

IN THE MATTER OF THE APPLICATION OF
ROSE SHANEBROOK FOR A ZONING RECLASSI-
FICATION OF PROPERTY LOCATED 443 1/2
NORTHWEST CENTERLINE SUNNYSIDE LANE &
200 1/2 WESTERN AVENUE, TOWSON, MD.
FROM M.L.R.-I.M. TO D.R.5.5
15TH ELECTION DISTRICT
6TH COUNCILMANIC DISTRICT

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
CASE NO. R-89-461, Item #11.
Cycle I - 1989

OPINION

This case comes before the Board on a Petition to reclassify 10.2 acres presently zoned M.L.R.-I.M. to a D.R.5.5 zone.

The subject parcel of land is recorded among the Land Records of Baltimore County as "The Shanebrook Property" in the Rossville Boulevard area, located near Owens Road off Sunnyside Lane in the Sixth Councilmanic District.

In this matter of reclassification, the Petitioner is technically requesting a down-zoning in which the Office of Planning supports the change to a D.R. zone, but disagrees as to the D.R. designation of the acreage to be reclassified. The purchase of the property by the Petitioner came too late for consideration in the Comprehensive Zoning Map Process of 1988, and to expedite the resolution of the matter, seeks the Board of Appeals' approval for an amended proposal for split zoning of the acreage to D.R.2 and D.R.3.5 from the existing M.L.R.-I.M.

The Petitioner presented on his behalf, two expert witnesses: Peter G. Christy, urban planner and architect; David Thaler, land planner and engineer; and Qutub U. Syed, representing himself as the Petitioner. Two area residents also supported the petition.

In contracting to purchase the property from Mrs. Shanebrook, Mr. Syed, a professional architect, saw that the M.L.R.-I.M. zoning was in error because the property had no access except through a residential community. Subsequent recommendation by the Planning Office for a D.R.1 zone was deemed uneconomical.

Case No. R-89-461
Rose Shanebrook

for development of the site, and such zoning did not exist anywhere in the district.

Peter G. Christy testified to the characteristics of the adjacent and surrounding land uses. In particular, he described the M.L.R.-I.M. zoned property, situated between the Rossville Boulevard and the subject site, as a deterrent to future commercial development. Because of the site's location, and environmental considerations necessitated by the stream course of Brien Run through the subject acreage, and the resulting area of flood plain, access to the subject property from Rossville Boulevard is impracticable. Before the residential development, adjacent to the north side of the parcel, access to the M.L.R. zone was available but today such traffic through a residential area to a commercial site is not compatible, and, therefore, Mr. Christy views the existing classification in error.

Mr. Christy further testified that the eight acre parcel is oriented to a residential community and not an industrial area, and as an urban planner, the best use for the property is residential, detached homes.

Mr. Thaler reviewed several factors that cited reasons the M.L.R.-I.M. zoning was in error:

- 1) The line-back concept that it is wrong to cross residential property for access to an M.L.R.-I.M. site.
- 2) The Corp of Engineers and the Department of Environmental Protection and Resource Management (DEPRM) would not approve an access road across a flood plain.

In his study of the property, Mr. Thaler noted the desirable features of the existing infrastructure and the consistency of single family detached homes with those constructed adjacent to the subject parcel in the past two years.

In referring to the Master Plan for Baltimore County, population trends indicate a need for housing in the area, taking positive advantage of all the public

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Rose Shanebrook

services already in place and enumerated in the County Code. Mr. Thaler further assessed the residential use of the subject parcel to be approximately six acres, generating open space that would help a present deficiency in recreational areas of the community.

People's Counsel acknowledged the factors that have rendered the M.L.R. zoning of this site impracticable and incompatible with the location. However, the matter of the D.R. classification for the parcel of acreage was debatable. Mr. Pat Keller, Deputy Director of the Office of Planning and Zoning, supported a residential zoning for the property, concurring with the limitations and problems presented by the Petitioner. However, Mr. Keller recommended a D.R.2 zone for the entire acreage (eight acres) subject to this case rather than a split zoning of D.R.2 and D.R.3.5. He emphasized that the review and control process of the Planning Office as stipulated in the D.R.2 designation would provide desirable. Mr. Keller clarified that the D.R.2 classification would provide the Petitioner's desired maximum of units, but would give the County a control over potential clustering of dwellings not required in a D.R.3.5 zoning, where attached homes are possible.

The Board is of the opinion that the M.L.R.-I.M. classification of this eight acre parcel of land is in error and should be reclassified to the D.R. zone.

In view of the fact that a good portion of the acreage lies within a flood plain, the Board acknowledges that both the objectives of the Petitioner and the Baltimore County Office of Planning can be realized by a D.R.2 zoning for the entire acreage subject to this hearing, and will so order.

ORDER

For the reasons set forth herein, it is this 26th day of December 1989, by the County Board of Appeals of Baltimore County ORDERED that the

Case No. R-89-461
Rose Shanebrook

Petition for Zoning Reclassification from M.L.R.-I.M. to D.R.2 on the subject site be and the same is hereby GRANTED.

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

William T. Hackett
William T. Hackett, Chairman

Harry E. Buchele, Jr.
Harry E. Buchele, Jr.,

Lynn B. Moreland
Lynn B. Moreland

County Board of Appeals of Baltimore County
COUNTY OFFICE BUILDING, ROOM 315
111 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 837-3180

December 26, 1989

Stephen J. Nolan, Esquire
Nolan, Plumbhoff & Williams, Chtd.
Suite 700, Court Towers
210 W. Pennsylvania Avenue
Towson, Maryland 21204-3540

Re: Case No. R-89-461
Rose Shanebrook

Dear Mr. Nolan:

Enclosed please find a copy of the final Opinion and Order issued this date by the Board of Appeals in the subject case.

Sincerely,

Linda M. Kuzmanoff
Linda M. Kuzmanoff
Legal Secretary

Enclosure

cc: Mrs. Rose Shanebrook
Qutub U. Syed
James Earl Kraft
Phyllis C. Friedman, Esquire
Pat Keller
J. Robert Holmes
Ann M. Hestonowicz
James S. Dyer
W. Carl Richards, Jr.
Robert Clark - Zoning
Arnold Jablon, County Attorney

NOTICE OF HEARING

Petition for Zoning Reclassification
Case No. R-89-461
443 1/2 W. Centerline Sunnyside Lane & 200 1/2 W. Centerline Owens Road
(Local owner(s): Rose Shanebrook
Contract Purchaser(s): Qutub U. Syed)

Petition to reclassify the property from an M.L.R.-I.M. to an D.R.-5.5 zone.

TIME: 10:00 a.m.
DATE: THURSDAY, DECEMBER 5, 1989
LOCATION: Room 315, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204

WILLIAM T. HACKETT, CHAIRMAN
County Board of Appeals

cc: Stephen J. Nolan, Esq.
Rose Shanebrook
Qutub U. Syed
People's Counsel
Board of Appeals

NOTE: IT IS SO ORDERED THAT YOU WILL BE BILLED BY THE ZONING OFFICE FOR ADVERTISING AND POSTING COSTS WITH RESPECT TO THIS CASE. APPROXIMATELY \$400 BEFORE THE HEARING. THIS FEE MUST BE PAID AND THE FEE AND POST RECEIVED TO THE ZONING OFFICE ON THE DAY OF THE HEARING OR THE CHECK WILL BE IN ERROR.

U.T.M.

00-2-14 52 JUN 69

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 837-3333

Re: Petition for Zoning Reclassification
CASE NUMBER: R-89-461
443 1/2 W. Centerline Sunnyside Lane & 200 1/2 W. Centerline Owens Road
15th Election District - 6th Councilmanic District
Hearing scheduled: December 5, 1989

Dear Baltimore(s):

This is to advise you that \$ 499.17 is due for advertising and posting of the above property. This fee must be paid before an order is issued.

THIS FEE MUST BE PAID AND THE RECLASSIFICATION OFFICE ON THE DAY OF THE HEARING.

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

12/04/89
PUBLIC HEARING FEES
Q80 - POSTING SIGNS - ADVERTISING 1 1 \$499.17
TOTAL: \$499.17
LAST NAME OF OWNER: SHANEBROOK
Contract Purchaser: Qutub U. Syed

0026*****03711 2011
Baltimore County

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
FROM M.L.R.-I.M. TO D.R. 5.5 ZONE :
443 1/2 W. Centerline Sunnyside Lane : OF BALTIMORE COUNTY
& 200 1/2 W. Centerline Owens Rd.
15th Election District :
6th Councilmanic District :
ROSE SHANEBROOK, Petitioner : Zoning Case No. R-89-461

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
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 304, County Office Building
Towson, Maryland 21204
(301) 837-2189

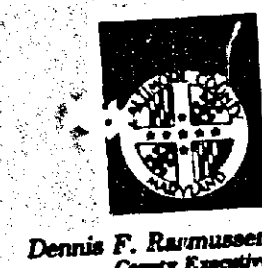
I HEREBY CERTIFY that on this 17th day of July, 1989, a copy of the foregoing Entry of Appearance was mailed to Stephen J. Nolan, Esquire, & Nolan, Plumbhoff & Williams, Chartered, Suite 700, Court Towers, 210 W. Pennsylvania Ave., Towson, MD 21204, Attorney for Petitioner; and Qutub U. Syed, 13047 Tarragon Rd., Reisterstown, MD 21136, Contract Purchaser.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
COUNTY BOARD OF APPEALS
JUL 17 1989

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
County Office Building
Courts Building, Suite 406
Towson, Maryland 21204
(301) 887-3554

May 9, 1989



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

Zoning Reclassification Cycle 1
Item No. 11

Property Owner:
Case No./Hearing Date:
Contract Purchaser:
Location:

Existing Zoning:
Election District:
Councilmanic District:
Acres:
Proposed Zoning:

April - October 1989

Rose Shanebrook
R89-461; December 5, 1989
443' N.W. of centerline Sunnyside
Lane & 280' N.E. of centerline
Orems Road.
M.L.R. - I.M.
15th
6th
8.01
D.R. - 5.5

Dear Mr. Hackett:

The requested zoning change from M.L.R. - I.M. to D.R. - 5.5 is not expected to cause any increase in traffic problems.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSE/lvw

Baltimore County
Fire Department
Towson, Maryland 21204-2536
494-4500

Paul H. Reincke
Chief

William Hackett
Chairman, Board of Appeals
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Re: Property Owner: Rose Shanebrook

Location: 443' NW/centerline S. Lynde La. & 280' NE centerline Orems Rd.

Item No.: Eleven (11)

Zoning Agenda: 4/89-10/89

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 of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ EXCEEDS the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of 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," _____ edition prior to occupancy.
- () 6. Site plans are approved, as drawn.
- (X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Ch. H. Kelly* 4-14-89
Planning Group
Special Inspection Division

Noted and
Approved: *Paul H. Reincke*
Fire Prevention Bureau

/s/

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 M.L.R.-IM zone to an D.R.5.5 zone of Baltimore County, for the reasons given in the attached statement, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for _____

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:

See attached justification statement

MAP	NE 46
E.D.	15th
DATE	7-14-89
200	15th
1000	15th
DP	15th

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:

Qutub U. Syed
(Type or Print Name)
Signature: *Qutub U. Syed*

15047 Terragon Road
Address
Reisterstown, Maryland 21136
City and State

Attorney for Petitioner:

Stephen J. Nolan and Nolan, Plumbhoff
(Type or Print Name) & Williams - Chartered
Signature: *Stephen J. Nolan*

30 East Joppa Road, Suite 1105
Address
Towson, Maryland 21204
City and State

Torney's Telephone No.: 301-823-7800

Legal Owner(s):

Rose Shanebrook
(Type or Print Name)
Signature: *Rose C. Shanebrook*

1828 Sunnyside Lane
Address
Baltimore, Maryland 21221
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Stephen J. Nolan, Esquire
Name
300 East Joppa Road, Suite 1105
Address
Towson, MD 21204
Phone No.

BC-Form 1

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 15th Date of Posting: 10/1/89
Posted for: Rose Shanebrook
Petitioner: Rose Shanebrook
Location of property: 443' NW/centerline S. Lynde La. & 280' NE/centerline Orems Rd.
Location of Sign: Property, Sunnyside Lane, 1828 N.E. of Terragon Rd. at P.W. 70. Property of P.H. Reincke
Remarks: None
Posted by: Michael S. Flanigan Date of return: 11/1/89
Number of Signs: 1

PRELIMINARY STATEMENT IN SUPPORT OF PETITION FOR ZONING RE-CLASSIFICATION

The Petitioners, Rose Shanebrook and Qutub U. Syed, pursuant to Section 2-58.1(b) and (j), state the following in support of their petition for zoning reclassification:

1. That there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified; and
2. That the last classification of the subject property was established in error; and
3. That the prospective reclassification of the property is warranted by that change or error.

4. Specifically, the property is wholly unsuited to and incompatible with the M.L.R. zoning designation and the uses permitted by Section 247 of the BCZR. The 1988 Comprehensive Zoning Maps erred in failing to recognize the residential growth surrounding Orems Elementary School and the natural dividing line between the industrial rises along Kelso Road to the northwest of the subject site and the residential community to the southwest fully established within which this subject site is located.

DATED: January 20, 1989

0562B SJN/caw

Item #11
Cycle I

PRELIMINARY STATEMENT IN SUPPORT OF PETITION FOR ZONING RE-CLASSIFICATION

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DATED: January 20, 1989

0562B SJN/caw

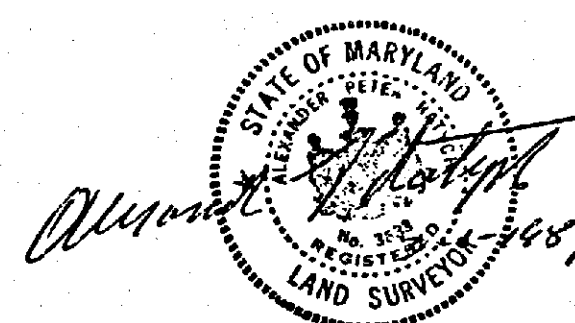
DESCRIPTION OF PROPERTY
TO ACCOMPANY PETITION FOR REZONING
15TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING FOR THE SAME at a point formed by the intersection of the last or South 57 degrees 52 minutes East 1010.60 foot line of the land of Rose Shanebrook as conveyed by Deed dated October 4, 1949 and recorded among the Land Records of Baltimore County in Liber T.B.S. No. 1785, folio 333 with the Zoning Line between Zone DR 5.5 and Zone MLR-IM; said point being situate North 65 degrees 06 minutes 40 seconds West 443.00 feet, measured along said last line from the centerline of Sunnyside Lane; thence leaving the outlines and binding along the Zoning lines between the lands of the Petitioner Zoned DR 5.5 and the land zoned MLR-IM the following three courses and distances: (1) North 18 degrees 00 minutes 00 seconds East 25.00 feet, (2) South 67 degrees 00 minutes 00 seconds East 84.00 feet, (3) North 33 degrees 15 minutes 00 seconds East 348.00 feet to intersect the Southwesterly boundary line of "Lot 1, The Shanebrook Property" recorded among the Land Records of Baltimore County in E.H.K. 51 folio 41; thence binding on the outlines of said property the following three courses and distances: (1) North 71 degrees 44 minutes 41 seconds West 3.00 feet, (2) North 18 degrees 15 minutes 19 seconds East 125.00 feet and (3) South 71 degrees 44 minutes 41 seconds East 36.48

DESCRIPTION OF PROPERTY
TO ACCOMPANY PETITION FOR REZONING
15TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND
PAGE 2

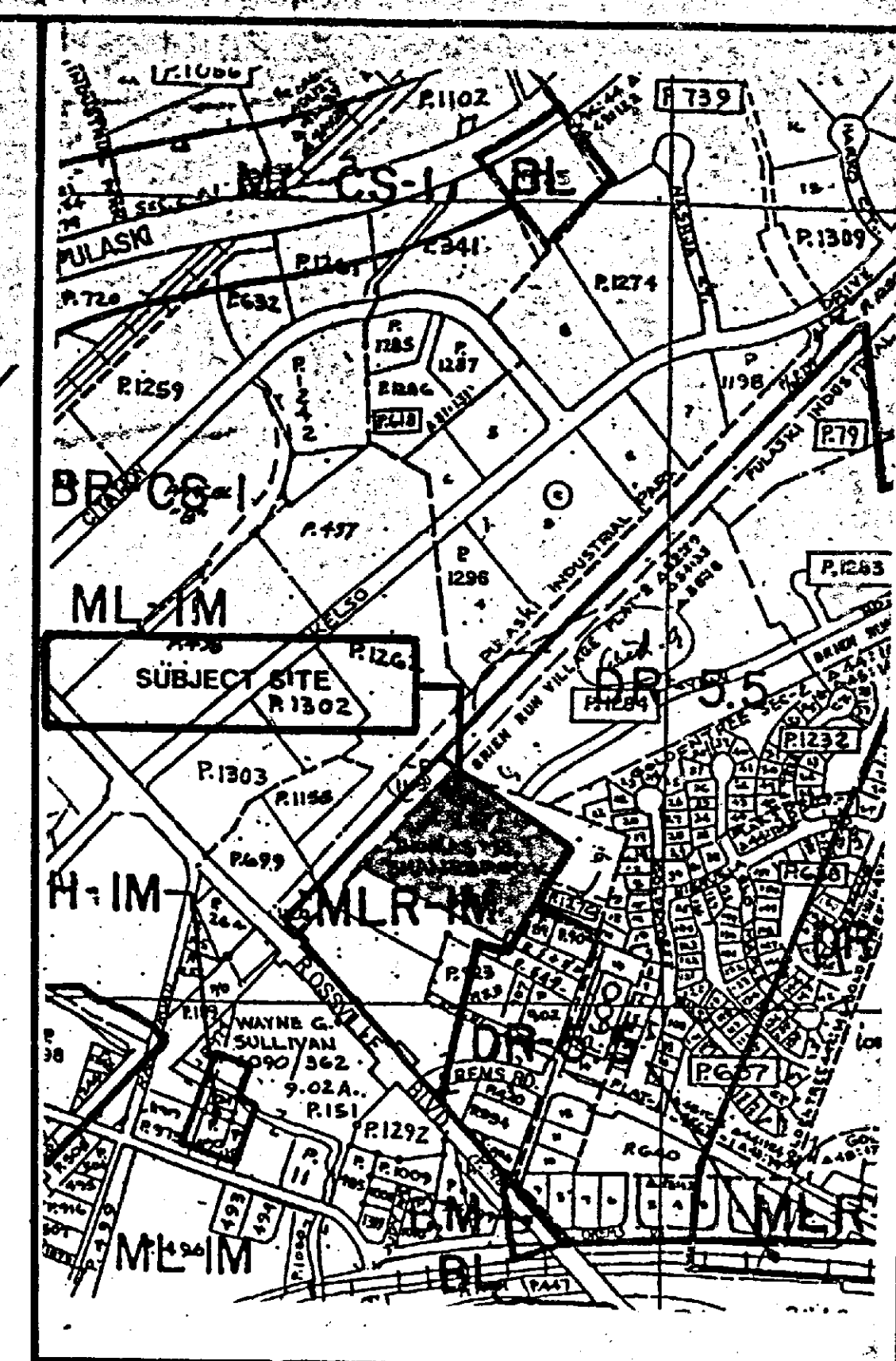
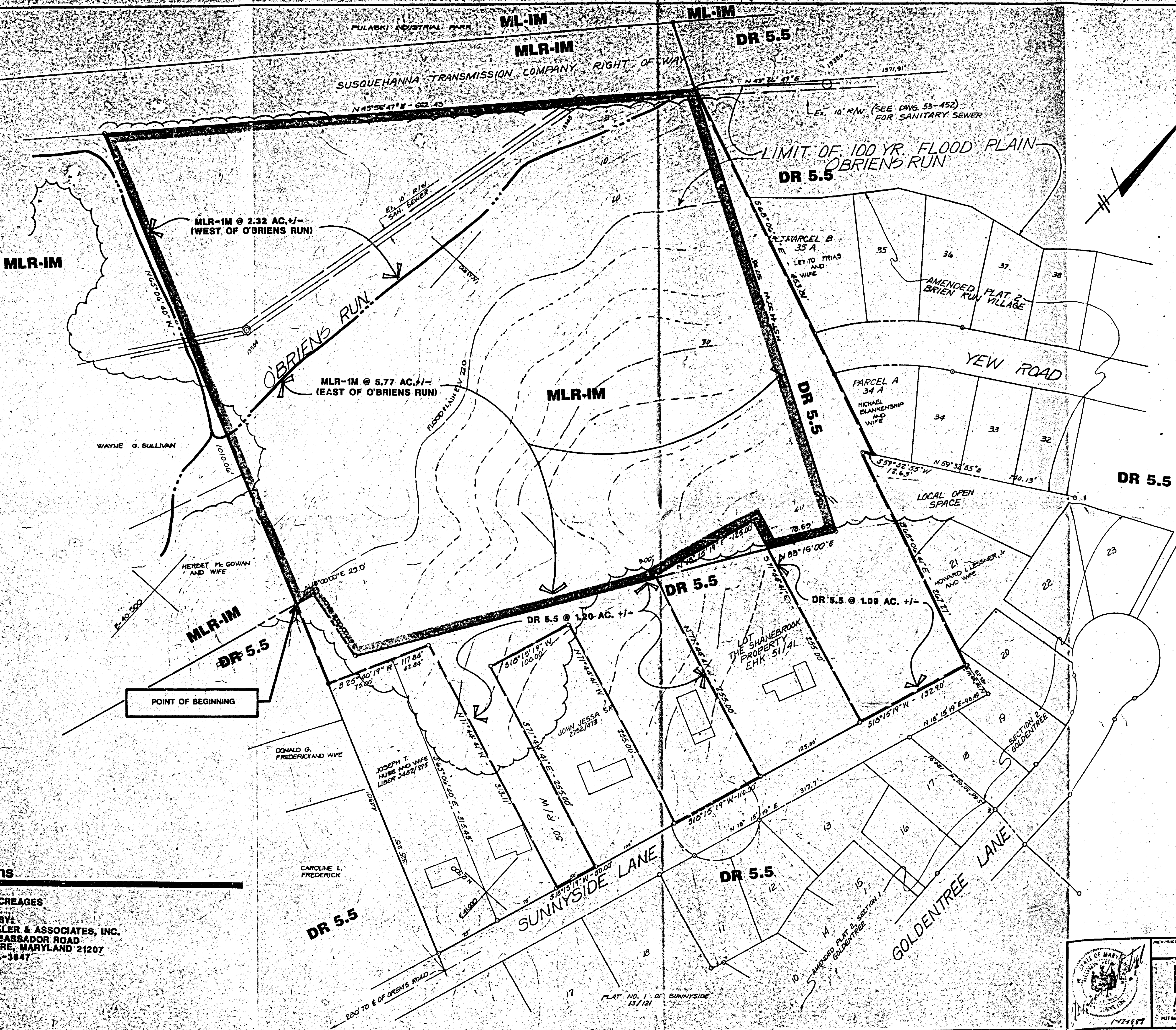
feet, thence continuing along said zoning lines the following two courses and distances: (1) North 33 degrees 15 minutes 00 seconds East 78.59 feet, and (2) North 59 degrees 44 minutes 30 seconds West 517.78 feet to the beginning of the third line of the beforementioned Deed; thence binding along said third line and the remaining part of the last line South 43 degrees 56 minutes 47 seconds West 662.43 feet and South 65 degrees 06 minutes 40 seconds East 570.00 feet to the point of beginning; containing 8.01 acres more or less.

3/1/89



5716 Harford Road
Baltimore, Maryland 21214
(301) 444-4228

7427 Harford Road
Baltimore, Maryland 21224
(301) 444-4312

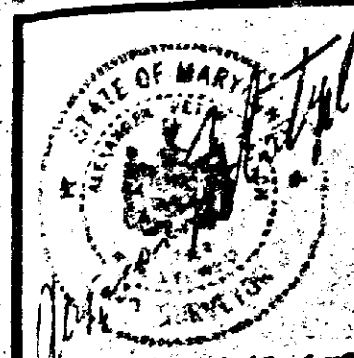


- NOTES
- 1) OWNER OF PROPERTY ROSE SHANEBROOK
 - 2) DEED REFERENCE T.B.S. 1785-333
 - 3) TOTAL AREA OF PARCEL AND EXISTING ZONING:
 - A. AREA ZONED DR 5.5: 2.29 AC. +/-
 - B. AREA ZONED MLR 1M: 8.09 AC. +/-
 - 4) AREA OF PROP. TO BE REZONED 8.09 AC. +/-
 - 5) ELECTION DISTRICT 15
 - 6) COUNCILMANIC DISTRICT 6
 - 7) CENSUS TRACT 4512

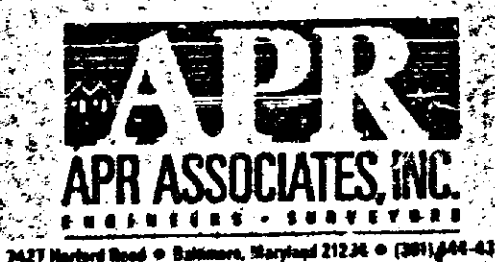
Revisions

12-11-89
REVISE ACREAGES

REVISED BY:
D.S. TPILER & ASSOCIATES, INC.
7115 AMBASSADOR ROAD
BALTIMORE, MARYLAND 21207
(301) 944-3647



1-77997



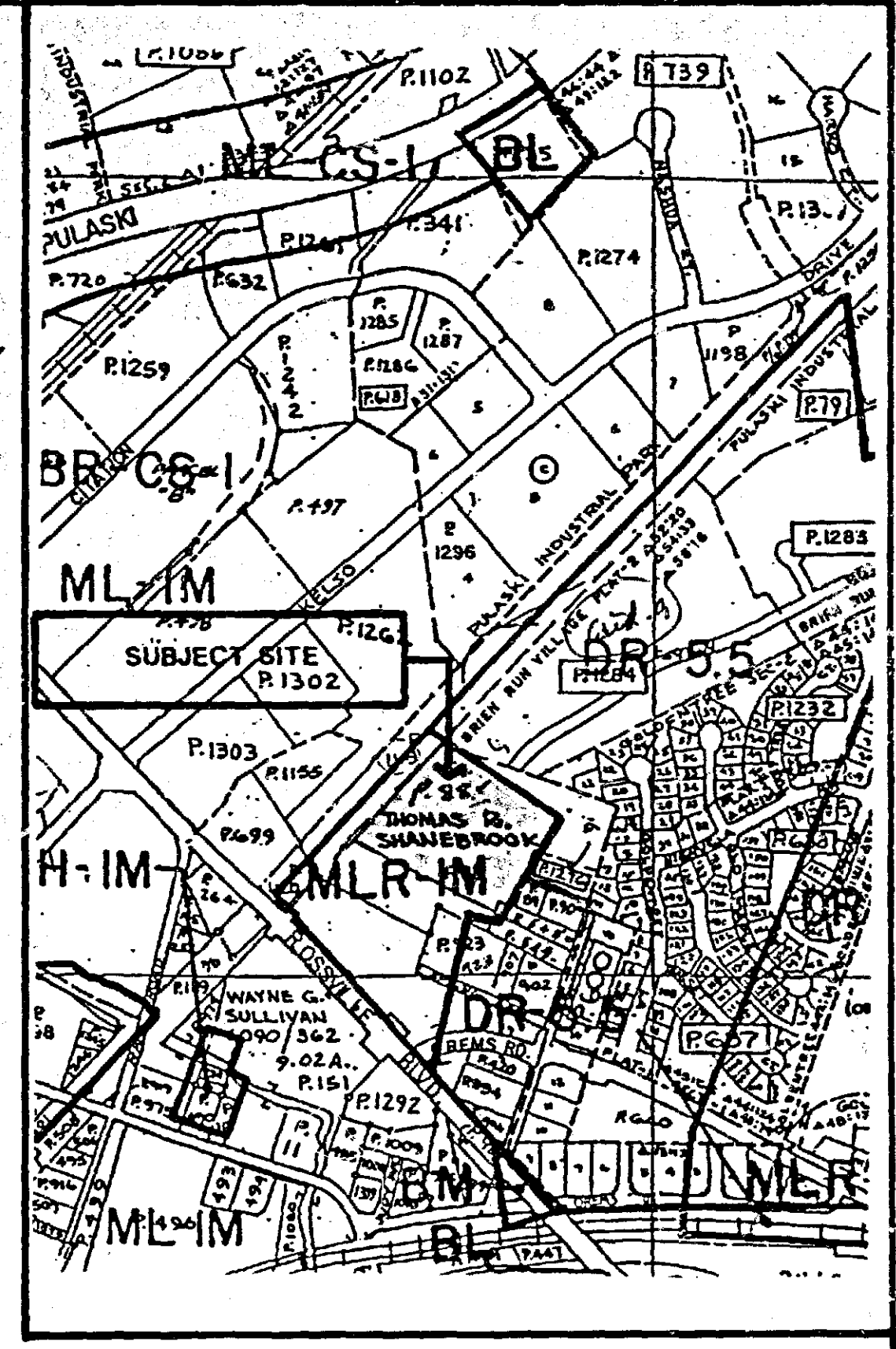
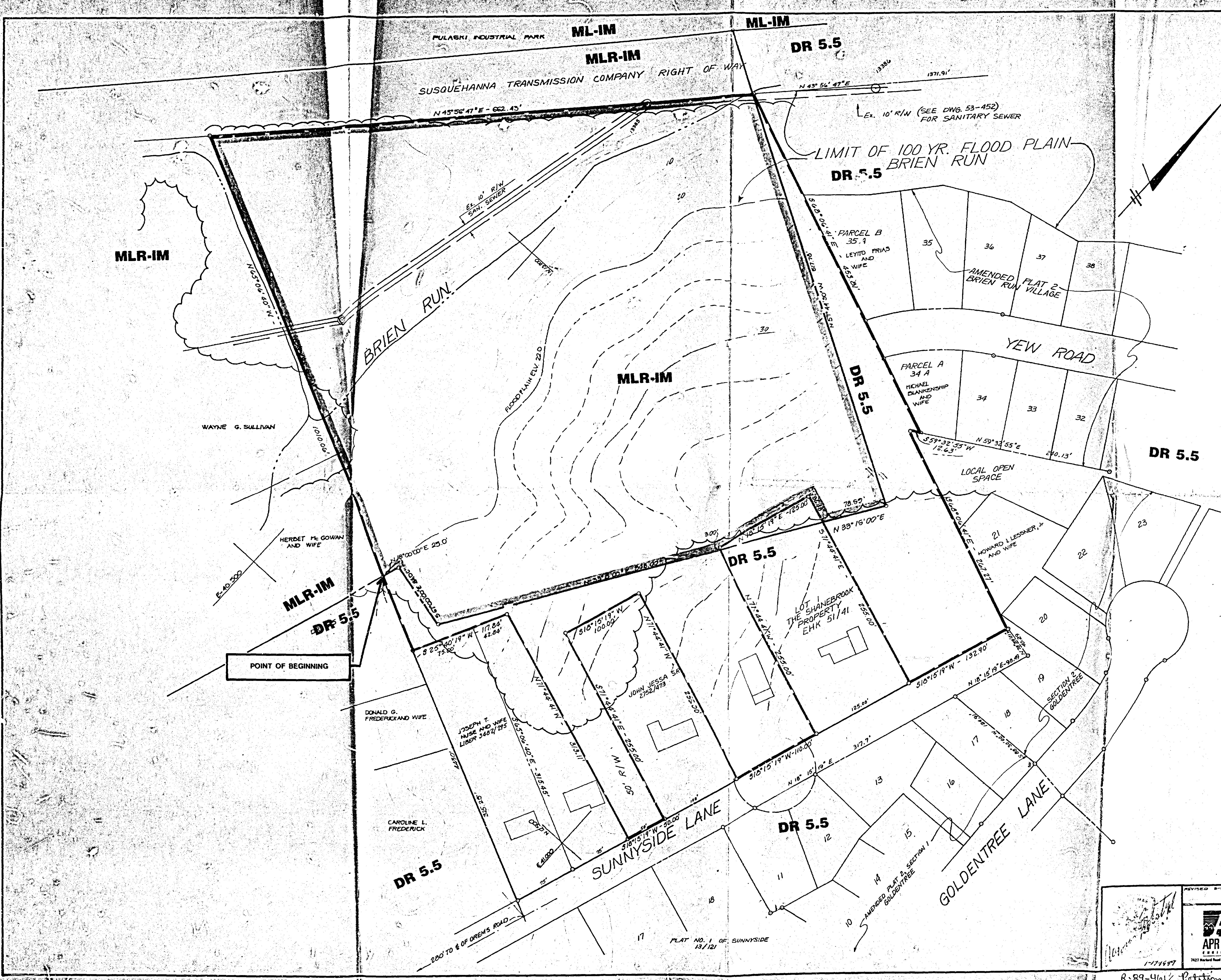
APR ASSOCIATES, INC.
ENGINEERS - SURVEYORS
7427 Northwood Road • Baltimore, Maryland 21236 • (301) 464-4312

PLAT TO ACCOMPANY PETITION
FOR ZONING RECLASSIFICATION

OWNERS: ROSE SHANEBROOK
PETITIONER/DEVELOPER: GUTUDBLISSED, ET AL.
1828 SUNNYSIDE LANE
BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'

JAN. 13, 1999



LOCATION MAP

- NOTES
- 1) OWNER OF PROPERTY ROSE SHANE BROOK
 - 2) DEED REFERENCE T.R.S. 1785-333
 - 3) TOTAL AREA OF PARCEL AND EXISTING ZONING:
 - A. AREA ZONED DR 5.5 : 5.02 ACRES±
 - B. AREA ZONED MLR 1M : 8.01 ACRES±
 - 4) AREA OF PROP. TO BE REZONED : 8.01 ACRES±
 - 5) ELECTION DISTRICT 15
 - 6) COUNCILMANIC DISTRICT 6
 - 7) CENSUS TRACT 4512

PLAT TO ACCOMPANY PETITION FOR ZONING RECLASSIFICATION

APR
APR ASSOCIATES, INC.
ENGINEERS - SURVEYORS
7427 Harford Road • Baltimore, Maryland 21236 • (301) 644-4312

OWNER: ROSE SHANE BROOK
PETITIONER/DEVELOPER: GUTUB U.S. ET AL.
1828 SUNNYSIDE LANE
BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'
JAN. 19, 1969

R-89-461 Petitioner's #1

