

IN THE MATTER OF : IN THE
THE APPLICATION OF : CIRCUIT COURT
RANDOLPH H. SHELLEY :
FOR ZONING RECLASSIFICATION : FOR
FROM R.C. 5 TO B.M. ON :
PROPERTY LOCATED ON THE EAST : BALTIMORE COUNTY
SIDE OF YORK RD., 40 FT. NORTH :
OF THE CENTER LINE OF MOUNT : AT LAW
CARMEL ROAD :
7th ELECTION DISTRICT : CG Doc. No. 49
3rd COUNCILMANIC DISTRICT :
RANDOLPH H. SHELLEY, PETITIONER- : Folio No. 177
PLAINTIFF : File No. 87-CG-5107
ZONING FILE NO. R-87-458

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, Lawrence E. Schmidt, Harry E. Buchheister, Jr. and Thomas J. Bollinger, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Randolph H. Shelley and Yvonne E. Shelley, P. O. Box 356, Monkton, Md. 21111, Petitioners; Jeffrey H. Gray, Esq., P. O. Box 51, 17000 York Rd., Monkton, Md. 21111-0051, Counsel for Petitioners; and Phyllis C. Friedman, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
410-3180

Randolph H. Shelley
Case No. R-87-458

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Jeffrey H. Gray, Esq., P. O. Box 51, 17000 York Road, Monkton, Md. 21111-0051, Counsel for Petitioner; Mr. Randolph H. Shelley and Yvonne E. Shelley, P. O. Box 356, Monkton, Md. 21111, Petitioners; and Phyllis C. Friedman, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 15th day of December, 1987.

June Holmen
June Holmen
County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
December 15, 1987

Phyllis C. Friedman, Esq.
People's Counsel for Baltimore County
Court House
Towson, Md. 21204

Re: Case No. R-87-458
Randolph H. Shelley

Dear Mrs. Friedman:

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

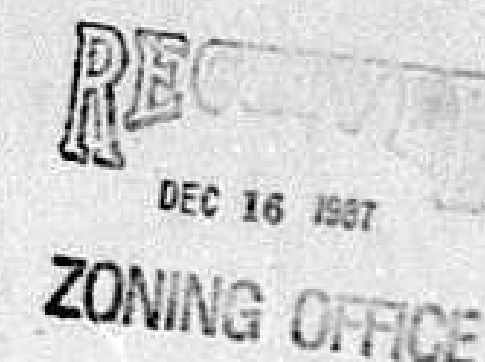
Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
June Holmen, Secretary

Encl.

cc: James Earl Kraft
Norman E. Gerber
James G. Hoswell
J. Robert Haines
Ann Nastarowicz
James E. Dyer
Pocket Clerk



IN THE MATTER OF : BEFORE
THE APPLICATION OF : COUNTY BOARD OF APPEALS
RANDOLPH H. SHELLEY :
FOR ZONING RECLASSIFICATION : OF
FROM R.C. 5 TO B.M. ON :
PROPERTY LOCATED ON THE EAST : BALTIMORE COUNTY
SIDE OF YORK ROAD, 40 FEET NORTH :
OF THE CENTER LINE OF MOUNT : CASE NO. R-87-458
CARMEL ROAD :
7th ELECTION DISTRICT :
3rd COUNCILMANIC DISTRICT :

OPINION

This case comes before the Board on a petition for a reclassification of a parcel of a property from R.C. 5 to B.M. Located on York Road at the terminus of Mount Carmel Road, in the 7th Election District of Baltimore County, this property of .6 acre is presently divided into two zoning classifications which the petitioner desires to be zoned as a single plat under the B.M. classification. This case was heard this day in its entirety.

Counsel for the Petitioner opened his case by citing an error by the County Council in drawing a zoning line that did not coincide with the property's boundary line, but did, as claimed by the owner, bisect the property in a manner that limited its value and use by the owner.

Petitioner in this case, Mr. Randolph H. Shelley, testified that, upon purchase in December 1986, he assumed that he was purchasing property zoned B.M. in its totality, and only after contracting a professional engineer did he become aware that a 32-foot strip was R.C. 5, the parcel which is the subject of this petition.

Mr. Shelley further testified that the zoning demarcation line bisected the center of the dwelling situated on his property, and thereby constituted an error in the zoning map of 1984. After some testimony to this argument of error, Counsel for the Petitioner stipulated acknowledgement that the

Case No. R-87-458
Randolph H. Shelley

demarcation line, as shown on County zoning map exhibits, did not bisect the house and withdrew this contention of error by the Council.

Petitioner reviewed photographs showing the extent of the business use of a number of the individual frame residences in the area and of a recently developed strip shopping center across the road from his property. In seeking the reclassification of the parcel of R.C. 5 property to B.M., Petitioner did not submit a documented site plan.

As a protestant, Mr. James MacDonald, representing the Sparks-Glencoe Community Council, read a letter from his organization that expressed concern for an orderly and planned development of the Hereford Village Center. They strongly urged that all future utilization of land for business purposes in the Hereford area commence only after the comprehensive reclassification process is completed by the County Council.

Mr. James Hoswell, presently studying the Hereford area as a planner for Baltimore County, stated his opposition to the petition and expressed his views as to reasons there was no error in the drawing of demarcation zoning line. Mr. Hoswell further testified that the timing for this petition was ill-timed in consideration of the comprehensive study by the Council now in progress.

The Board is concerned about aspects of this petition in that subject property contains both a business demarcation line and a residential use, and would seem to warrant its reclassification in consideration of business use of similar properties in this location.

The Board, however, is not too sympathetic to Mr. Shelley's request, who as a land developer knows that one of his primary understandings would be to ascertain the zoning of the property he was purchasing. The problems he now faces are basically of his own making. It is our view that the zoning was not

Case No. R-87-458
Randolph H. Shelley

made in error, but reflected the need for a transition buffer at the time the property was last reclassified.

The community has concern about an orderly and planned development, and that process has been initiated by the County Council. It is of note that, if Petitioner had presented this Board a documented site plan, rather than an open request, the Board, perhaps, could have disposed of these community concerns.

It is therefore the opinion of this Board that Petitioner has evidenced no errors in the present classification, and what evidence has been produced gives support to the presumption of correctness pursuant to the mandate of Section 2-58.1 of the Baltimore County Code.

ORDER

It is therefore this 12th day of November, 1987 by the County Board of Appeals of Baltimore County ORDERED that the requested petition for reclassification of the subject parcel from R.C. 5 to B.M. is DENIED.

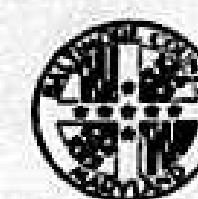
Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence E. Schmidt
Lawrence E. Schmidt, Acting Chairman

Harry E. Buchheister, Jr.
Harry E. Buchheister, Jr.

Thomas J. Bollinger
Thomas J. Bollinger



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

November 12, 1987

Jeffrey H. Gray, Esquire
P.O. Box 51
17000 York Road
Monkton, MD 21111-0051

RE: Case No. R-87-458
Randolph H. Shelley

Dear Mr. Gray:

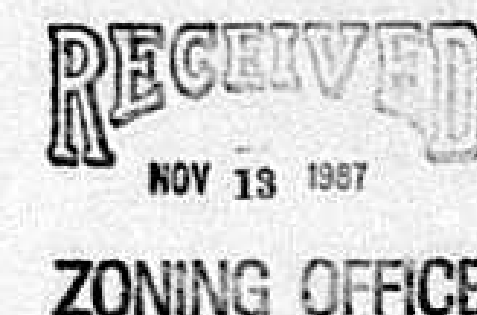
Enclosed is a copy of the final Opinion and Order passed today by the County Board of Appeals regarding the subject case.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. Randolph H. Shelley
Mr. James Earl Kraft
Phyllis Cole Friedman, Esquire
Norman E. Gerber
James G. Hoswell
J. Robert Haines
Ann M. Nastarowicz
James E. Dyer
Margaret E. duBois
Arnold Jablon, County Attorney



MEMORANDUM IN SUPPORT OF
RECLASSIFICATION PETITION

Petitioner, through counsel, offers two reasons in support of his Petition for Reclassification of land described in supporting documents filed herewith.

Error in the 1984 Comprehensive Zoning Map.

Petitioner alleges that it was error for the Council not to extend the existing RM Zone to include all of his parcel for the following reasons. The parcel itself is bound on the south by the existing RM Zone. All of the parcel's York Road frontage is adjacent to and across from existing RM and BL zoned parcels, the former being used as professional office space and the latter being used as a veterinary hospital. The northeast corner of the BL zone abuts or nearly abuts the northwest corner of your Petitioner's parcel. The existing RM zone on the east side of York Road in Hereford covers more than one half of your Petitioner's parcel. There appears to be no logical or topographical significance to the location of the line. The location of the line is either a result of arbitrary and capricious action by the Council or as the result of an error in the survey of the Village of Hereford, or both. It further appears, however, that the Council intended to include your Petitioner's entire parcel in the RM zone. By failing to extend the RM Zone to include your Petitioner's parcel, he is not able to make any reasonable use of his property, and the condition, as such, represents error on the part of the Council.

Change in Character of the Neighborhood.

For the purpose of the following discussion, your Petitioner respectfully requests the Commissioner to identify the "neighborhood" as being within an area defined on the west, by

Interstate 93, on the south, by Everett Road, on the east, by York Road and on the north, by Hereford Highschool. Your Petitioner believes that the area described accurately represents the greater Hereford commercial towncenter. Since the 1984 Comprehensive Zoning Map was adopted, substantial development has been undertaken in the area defined. To the north, the White Hall Feed Co. has relocated in what once was a small carry-out restaurant. The building has been expanded to permit considerable warehouse space, and additional office space has been offered for rent. Troper's Liquors has been expanded to provide for greater retail and storage space on premises. Closer to the intersection of York and Mt. Carmel Roads, and directly across York Road from your Petitioner's parcel, what was originally opened as a "walk in" veterinary clinic, has been expanded to a veterinary hospital with a capacity for ten (10) outdoor runs to house animals being treated at the hospital. To the south, two (2) office/retail complexes have been planned, one, which has been approved for the parcel immediately adjacent to the Hereford Plaza Shopping Center, and the other, either in the application process or already approved at the intersection of York Road and Everett Road. At the intersection of York Road and Mt. Carmel Road, and directly across York Road from your Petitioner's parcel, property once used as a residence within the BM Zone, has been converted to professional office space. The Hereford Baptist Church on the parcel immediately adjacent to the western boundary of the Hereford Plaza Shopping Center is under contract to the best of your Petitioner's knowledge, and a new facility built on the large parcel immediately adjacent to the northern boundary of your Petitioner's parcel. All of the changes noted in the neighborhood indicate that there has been

Page 2

substantial growth in the area. The greater Hereford commercial towncenter has been designated as the "hub" for North County development. The village of Hereford has essentially lost its residential character in favor of office and retail development. It is for these and other reasons which will be presented at the hearing on this Petition that your Petitioner requests the change in zoning as indicated.

Respectfully submitted,

Jeffrey H. Gray
P.O. Box 51, 17000 York Road
Monkton, Maryland 21111-0051
329-2104
Attorney for Petitioner

Page 3

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 7th Date of Posting 10/1/87
Posted for Reclassification
Petitioner Randolph H. Shelley, et ux
Location of property E/S York Rd. 40' N of c/l of Mt. Carmel Rd.
Location of Signs Jeffrey H. Gray, Attorney, 1317 York Rd., 2nd fl., Towson, Md.
Remarks By Petitioner
Posted by [Signature] Date of return 10/1/87
Number of Signs 1

"DUPLICATE"
CERTIFICATE OF PUBLICATION

TOWSON, MD. October 1, 1987
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md. appearing on Oct. 1, 1987

THE JEFFERSONIAN

Susan Sander O'Connell
Publisher

\$33.96

PETITION FOR RECLASSIFICATION
3rd Councilmanic District
Case No. R-87-458
LOCATION: East Side of York Road, 40 feet North of the Centerline of Mt. Carmel Road
PUBLIC HEARING: Tuesday, October 20, 1987, at 10:00 a.m.
The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing to reclassify the property from an R.C. 5 Zone to a B.M. Zone.
As that parcel of land in the 7th Election District of Baltimore County.
Beginning for the same at a point on the east side of York Road at the Southwest corner of Edna Mary property recorded in Liber T.B.S. 1818, folio 419 at a distance of 40' north, from the intersection of Mt. Carmel Road thence on the east side of York Road N2°E 132°50' thence S 2°W 132°50' thence S 2°W 132°50' thence N 87°W 200' to the beginning.
Containing .6 acres.
Saving and excepting all that part heretofore zoned B.M.
BY ORDER OF
WILLIAM T. HACKETT,
Chairman
County Board of Appeals
Baltimore County
1987 Oct. 1.

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

TO THE COUNTY BOARD OF APPEALS 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 (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law

of Baltimore County, from an R.C. 5 Zone to an B.M. Zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property

for Open Site Plan

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

Open Site Plan

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, 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.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner:

Jeffrey H. Gray

(Type or Print Name)

Signature

P.O. Box 51, 17000 York Road

Address

Monkton, Maryland 21111-0051

City and State

Attorney's Telephone No.: 329-2104

Legal Owner(s):

Randolph H. Shelley

(Type or Print Name)

Signature

Kyenne E. Shelley

(Type or Print Name)

Signature

Address

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Randolph H. Shelley

Name

Address

City and State

Phone No.

Address

City and State

Phone No.

Address

City and State

Phone No.

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Phone No.

Jeffrey H. Gray, Esquire
P.O. Box 51
17000 York Road
Monkton, Maryland 21111-0051

September 21, 1987

NOTE: Mr. Gray, We note that you as the attorney of record in this case have not yet signed in triplicate the Petition for Zoning Reclassification. Please do so in the Zoning Office, Room 113, County Office Bldg., 111 West Chesapeake Avenue, Towson, Maryland before the date of the hearing. Thank you. ZONING OFFICE

NOTICE OF HEARING

RE: PETITION FOR ZONING RECLASSIFICATION
E/S York Rd., 40' N of the c/l of Mt. Carmel Rd.
7th Election District - 3rd Councilmanic District
Randolph H. Shelley, et ux - Petitioners
Case No. R-87-458

TIME: 10:00 a.m.
DATE: Tuesday, October 20, 1987
PLACE: Room 218, Courthouse, Towson, Maryland

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

WTH:med

People's Counsel for Baltimore County

cc: Mr. Randolph H. Shelley
Mrs. Yvonne E. Shelley
P.O. Box 350
Monkton, Maryland 21111

THIS IS TO ADVISE YOU THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING & POSTING COSTS RE THIS CASE APPROXIMATELY A WEEK BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE SIGN AND POST RETURNED TO THE ZONING OFFICE ON THE DAY OF THE HEARING OR THE ORDER WILL NOT BE ISSUED. W.T.H.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

October 6, 1987

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

cc:

Jeffrey H. Gray, Esquire
P.O. Box 51, 17000 York Road
Monkton, Maryland 21111-0051

RE: Item No. 8 - Cycle No. V
Case No. R-87-458
Petitioner: Randolph H. Shelley
Reclassification Petition

Dear Mr. Gray:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle V). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments to this office on or before October 19, 1987. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

In view of the fact that the submitted site plan does not indicate a proposed use at this time, the comments from this Committee are general in nature. If the request is granted and an additional hearing is required at a later date, more detailed comments will be submitted at that time.

Page Two
Item No. 8, Cycle V
October 6, 1987

If you have any questions concerning the enclosed comments, please feel free to contact the Zoning Office at 494-3391 or the commenting agency.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kbb (MS018)

Enclosures

cc: E.F. Raphael & Associates
201 Courtland Avenue
Towson, Maryland 21204

 Maryland Department of Transportation
State Highway Administration

William K. Holman
Secretary
Neil Kessell
Administrator

April 15, 1987

Mr. William Hackett,
Chairman
Board of Appeals
County Office Building
Towson, Maryland 21204

Re: Zoning Reclassification
Cycle V - 4-87 to 10-87
ITEM: #8.
Property Owner: Randolph H. Shelley
Contract Purchaser:-----
Location: E/S of York Road,
Route 45, 40' N of the Centerline
of Mt. Carmel Road
Existing Zoning: R.C. 5
Election District: 7th
Councilmanic District: 3rd
Acres: .229
Proposed Zoning: B.M.

Attention: Mr. James Dyer

Dear Mr. Hackett:

On review of the submittal of 2-27-87 for the "Edna Mays Property" (open site plan) the State Highway Administration cannot provide detail comments for the site at this time.

All commercial access to the site must be through State Highway Administration permit and approval, with the posting of a bond or letter of credit to guarantee construction.

Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

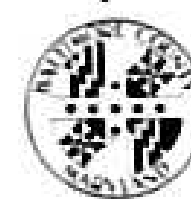
CL:GW:maw

By: George Wittman

cc: Mr. J. Ogle
Mr. J. Gray, Esq.

My telephone number is (301) 333-1350

Twentyewriter for Impaired Hearing or Speech
363-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free
P.O. Box 717 / 707 North Carver St., Baltimore, Maryland 21203 - 0717

 BALTIMORE COUNTY
DEPARTMENT OF TRAFFIC ENGINEERING
TOWSON, MARYLAND 21204
494-3550

STEPHEN EXCELLENX
C. Richard Moore
Acting Director

May 8, 1987

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Property Owner: Randolph H. Shelley
Contract Purchaser: ---
Location: E/S of York Rd., 40' N of the Centerline of Mt. Carmel Rd.
Existing Zoning: R.C. 5
Election District: 7th
Councilmanic District: 3rd
Acres: .229
Proposed Zoning: B.M. 500/acre

Dear Mr. Hackett:

The present R.C. 5 zoning is not expected to generate any trips, and the proposed B.M. zoning can be expected to generate approximately 115 trips/day.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Associate II

MSF:lt

 BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204-2586
494-4500

PAUL H. REINCKE
CHIEF

April 13, 1987

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: William Hackett
Chairman, County Board of Appeals

RE: Property Owner: Randolph H. Shelley

Location: E/S of York Rd., 40' N. of the centerline of Mt. Carmel Road

Item No.: 8 Zoning Agenda: Cycle V 4/87 - 10/87

Gentlemen:

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

() 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.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

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

() 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 to occupancy.

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

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

REVIEWER: *John F. O'Neill* Noted and Approved: *John F. O'Neill*
Planning Group Fire Prevention Bureau
Special Inspection Division
Water for Fire protection shall be provided in accordance with the Urban Guide for Fire Prevention and Control Master Planning.
/mb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: William F. Hackett - Chairman, Board of Appeals
FROM: Charles E. Buchanan - Planning Chief - Department of Permits & Licenses
SUBJECT: April - October 1987 - Zoning Classification - Cycle V

Item # 8 Property Owner: Randolph H. Shelley
Contract Purchaser: ---
Location: E/S of York Rd. 40' N of the centerline of Mt. Carmel Rd.
Existing Zoning: R.C. 5
Proposed Zoning: B.M.
Acres: .229
District: 7th

1. Any proposed construction or change of use of existing structures shall comply to the requirements of the Baltimore County Building Code as adopted by Council Bill #17-85 or the Code in effect at the time of permit filings.

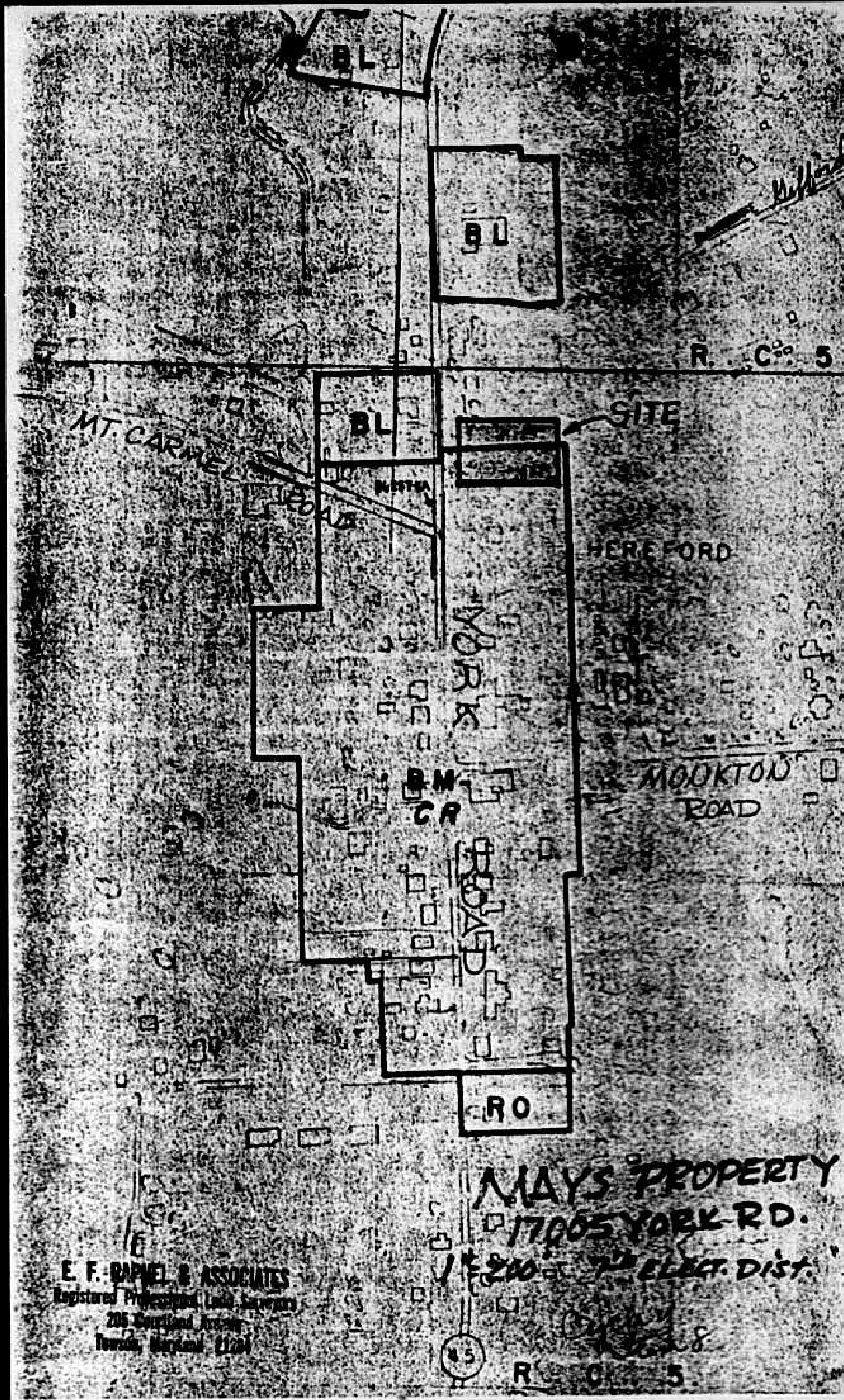
cc: Zoning Advisory Committee

CEB:bao

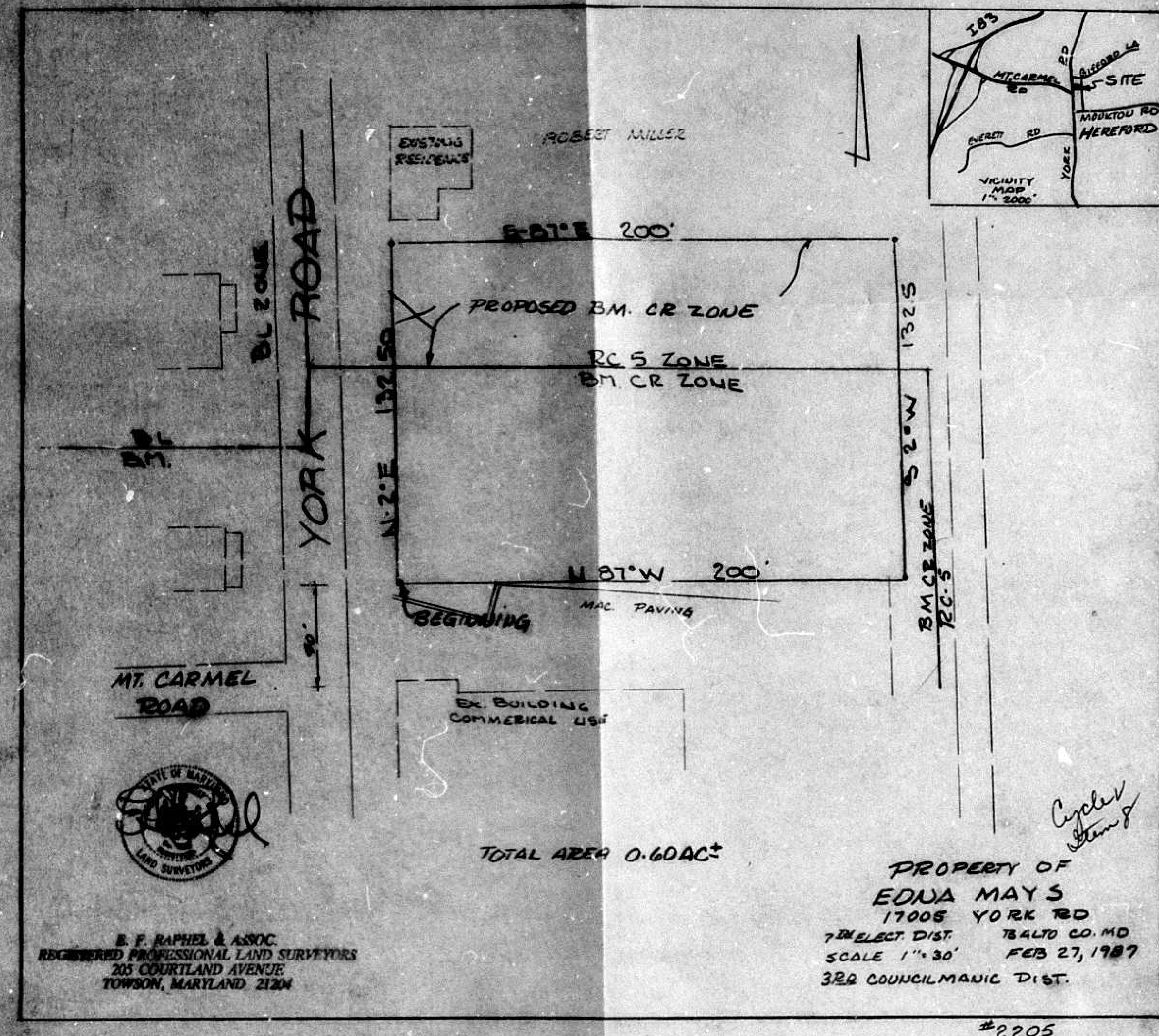
MT. CARMEL RD
SITE
B.M.
MOUNTON RD
YORK RD.

MAYS PROPERTY
RC 2
17005 YORK RD.
1"=1000' 7TH ELECT. DIST.

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
205 Courtland Avenue
Towson, Maryland 21204



E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
205 Courtland Avenue
Towson, Maryland 21204



E. F. RAPHEL & ASSOC.
REGISTERED PROFESSIONAL LAND SURVEYORS
205 COURTLAND AVENUE
TOWSON, MARYLAND 21204