A		
	ay, May 10, 1984	
PLACE: Room 1	06, County Office Building, 111 West Chesape	ake
Avenue	, Towson, Maryland	
	Complete	
	Zoning Commissioner of Baltimore County	
BALTIMORE COUNTY, MARYLAND DEFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT	Zoning Complissioner of Baltimore County No. 128247	
OFFICE OF FINANCE - REVENUE DIVISION	No. 128247	
AMOUNT	of Baltimore County No. 128247	
OFFICE OF FINANCE - REVENUE DIVISION AISCELLANEOUS CASH RECEIPT	of Baltimore County No. 128247	
AMOUNT ECEIVED SERVENUE DIVISION AMOUNT AMOU	of Baltimore County No. 128247 R-01-6/5-000	
AMOUNT ECEIVED SERVENUE DIVISION AMOUNT AMOU	No. 128247 No. 128247 No. 128247 No. 100.00 No. 10	

ZONING: Petition for Special Hearing LOCAT ON: North end of Silver Knoll Drive, 363 ft. Northwest of the centerline of Hilltop Acres	O le Time	
Road. DATE & TIME: Thurs-t	Middle River, Md.,	19 19 19
day, May 10, 1984 at 10:00 A.M.		
PUBLIC HEARING:	This is to Certify, The	it the annexed
Building, 111 W. Chess-	Keliha	
peake Avenue, Towson, Maryland.		
The Zoning Commis- sioner of Baltimore Coun-	<u></u>	
ty, by authority of the	was insarted in The Times & Name	sanar printed
Zoning Act and Regula- tions of Baltimore County,	was inserted in Ole Times, a news	haher himten
will hold a public hearing: Patition for Special	and published in Baltimore County,	once in each
Hearing under Section	h-, 4	
500.7 of the Baltimore 3 County Zoning Regula-	of	successive
	weeks before the	day of
tions, to determine wheth-		
Commissioner and/or dep-	apus	, 19 <i>8%</i>
uty Zoning Commissioner	The little to	Dublish
should approve, honor and protect the CRG approval	312 0. 107	Publisher.
of July 29, 1982 for pro- posed Silver Weeds prop-		
arty, pursuant to Sections		
1B01.B and 1B02.3 and other applicable of the		
Baltimore County Zoning Regulations and Section	kan mengangan kanggangan non-bangan Takisah Kebandan pada pada mengan kanggan pada Tahisi dan da mengangan men	The state of the s
22-62 of the Baltimore County Code, and any oth		
er applicable provisions of		
either the Regulations or the Code.		•
Being the property of Joseph D. Deigert, et al, as		÷
shown on plat plan filed		
with the Zoning Depart ment.		
In the event that this Pe-		
ing permit may be issued		and the second s
within the thirty (30) day a speed period. The Zonin		
Commissioner will, how-	BALTIMORE COUNTY, MARYLAND No. 1	30556
for a stay of the issuance of said permit during this	OFFICE F FINANCE - REVENUE DIVISION	
period for good cause	MISCELLANEOUS CASH RECEIPT	
shown. Such request must be received in writing by	2 100 101 D 01 61E 000	
the date of the hearing set	DATE 6/20/84 ACCOUNT R-01-615-000	
ing.	\$85.00	
BY ORDER OF	AMOUNT TO THE PARTY OF THE PART	
Zoning Commissioner Of Baltimore Cou		
di Datimore Coa	RECEIVED Describe Comment	
그리 작곡하다 못하다. 무섭히	Appeal fee on Case #84-309-SPH	
	3 FAD.	
	(Joseph D. Deigert, et al)	

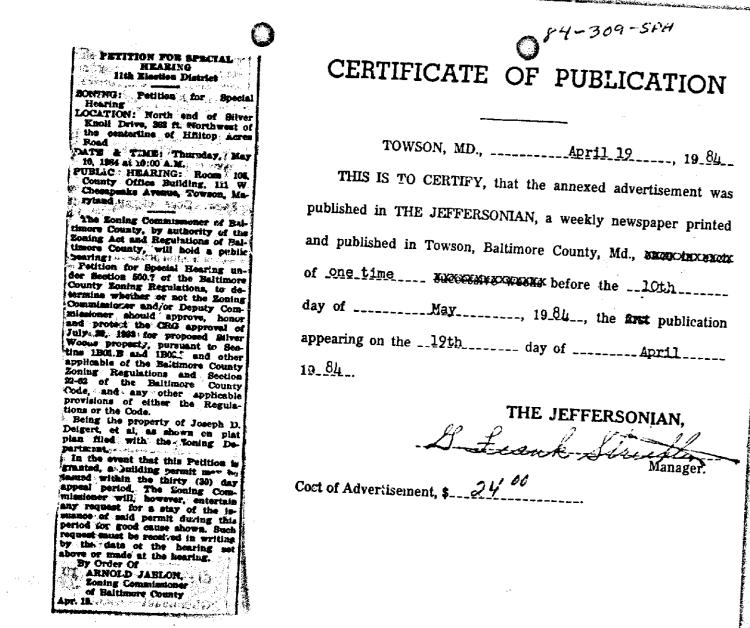
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	VALIDATION OR SIGNATURE OF CASHIER	

* #		

Petition For Special Hearing

Tourse	n, Maryland
Posted for: Setetrial for Angles Petitioner: Supply Descript to Location of property: North Colon Rel Location of Signs: act - Lewis Location Remarks: Actor and Posted by Mand Market Signature Rumber of Signs: Mee 2	Lal Cor Knoll Dr. 363 PC A rue A.
ZONING DEPARTMENT	E OF POSTING OF BALTIMORE COUNTY Meryland
Posted for: Part of Applel Petitioner: Part of Applel Location of property: New John District Location of Signs: Jacob party of the Remarks:	Date of Posting 6/30/34 Let al Let al Let al Let al Let al Az 263/4 Let al Az 200 16 Let al Az
Posted by Signature Number of Signs:	Date of return: 75 4

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY



BALTIMORE COUNTY	
OFFICE OF PLANNING & ZO	NING
TOWSON, MARYLAND 21204	4
494-3353	
ARNOLD JABLON	
ZONING COMMISSIONER	
·	10 4 1004
	May 4, 1984
	•
Stephen J. Nolan, Esquire	
204 W. Pennsylvania Avenus	
Towson, Maryland 21204	
TOMBOR! TITLE	
	Re: Petition for Special Hearing
	N end of Silver Knoll Dr. 363' NW of the
	c/1 of Hilltop Acres Road
	Joseph D. Deigert, et al - Petitioners
•	Case No. 84-309-SPH
Dear Mr. Nolan:	
This is to advise you th	at \$57.52 is due for advertising and posting
of the above property.	
This fee must be paid a	nd our zoning sign and post returned on the day
of the hearing before an Order	is issued. Do not remove sign until day of hearing
of the hearing belove an order	10 10 10 10 10 10 10 10 10 10 10 10 10 1
Til	bla to Baltimore County Maryland and
	payable to Baltimore County, Maryland, and
	, Zoning Office, Room 113, County Office Building
Towson, Maryland 21204, bef	ore the hearing.
	Sincerely,
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MADVI AND	No. 130274
BALTIMORE COUNTY, MARYLAND	- \
PINIANCE - REVENUE DITTO	OLDJABLON
MISCELLANEOUS CASH RECEIPT	ng Commissioner
	K-000
5/9/84 ACCOUNT_R-01-61	
DATE TO THE PARTY OF THE PARTY	
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RYCEIVED Stephen J. Nolan, Esquire	A.O. CITAL
RYCEIVED Stephen J. Nolan, Esquire FROM: dvertising & Posting Case #84-30	09-SFH
(Joseph D. Deigert, et al)	
g 099****	-57521D 810#A
· •	

The second secon	
	TELEPHONES 301 - 838-1441 301 - 879-1441
THE SHENK CORPORA	TION
GINEERS AND SURVEYORS EAST LEE STREET, BEL AIR, MARYLAND 21014	
WILLIAM SHENK, P.E ROP	NALD M. KEARNEY, PROPT. L.S.
March 28, 1984	PN 8405
PARTICULAR I LAND OF JOSEPH I	DESCRIPTION D. DEIGERT ET AL
Beginning for the same at a poin	nt at the southwesterly corner
of the land of Joseph D. Deigert et a	
the end of the two following courses	and distances from a point of
intersection formed by the center of	Silver Knoll Drive and the cen-
ter of Hilltop Acres Road,	
(1) Northwesterly 363 feet more	e or less to the end of Silver
Knoll Drive, and	
(2) Southwesterly 137 feet more	or less to the said point of

(1) North 03 - 11 - 04 East 414.23 feet,

Containing 9.57 acres of land more or less.

(2) North 77 - 07 - 01 East 1,020.17 feet,

(3) South 06 - 37 - 25 East 394.64 feet, and

PUBLIC HEARING: Room 106, County Office Building, 111 W. 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: Petition for Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve, honor and protect the CRG approval of July 29, 1982 for proposed Silver Woods property, pursuant to Sections 1B01. Band 1B02. 3 and other beginning, running thence and binding on the outlines of the land of applicable of the Baltimore County Zoning Regulations and Section 22-62 Joseph D. Deigert et al the four following courses and distances viz: of the Baltimore County Code, and any other applicable provisions of either the Regulations or the Code Being the property of Joseph D. Deigert, et al, as shown on plat plan filed with the Zoning Department. (4) South 76 - 18 - 53 West 1,091.80 feet to the beginning hereof.

ZONING:

LOCATION:

DATE & TIME:

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

PETITION FOR SPECIAL HEARING

North end of Silver Knoll Drive, 363 ft. Northwest of

11th Election District

the centerline of Hilltop Acres Road

Thursday, May 10, 1984 at 10:00 A.M.

Petition for Special Hearing

BY ORDER OF ARNOLD JABLON ZONING COMMISSIONER OF BALTIMORE COUNTY



County Board of Appeals of Baltimore County Room 200 Court House (Hearing Room #218) Towson, Maryland 21204 (301) 434-3180

July 2, 1984

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 POSTPONE-MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEAR-ING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 84-309-SPH

JOSEPH D. DEIGERT, ET AL

FOR SPH - TO PROTECT THE CRG APPROVAL N/END OF SILVER KNOLL DRIVE 363'
NW OF C/L HILLTOP ACRES ROAD

, 11th DISTRICT

TUESDAY, OCTOBER 16, 1984 at 10 a.m.

cc: Stephen J. Nolan, Esquir

Counsel for Petitioners Petitioners

Joseph D. Deigert, et al Lazerov/Ray Partnership

Contract Purchasers

People's Counsel

Ýhyllis Cole Friedman

N. E. Gerber J. G. Hoswell

A. Jablon

Jean M. H. Jung

J. E. Dyer

Edith T. Eisenhart, Adm. Secretary

#84-309-SPH

N/end Silver Knoll Dr., 363' NW of c/l of Hilltop Acres Rd.

Joseph D. Deigert, et al

2 signs (1 a location one)

IN RE: PETITION SPECIAL HEARING N/end of Silver Knoll Drive, 363' NW of the centerline of Hilltop Acres Road - 11th

Election District

ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 84-309-SPH

Joseph D. Deigert, et al, Petitioners *

. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein seek an interpretation of the Zoning Commissioner in order to allow a prior existing approved subdivision plan to proceed to completion notwithstanding intervening legislation which would prevent such comple-

The Petitioners appeared and was represented by Counsel. Also appearing for the Petitioners were representatives of Lazerov/Ray Partnership, the Contract Purchasers of the property and the developers of the subdivision proposed. There were no Protestants.

The subdivision, Silver Woods, was approved for development by the County Review Group (CRG) on July 29, 1982. Since that time, the developer has expended considerable money and time on engineering work but has not yet begun physical construction. Prior to the CRG approval, the Baltimore County Council Derived Section 1801.1.B of the Baltimore County Zoning Regulations (BCZR), betdown as the residential transition area (RTA) law, by further restricting certain uses within an RTA as defined in Section 1B01.1.B.1.a. The amendment, although passed by the Council prior to July 29, 1982, did not become effective until August 26, 1982. If applicable here, Bill No. 109-82 would prevent the continuation of the proposed development. The amendment would impose certain restrictions and limitations which would make the approved plan unusable and, father, would abrogate an Offer of Dedication and Agreement between the Petitioners and Baltimore County. See Petitioners' Exhibit 2.

The developer now wishes to proceed with construction and has applied for the necessary permits, which have been withheld pending this nearing in order to determine the effect of Bill No. 169-82 on the prior approved plan.

The Petitioners seek relief under Section 500.7, BCZR, for an interpretation of Section 1B01.1.B.1.(d), BCZR, in order to exempt the Silver Woods development plan from the rule that there need be substantial construction to protect a development plan from subsequent changes in zoning.

Mere approval or even recordation of a subdivision plat without statutory intervention does not insulate a plat from future zoning change unless there has been intervening vested rights. Rockville Fuel & Feed Co. v. Gaithersburg, 266 Md. 117 (1972). A vested right occurs when the property owner has obtained a building permit and has proceeded to exercise his rights on the land by proceeding to substantial construction so that the neighborhood may be advised as to the intended land use. See Rupp v. Cline & Sons, 230 Md. 573 (1963). It is uncontested that the latter has not occurred here. The only issue presented is whether Section 1801.1.B.1.(d) exempts the Petitioners from the requirements of Bill No. 109-82 by statutory intervention.

It is the opinion here that it is an example of statutory intervention and that It does exempt the Petitioners here from the restrictive language of Bill

rtainly, the language of Section 1801.1.B.1.(d) is clear and unambiguous. statute should be so construed that all its parts harmonize with each other and reader them consistent with its general object and scope." Pittman v. Housing Authority, 180 Md. 457. The intent of the BCZR must be determined as being construed as a whole. Smith v. Miller, 249 Md. 390. Section 1B01.1.B.1.(d) mu te construed in light of the provisions making up the RTA so that the several parts of those regulations are given their intended effect. Moreover, the

- 2 -

relationship between those various provisions must be reconciled as a whole. Bowie Vol. Fire Cept. & Rescue Squad v. Bd. of County Commissioner, 255 Md. 381; Anderson, American Law of Zoning, Section 16.08.

7/2/84 - Notified of appeal hearing scheduled for TUESDAY, OCTOBER 16, 1984 at 10 a.m.

Stephen J. Nolan, Esq.

Phyllis C. Friedman

Joseph D. Deigert, et al Lazerov/Ray Partnership

The Council first passed subsection (d) in 1970; a later amendment was made in 1981. Subsequent changes have left it intact. The intent and clear purpose of subsection (d) is to exempt developments from zoning changes effecting the RTA occurring after their approval. No other conclusion can be reached after a reading of the appropriate regulations.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this ______ day of May, 1984, that the prior existing approved subdivision plan may proceed to completion notwithstanding intervening legislation which would prevent such completion and, as such, the Petition for Special Hearing is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.



County Board of Appeals of Baltimore County Room 200 Court House Towson, Maryland 21204 (301) 494-3180

July 10, 1984

Phyllis C. Friedman People's Counsel Court House Towson, Md. 21204

Dear Mrs. Friedman:

Re: Case No. 84-309-SPH Joseph D. Deigert, et al

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

Very truly yours,

cc: Stephen J. Nolan, Esq. Joseph D. Deigert, et a Lazerov/Ray Partnership N. Gerber J. Hoswell A. Jablon

IN RE: PETITION SPECIAL HEARING N/end of Silver Knoll Drive, 363' NW of the centerline of * Hilltop Acres Road - 11th Election District

BEFORE THE

ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 84-309-SPH

Joseph D. Deigert, et al, Petitioners 🚆

AMENDED FINDINGS OF FACT AND CONCLUSIONS OF LAW

The development plan was submitted on or about November 16, 1981 to the Joint Subdivision Planning Committee which met on December 3, 1981. The Baltimore County Planning Board considered this subdivision on January 7, 1982. A Resolution was adopted on January 21, 1982 by the Planning Board affecting the instant property, which constituted tentative approval of the plan.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day of July, 1984, that the findings of fact set forth in the decision rendered on May 16, 1984 are AMENDED accordingly, but the conclusions of law are unaffected and remain in full effect.

🛃 Stephen J. Nolan, Esquire

People's Counsel

JAN 23 1985