IN THE MATTER OF * BEFORE THE

E. ROBERT CHERTKOF, ET AL * COUNTY BOARD OF APPEALS
E S Bloomsbury Avenue
N of Holmes Avenue at * FOR BALTIMORE COUNTY
Caton Loudon Railroad

1st Election District *
1st Councilmanic District * Case No. 92-173-SPH

* * * * * * * * * * * * * *

SUBPOENA DUCES TECUM

Please issue a Subpoena for the following person to appear and testify before the County Board of Appeals for Baltimore County on Friday, June 26, 1992, at 10:00 a.m. to testify for the Protestants before the County Board of Appeals for Baltimore County, Hearing Room 48, Old Courthouse, 400 Washington Avenue, Towson, Maryland, 21204:

STANLEY J. SHAPIRO, Deputy County Attorney
Baltimore County Office of Law
400 Washington Avenue
Towson, Maryland 21204

and to bring with him all files relative to the subject property.

MICHAEL P. TANCZYN, ESQ.
Attorney for the Protestants
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone: (410) 296-8823

IN THE MATTER OF * BEFORE THE

E. ROBERT CHERTKOF, ET AL * COUNTY BOARD OF APPEALS
E/S Bloomsbury Avenue
N of Holmes Avenue at * FOR BALTIMORE COUNTY
Caton/Loudon Railroad

1st Election District *
1st Councilmanic District * Case No. 92-173-SPH

* * * * * * * * * * * * * *

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PAT KELLER, Director
Baltimore County Office of Planning & Zoning
County Courts Building
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

and to bring with him all files relative to the subject property.

MICHAEL P. TANCZYN, ESQ.
Attorney for the Protestants
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
Telephone: (410) 296-8823

IN THE MATTER OF THE PETITION OF * BEFORE THE
E. ROBERT CHERTKOF, ET AL, FOR
A SPECIAL HEARING FOR THE * COUNTY BOARD OF APPEALS
TRANSFER OF DENSITY AND
CLUSTERING OF DWELLING UNITS, * OF BALTIMORE COUNTY
E/S BLOOMSBURY AVENUE, N. OF
HOLMES AVENUE AT CATON-LOUDON * CASE NO.: 92-173-SPH
RAILROAD
1st Election District *
3rd Councilmanic District

* * * * * * * * * * *

APPELLEE/CROSS-APPELLANT'S POST - HEARING MEMORANDUM

Howard L. Chertkof, E. Robert Chertkof, and the Caton and Loudon Railway Company, a Maryland corporation, Appellee/Cross-Appellants in this case, by their attorneys, Julius W. Lichter, Howard L. Alderman, Jr. and Levin & Gann, P.A., file this Post-Hearing Memorandum as directed by the County Board of Appeals for Baltimore County at the final day of hearing on the above-captioned case, in lieu of oral, closing argument.

STATEMENT OF THE CASE

Howard L. Chertkof, E. Robert Chertkof and the Caton and Loudon Railway Company (hereinafter collectively referred to as "Chertkof") own two adjoining parcels of land in the Catonsville area of Baltimore County. The first parcel, comprised of approximately 7.6 ± acres ("Parcel A"), adjoins the second parcel, comprised of approximately 21.5± acres (Parcel "B"); together the two parcels (the "subject property") form one development tract. Parcel A is currently zoned DR 3.5. Parcel B contains a variety of zoning classifications, DR 1, DR 3.5, DR 5.5, DR 10.5, 0-2 and O-T.

Chertkof consulted with James Dyer, Zoning Administrator for Baltimore County[1] regarding the clustering of residential density on the subject property. Although such clustering is permitted as of right by Baltimore County Zoning Regulations ("BCZR") Section 1B01.2.A.2, Chertkof was advised to seek approval by the Zoning Commissioner for Baltimore County due to the irregular shape and configuration of Parcel B. The portion of the subject property identified as Parcel B is the property of the Caton and Loudon Railway Company, over which trains ran for many years.

Chertkof filed a Petition for Special Hearing seeking the unrequired approval of the clustering of density units of the subject property on Parcel A. A public hearing was held, and the Zoning Commissioner, relying on a self-created community limitation on the otherwise permitted transfer of density, approved Chertkof's Petition in part. Chertkof and those who attended the hearing in opposition to the Petition (hereinafter the "Protestants") both appealed the Zoning Commissioner's decision to this Board.

Chertkof then presented their plan for development of Parcel A to the County Review Group ("CRG"). The final approval action of the CRG was given on May 28, 1992; no appeal of that approval action was taken.

Consistent with the Federal "Rails to Trails Act," Chertkof has expressed their intention to offer the corporate stock of the Caton and Loudon Railway Company as a gift to the Rails to Trails Conservancy, the State of Maryland, Baltimore County, or some other entity which would maintain the property in its natural state, however, Chertkof has not expressed that intention as a condition of obtaining approval for development from Baltimore County.

At the hearing before this Board, Chertkof presented expert and lay testimony that the proposed clustering of density and clustering of homes is expressly permitted by the Baltimore county Zoning Regulations and that the specific transfer proposed meets the BCZR requirements and is within the spirit and intent of the BCZR. Protestants merely proffered the lay testimony of a representative of the South Rolling Road Community Association as to that Association's opposition to the relief requested.

The primary thrust of Protestants' case focused on purported issues of "ownership" of Parcel B. The Chairman of this Board correctly noted that issues of ownership are not before this Board and cannot be decided thereby. Without prejudice to their objection to the Board allowing testimony on the ownership issue, Chertkof presented expert testimony as to the Caton and Loudon Railway Company's ownership of Parcel B.

STANDARD OF REVIEW

The transfer/clustering of density by Chertkof is expressly authorized by BCZR §1B01.2.A.2, as further evidenced by Zoning Commissioner Policy 1B01.2.A.2.[2] A hearing requesting that the Zoning Commissioner determine that the relief requested was within the spirit and intent of the County's Zoning Regulations was

petitioned in accordance with BCZR §500.7.

Under the authority of Baltimore County Charter Section 602, and Sections 500.7; 501.6; and 501.7 of the BCZR, an appeal is authorized to this Board. This Board is then required to conduct a de novo hearing on the relief requested and which resulted in an appeal from the decision of the Zoning Commissioner.

INTRODUCTION AND SUMMARY OF ARGUMENT

The hearing before this Board presented one simple issue -- whether Chertkof could exercise their statutory right to transfer density units from one adjoining parcel of property to the other. As shown in more detail below, there is nothing in the record which would allow this Board to prevent Chertkof from exercising their statutory right to transfer density units. In fact, the overwhelming weight of the evidence, including but not limited to uncontradicted expert testimony, supports Chertkof's position. Accordingly, this Board should grant Chertkof the full relief as requested.

In opposing the planned development, the Protestants have raised only two "issues," neither of which is legally sufficient for this Board to deny the relief requested by Chertkof. First, the Protestants have proffered lay testimony of unsupported and nebulous dislike of the project. As a matter of law, that does not qualify as evidence of anything, much less a basis to deny the requested relief. Second, the Protestants have contested Chertkof's legal title to the subject property. But, as this Board has already acknowledged, this is not the proper forum to litigate

issues of legal title. Accordingly, there is no material evidence in the record to support the position of the Protestants, and this Board must grant full relief to Chertkof.

ARGUMENT

I. THE RELIEF REQUESTED IS EXPRESSLY AUTHORIZED BY AND IS WITHIN THE SPIRIT AND INTENT OF THE BCZR.

Chertkof filed a Petition for Special Hearing, pursuant to BCZR §500.7, requesting that the Zoning Commissioner:

> within the spirit and intent of the Baltimore County Zoning Regulations should approve the transfer of density of the railroad property [Parcel B] to a parcel of land adjoining said property [Parcel A] and all owned and/or controlled by the same parties to allow for the clustering of 96 dwelling units on Parcel A.

When the Baltimore County Council created the Density Residential ("DR") zones, it declared and adopted specific findings as to why the concepts of DR zones were necessary. Those legislative findings included:

> That minimum standards for individual lots, having been derived from maximum overall density standards, have resulted in an excessive spreading of residential development over subdivision tracts; such spreading of development has led to removal or undesirable transformation of natural vegetation and other features more properly left in their natural or previous states, and has led to visual monotony (BCZR §1B00.1.B); and
>
> That zoning reclassifications based on lot sizes and types of housing have, in some situations, prevented the construction of the maximum numbers of housing units intended to be permitted on development tracts, especially in cases of severe topographical variation, or have induced "cramped" layout or other undesirable subdivision-design characteristics as accommodation of maximum density is

> achieved (BCZR §1B00.1.C).

In order to address these findings, the County Council created a zoning classification group that permitted flexibility in the development of land that would alleviate the incompatible conditions identified in the findings. One means of addressing the undesirable results of "excessive" spreading of residential density", "removal or transformation of natural vegetation," and "undesirable subdivision-design characteristics was the innovative means of density control available within the DR zones.

In its desire to eliminate sprawling residential development and to retain open space areas in their natural state, the County Council created the ability to accumulate or cluster the overall density allowed on a development tract. Recognizing that lines delineating various zoning classification areas do not necessarily follow property ownership lines, the County Council [illegible]islatively permitted the planning concept of clustering. Section 1B01.2.A.3 of the BCZR provides that:

> Wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. zones of different classification, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under Subsection 1B02.2 in the zone within which that portion lies and totalling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone.

In the case before this Board, Chertkof's Exhibit No. 2 (Plat to Accompany Petition for Special Hearing) reflects that Chertkof is permitted to construct 138 units on the property which it owns.

---

[1] James Dyer has subsequently retired from his employment with Baltimore County.

[2] The County Council, by legislative act in Bill No. 88-90, expressly authorized the promulgation and adoption of inter alia, the Zoning Commissioner's Policy Manual, giving the same the full force and effect of law.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

June 26, 1992

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-173-SPH — E. ROBERT CHERTKOF, ET AL
E/s Bloomsbury Ave., N of Holmes Avenue at Caton/Loudon Railroad
1st E; 1st C
(Day #2 - Cont.'d from 6/26/92)
SPH-density transfer Parcel B to A/ clustering 83 dwelling units.
12/18/91 - Z.C.'s Order GRANTING Petition with restrictions.

ASSIGNED FOR: **THURSDAY, JULY 16, 1992 AT 12:00 p.m.**

cc: Mr. Paul L. Erickson - Retirement & Health Serv. Corp. — Protestant/Appellant
Michael P. Tanczyn, Esquire - Counsel for South Rolling Road Comm. Assoc.
Ms. Nan Florence, Vice Pres. - South Rolling Road Comm. Assoc. — Protestant/Appellant
Julius W. Lichter, Esquire - Counsel for Petitioner
Mr. E. Robert Chertkof - Caton and Loudon Railway Co. — "

Mr. Richard H. Cassell	Mr. Richard Decker
Mr. and Mrs. Roger Graft	Ms. Caroline Alder
Mr. Larry Wilt	Phylene Raven
Ms. Janice Kraus	Lee Cimino
Mr. and Mrs. Paul Pohuski	Ms. Paula Dennis
Mr. Charles B. Reisenweber	Dr. Kurt Sfiffert
Mr. John Reese	Mr. Dale Mauerhan
Mr. Robert C. Hoerl	
People's Counsel for Baltimore County	P. David Fields
Public Services	Lawrence E. Schmidt
Timothy M. Kotroco	W. Carl Richards, Jr.

Docket Clerk - Zoning
James G. Beach, III, Asst. County Attorney
Arnold Jablon, Director of Zoning Administration

LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
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Room 48, Old Courthouse
400 Washington Avenue

June 26, 1992

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Docket Clerk - Zoning
James G. Beach, III, Asst. County Attorney
Arnold Jablon, Director of Zoning Administration
Richard Kiefer, Esq. F.Y.I. copy sent 6/26/92)

LindaLee M. Kuszmaul
Legal Secretary

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

November 7, 1991

Julius W. Lichter, Esquire
Levin & Gann, P.A.
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Item No. 182, Case No. 92-173-SPH
Petitioner: Caton & Loudon Railway
Petition for Special Hearing

Dear Mr. Lichter:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to assure that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, 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.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnel.

MICROFILMED

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2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the peition has not been filed correctly, there is always a possibility that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or incompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,
James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

887-3353

Your petition has been received and accepted for filing this 9th day of October, 1991.

ARNOLD JABLON
DIRECTOR

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: E. Robert Chertkof, et ux

Petitioner's Attorney:Julius W. Lichter

92-173-SPH

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director — DATE: October 29, 1991
Zoning Administration and Development Management

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting for October 22, 1991

The Developers Engineering Division has reviewed the subject zoning items and we have no comments for Items 124, 167, 168, 169, 170, 173, 176, 178, 179, 180, 184, 186, 187, 188 and 189.

In addition, we have no comments at this time for Item #438 (Case No. 91-466).

For Item 166, we will have no comments until the County Review Group Meeting.

For Item 171, see our County Review Group comments dated October 10, 1991.

For Items 174 and 175, minor subdivision review comments were prepared for this site, dated October 9, 1990.

Item 181 represents a minor subdivision, which should be processed through the minor subdivision procedures.

For Item **182**, no comments are necessary on density transfer.

Robert W. Bowling
ROBERT W. BOWLING, P.E., Chief
Developers Engineering Division

RWB:s

BUREAU OF TRAFFIC ENGINEERING
DEPARTMENT OF PUBLIC WORKS
BALTIMORE COUNTY, MARYLAND

DATE: November 6, 1991

TO: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

FROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: October 22, 1991

This office has no comments for item numbers 124, 166, 167, 168, 169, 173, 174, 175, 176, 179, 180, 181, **182**, 184, 186, 187, 188 and 189.

Rahee J. Famili
Rahee J. Famili
Traffic Engineer II

RJF/lvd

MICROFILMED

Baltimore County Government
Fire Department

700 East Joppa Road Suite 901
Towson, MD 21204-5500

(301) 887-4500

OCTOBER 24, 1991

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: CATON AND LOUDON RAILWAY CO. AND E. ROBERT CHERTKOF AND HOWARD L. CHERTKOF

Location: #E/S BLOOMSBURY AVENUE

Item No.: 182 Zoning Agenda: OCTOBER 22, 1991

Gentlemen:

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

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

REVIEWER: ______ Planning Group, Special Inspection Division
Noted and Approved Cpt. W. F. Brady Jr. — Fire Prevention Bureau

JP/KEK

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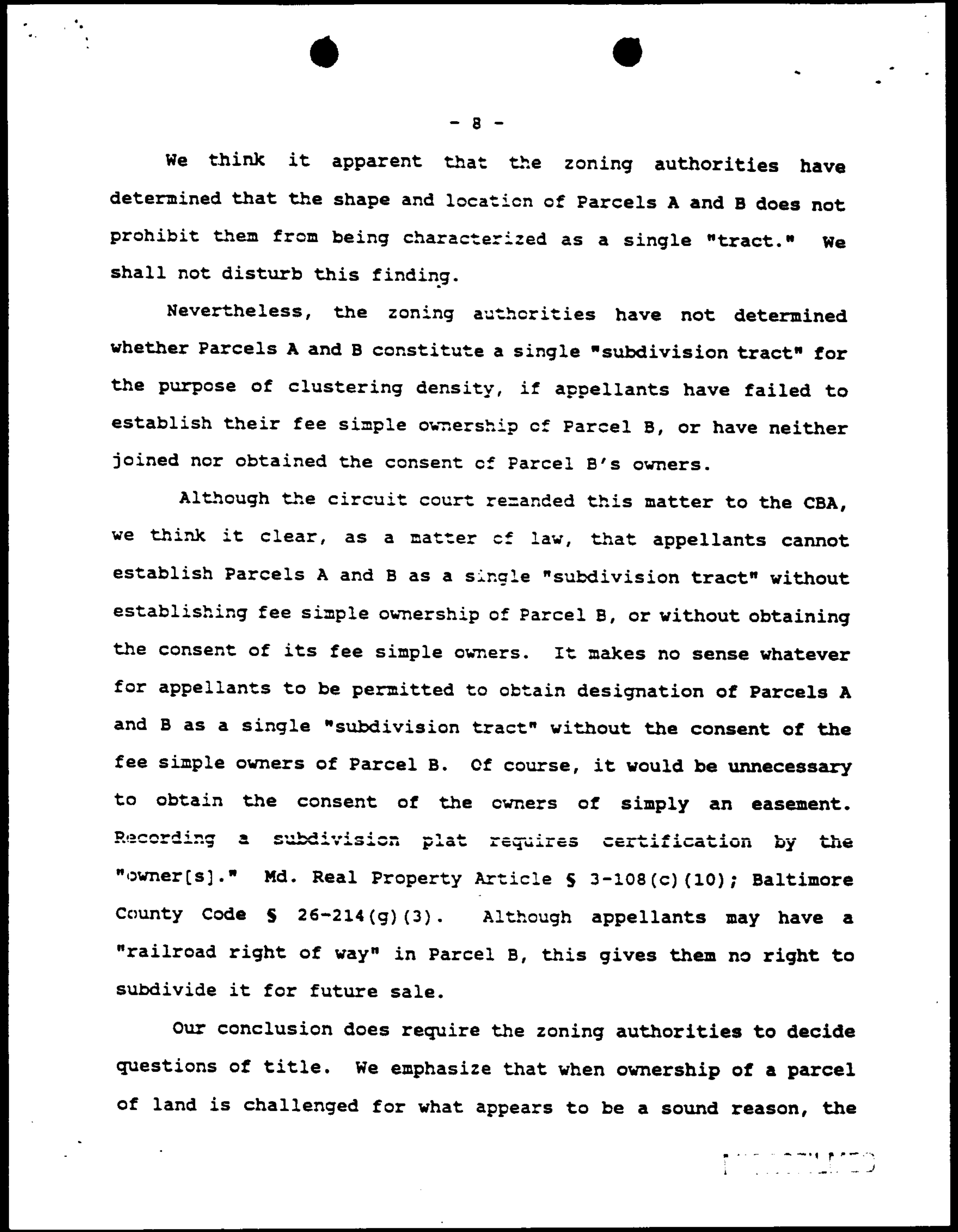

We think it apparent that the zoning authorities have determined that the shape and location of Parcels A and B does not prohibit them from being characterized as a single "tract." We shall not disturb this finding.

Nevertheless, the zoning authorities have not determined whether Parcels A and B constitute a single "subdivision tract" for the purpose of clustering density, if appellants have failed to establish their fee simple ownership of Parcel B, or have neither joined nor obtained the consent of Parcel B's owners.

Although the circuit court remanded this matter to the CBA, we think it clear, as a matter of law, that appellants cannot establish Parcels A and B as a single "subdivision tract" without establishing fee simple ownership of Parcel B, or without obtaining the consent of its fee simple owners. It makes no sense whatever for appellants to be permitted to obtain designation of Parcels A and B as a single "subdivision tract" without the consent of the fee simple owners of Parcel B. Of course, it would be unnecessary to obtain the consent of the owners of simply an easement. Recording a subdivision plat requires certification by the "owner[s]." Md. Real Property Article § 3-108(c)(10); Baltimore County Code § 26-214(g)(3). Although appellants may have a "railroad right of way" in Parcel B, this gives them no right to subdivide it for future sale.

Our conclusion does require the zoning authorities to decide questions of title. We emphasize that when ownership of a parcel of land is challenged for what appears to be a sound reason, the

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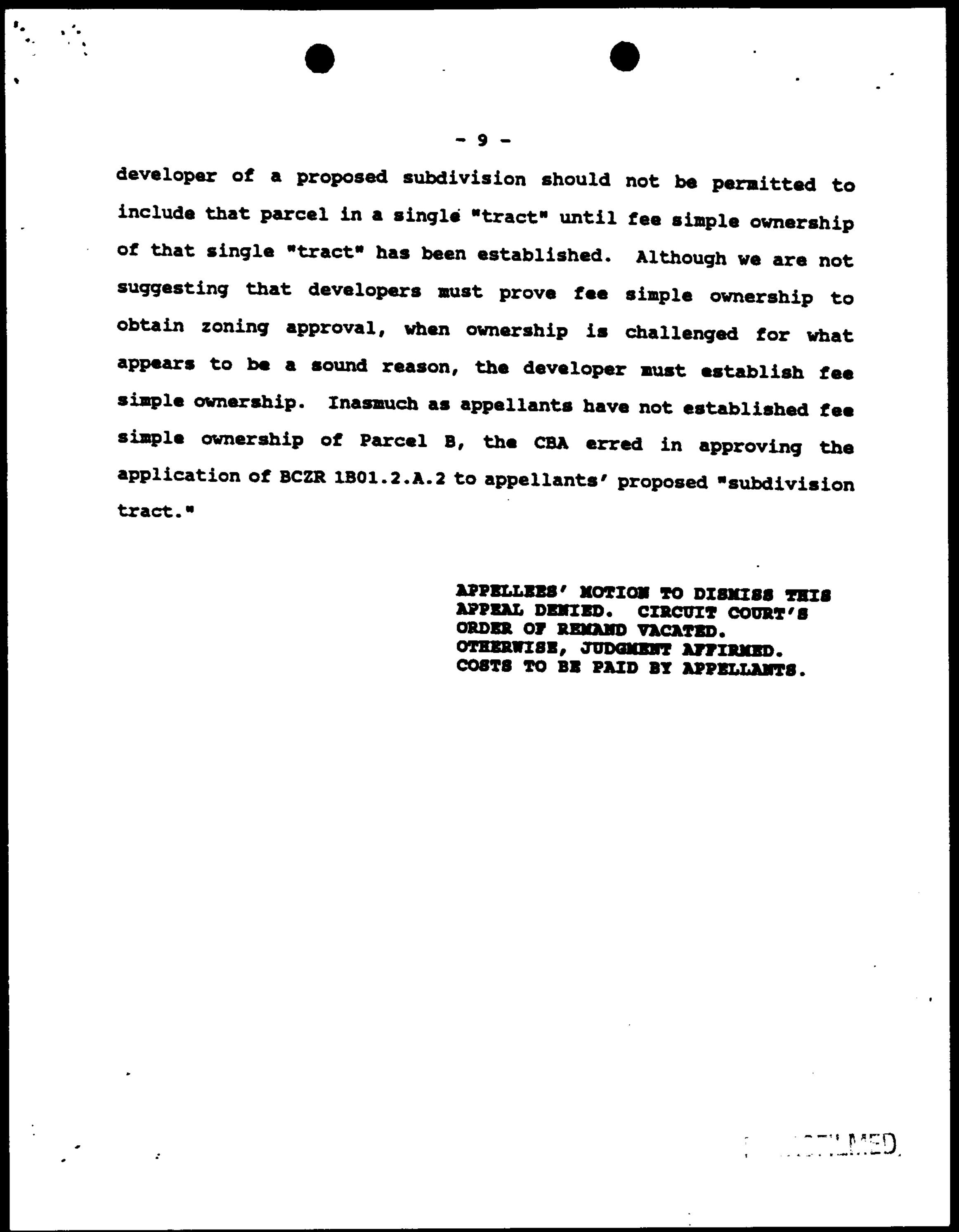
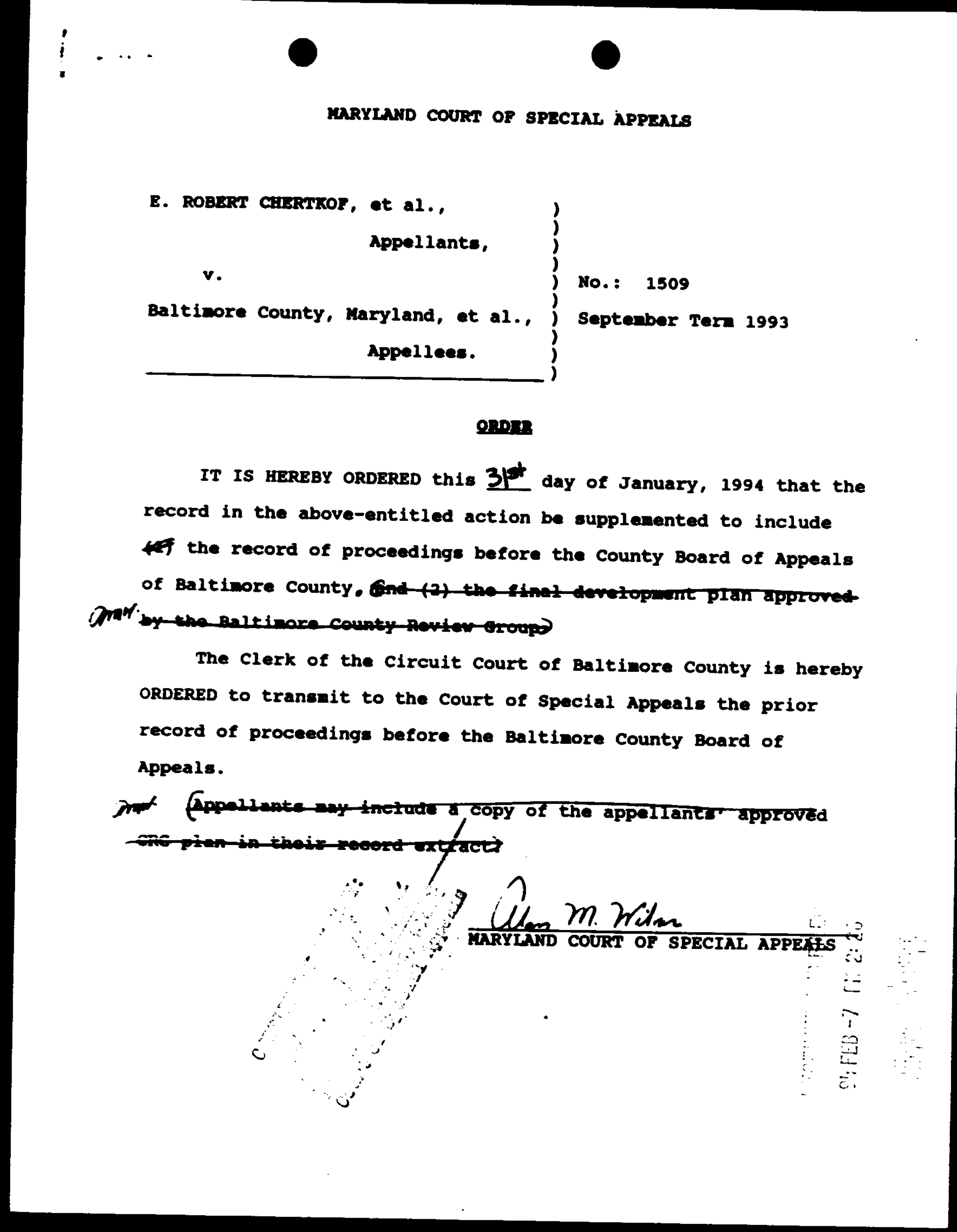


developer of a proposed subdivision should not be permitted to include that parcel in a single "tract" until fee simple ownership of that single "tract" has been established. Although we are not suggesting that developers must prove fee simple ownership to obtain zoning approval, when ownership is challenged for what appears to be a sound reason, the developer must establish fee simple ownership. Inasmuch as appellants have not established fee simple ownership of Parcel B, the CBA erred in approving the application of BCZR 1B01.2.A.2 to appellants' proposed "subdivision tract."

APPELLEES' MOTION TO DISMISS THIS APPEAL DENIED. CIRCUIT COURT'S ORDER OF REMAND VACATED. OTHERWISE, JUDGMENT AFFIRMED. COSTS TO BE PAID BY APPELLANTS.



MARYLAND COURT OF SPECIAL APPEALS

E. ROBERT CHERTKOF, et al., Appellants, v. Baltimore County, Maryland, et al., Appellees.	No.: 1509 September Term 1993

ORDER

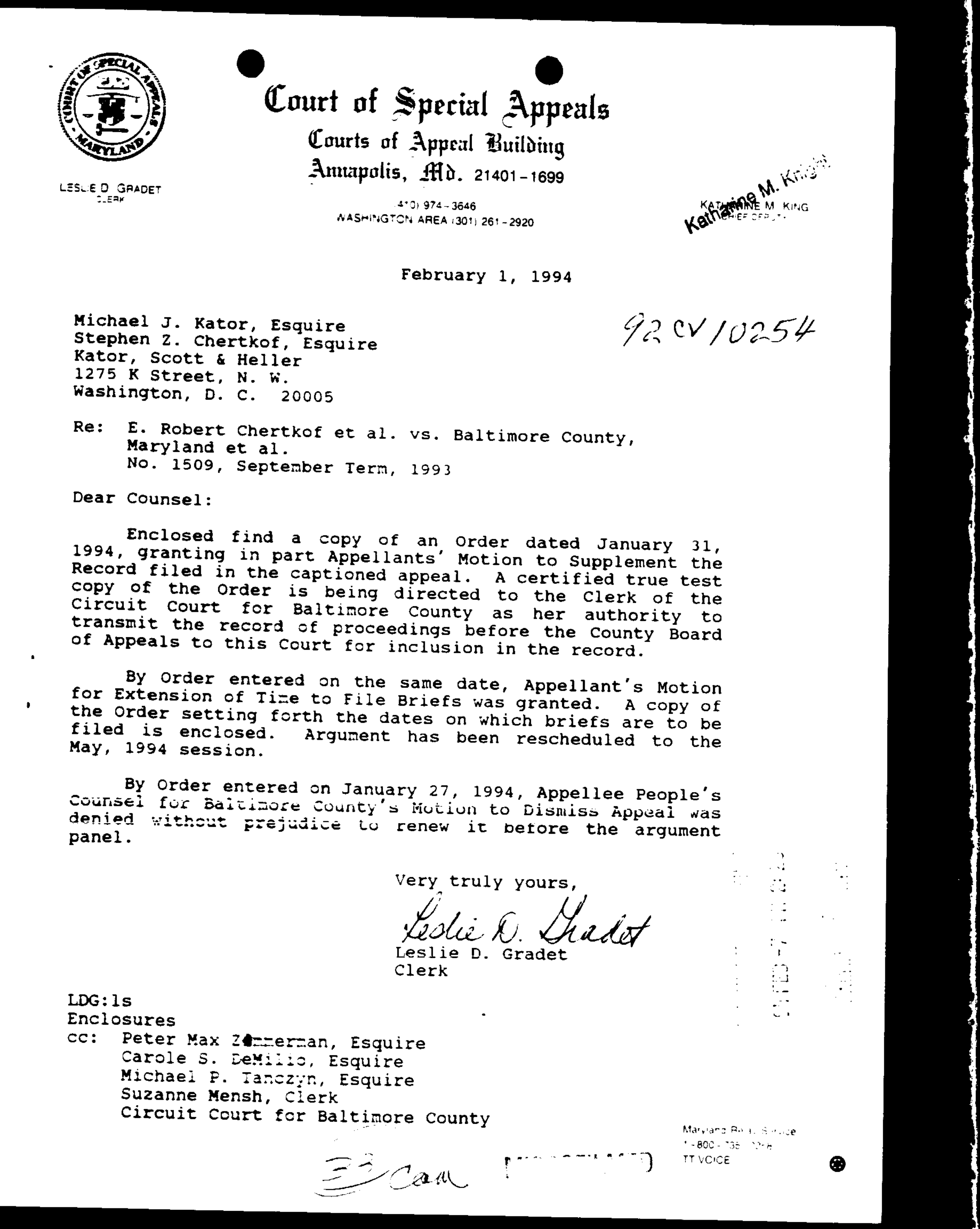
IT IS HEREBY ORDERED this 31st day of January, 1994 that the record in the above-entitled action be supplemented to include ~~(1)~~ the record of proceedings before the County Board of Appeals of Baltimore County. ~~and (2) the final development plan approved by the Baltimore County Review Group.~~ mwf

The Clerk of the Circuit Court of Baltimore County is hereby ORDERED to transmit to the Court of Special Appeals the prior record of proceedings before the Baltimore County Board of Appeals.

mwf ~~(Appellants may include a copy of the appellants' approved CRG plan in their record extract.)~~

Alan M. Wilner
MARYLAND COURT OF SPECIAL APPEALS

94 FEB -7



Court of Special Appeals
Courts of Appeal Building
Annapolis, Md. 21401-1699
(410) 974-3646
WASHINGTON AREA (301) 261-2920
LESLIE D. GRADET
CLERK
KATHERINE M. KING
CHIEF DEPUTY

Katherine M. Knight

February 1, 1994

92CV10254

Michael J. Kator, Esquire
Stephen Z. Chertkof, Esquire
Kator, Scott & Heller
1275 K Street, N. W.
Washington, D. C. 20005

Re: E. Robert Chertkof et al. vs. Baltimore County, Maryland et al.
No. 1509, September Term, 1993

Dear Counsel:

Enclosed find a copy of an Order dated January 31, 1994, granting in part Appellants' Motion to Supplement the Record filed in the captioned appeal. A certified true test copy of the Order is being directed to the Clerk of the Circuit Court for Baltimore County as her authority to transmit the record of proceedings before the County Board of Appeals to this Court for inclusion in the record.

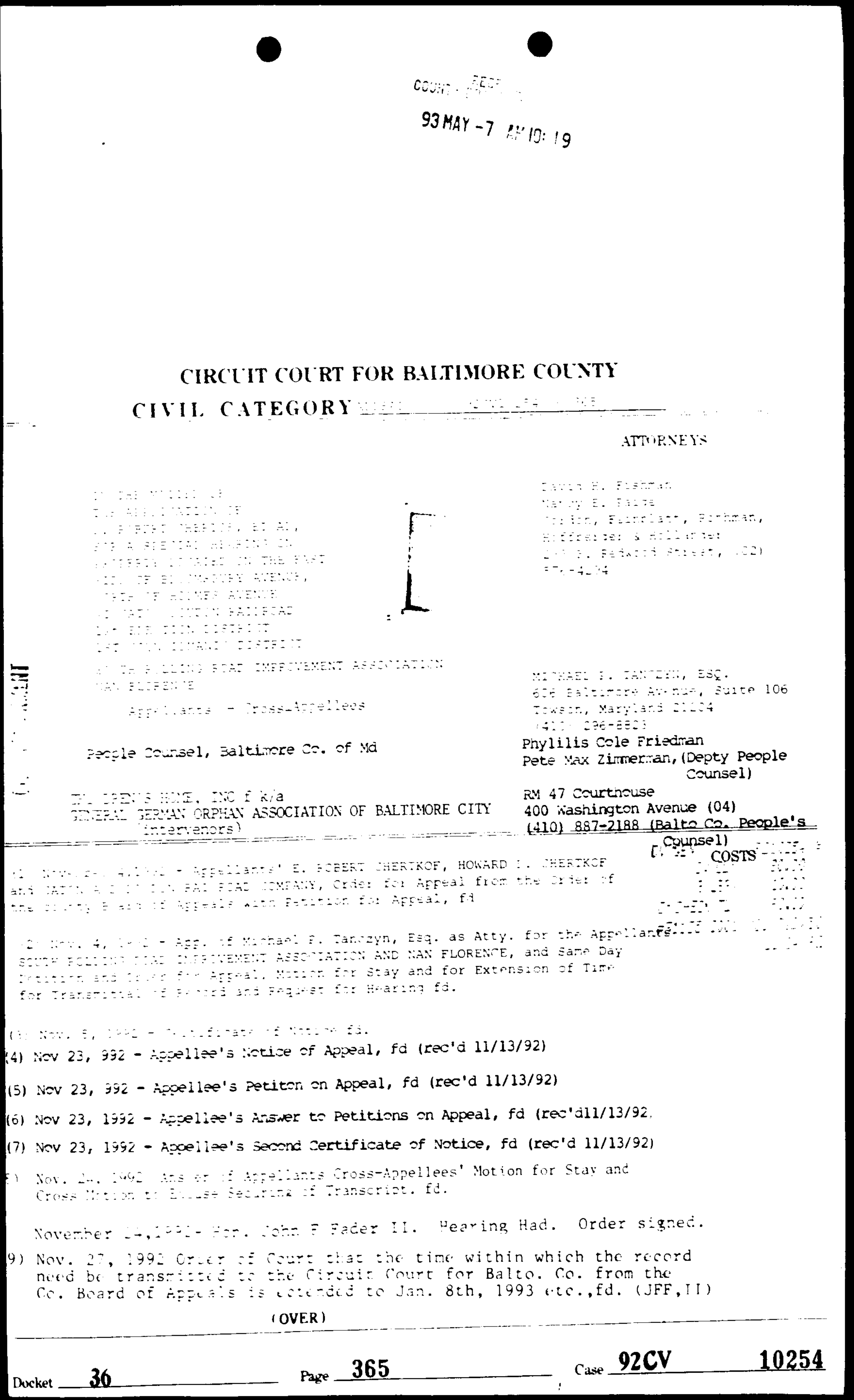
By Order entered on the same date, Appellant's Motion for Extension of Time to File Briefs was granted. A copy of the Order setting forth the dates on which briefs are to be filed is enclosed. Argument has been rescheduled to the May, 1994 session.

By Order entered on January 27, 1994, Appellee People's Counsel for Baltimore County's Motion to Dismiss Appeal was denied without prejudice to renew it before the argument panel.

Very truly yours,
Leslie D. Gradet
Leslie D. Gradet
Clerk

LDG:ls
Enclosures
cc: Peter Max Zimmerman, Esquire
Carole S. DeMilio, Esquire
Michael P. Tanczyn, Esquire
Suzanne Mensh, Clerk
Circuit Court for Baltimore County

Maryland Relay Service
1-800-735-2258
TT/VOICE



COUNTY RECEIVED
93 MAY -7 AM 10:19

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL CATEGORY [illegible]

ATTORNEYS

IN THE MATTER OF THE APPLICATION OF E. ROBERT CHERTKOF, ET AL, FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE EAST SIDE OF [illegible] AVENUE, [illegible] OF HOLMES AVENUE [illegible] RAILROAD [illegible] DISTRICT [illegible] DISTRICT [illegible] ROLLING ROAD IMPROVEMENT ASSOCIATION NAN FLORENCE Appellants - Cross-Appellees	David H. Fishman [illegible] [illegible], Rothman, [illegible] [illegible] Street, [illegible] [illegible]
	MICHAEL P. TANCZYN, ESQ. 606 Baltimore Avenue, Suite 106 Towson, Maryland 21204 (410) 296-8823
People Counsel, Baltimore Co. of Md	Phylilis Cole Friedman Pete Max Zimmerman, (Depty People Counsel)
CHILDREN'S HOME, INC f k/a GENERAL GERMAN ORPHAN ASSOCIATION OF BALTIMORE CITY (Intervenors)	RM 47 Courthouse 400 Washington Avenue (04) (410) 887-2188 (Balto Co. People's Counsel)

COSTS

(1) Nov. [illegible], 1992 - Appellants' E. ROBERT CHERTKOF, HOWARD [illegible] CHERTKOF and [illegible] RAILROAD COMPANY, Order for Appeal from the Order of the County Board of Appeals with Petition for Appeal, fd

(2) Nov. 4, 1992 - App. of Michael P. Tanczyn, Esq. as Atty. for the Appellants SOUTH ROLLING ROAD IMPROVEMENT ASSOCIATION AND NAN FLORENCE, and Same Day Petition and Order for Appeal, Motion for Stay and for Extension of Time for Transmittal of Record and Request for Hearing fd.

(3) Nov. 5, 1992 - Certificate of Notice fd.

(4) Nov 23, 992 - Appellee's Notice of Appeal, fd (rec'd 11/13/92)

(5) Nov 23, 992 - Appellee's Petiton on Appeal, fd (rec'd 11/13/92)

(6) Nov 23, 1992 - Appellee's Answer to Petitions on Appeal, fd (rec'd11/13/92

(7) Nov 23, 1992 - Appellee's Second Certificate of Notice, fd (rec'd 11/13/92)

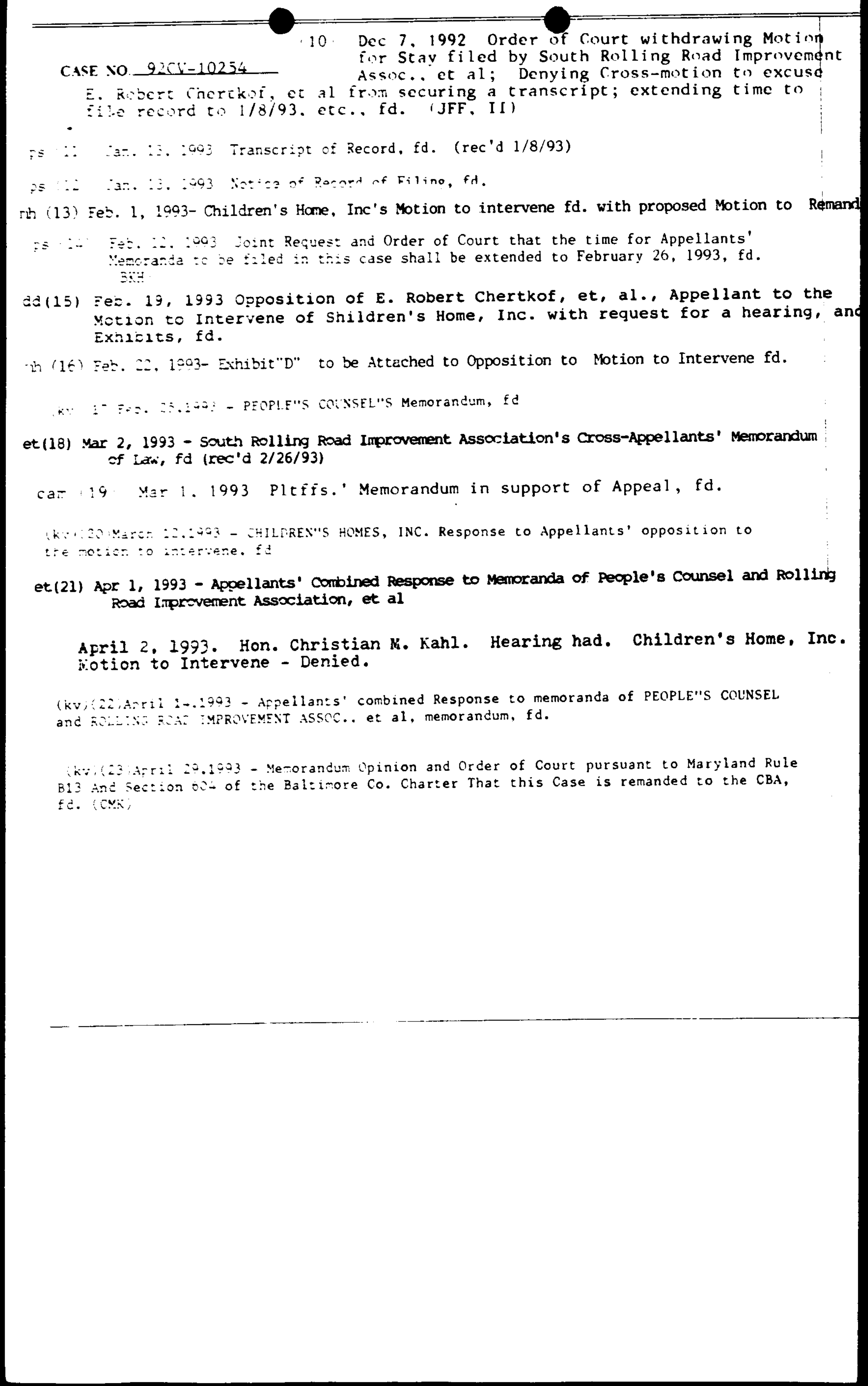
(8) Nov. 24, 1992 Answer of Appellants Cross-Appellees' Motion for Stay and Cross Motion to Excuse Securing of Transcript. fd.

November 24,1992- Hon. John F Fader II. Hearing Had. Order signed.

(9) Nov. 27, 1992 Order of Court that the time within which the record need be transmitted to the Circuit Court for Balto. Co. from the Co. Board of Appeals is extended to Jan. 8th, 1993 etc.,fd. (JFF,II)

(OVER)

Docket 36 Page 365 Case 92CV 10254



CASE NO. 92CV-10254

(10) Dec 7, 1992 Order of Court withdrawing Motion for Stay filed by South Rolling Road Improvement Assoc., et al; Denying Cross-motion to excuse E. Robert Chertkof, et al from securing a transcript; extending time to file record to 1/8/93, etc., fd. (JFF, II)

ps (11) Jan. 13, 1993 Transcript of Record, fd. (rec'd 1/8/93)

ps (12) Jan. 13, 1993 Notice of Record of Filing, fd.

nh (13) Feb. 1, 1993- Children's Home, Inc's Motion to intervene fd. with proposed Motion to Remand

ps (14) Feb. 12, 1993 Joint Request and Order of Court that the time for Appellants' Memoranda to be filed in this case shall be extended to February 26, 1993, fd. BKH

dd(15) Feb. 19, 1993 Opposition of E. Robert Chertkof, et, al., Appellant to the Motion to Intervene of Shildren's Home, Inc. with request for a hearing, and Exhibits, fd.

nh (16) Feb. 22, 1993- Exhibit"D" to be Attached to Opposition to Motion to Intervene fd.

(kv) 17 Feb. 25,1993 - PEOPLE"S COUNSEL"S Memorandum, fd

et(18) Mar 2, 1993 - South Rolling Road Improvement Association's Cross-Appellants' Memorandum of Law, fd (rec'd 2/26/93)

cam (19) Mar 1, 1993 Pltffs.' Memorandum in support of Appeal, fd.

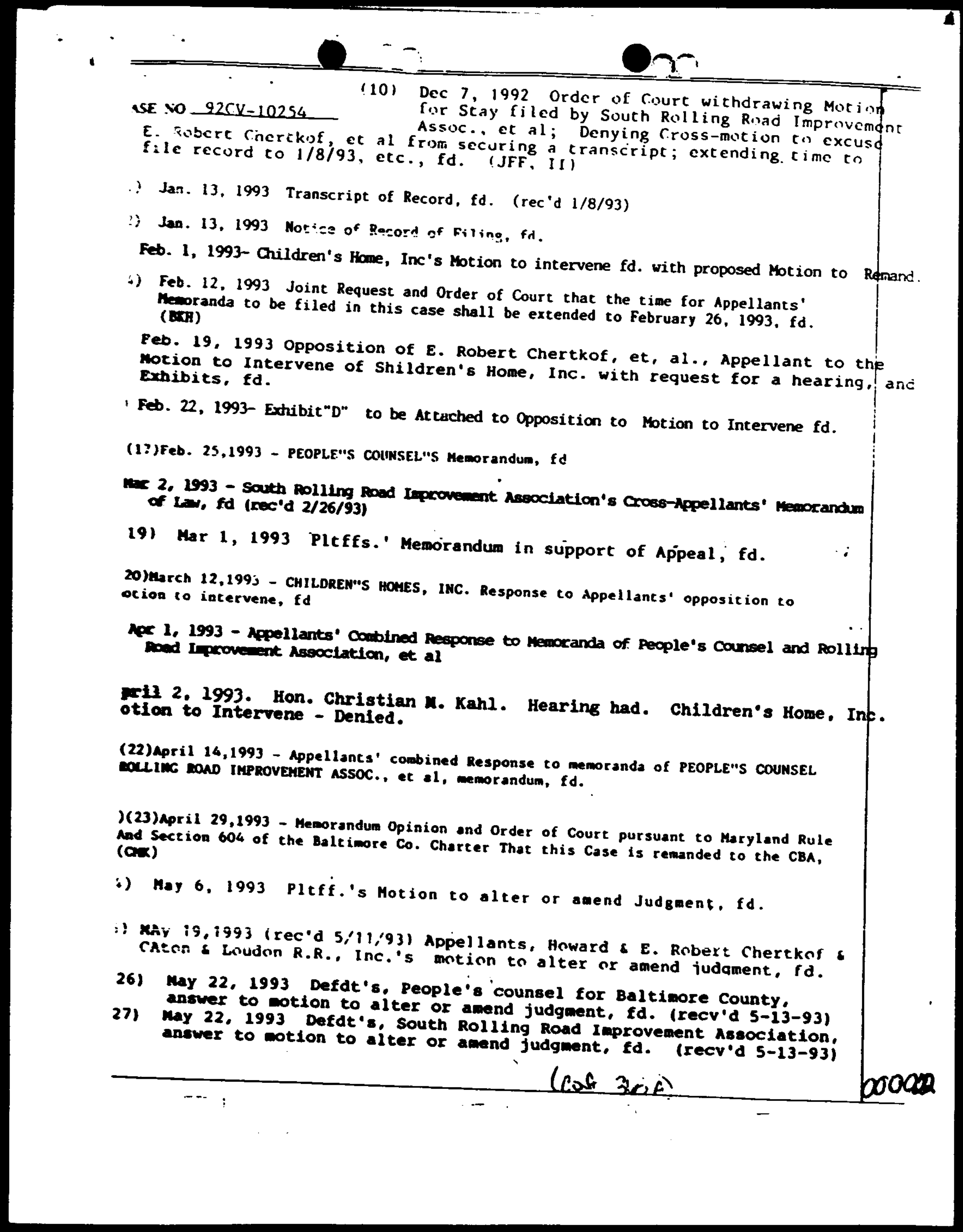
(kv)(20)March 12,1993 - CHILDREN"S HOMES, INC. Response to Appellants' opposition to the motion to intervene. fd

et(21) Apr 1, 1993 - Appellants' Combined Response to Memoranda of People's Counsel and Rolling Road Improvement Association, et al

April 2, 1993. Hon. Christian M. Kahl. Hearing had. Children's Home, Inc. Motion to Intervene - Denied.

(kv)(22)April 14,1993 - Appellants' combined Response to memoranda of PEOPLE"S COUNSEL and ROLLING ROAD IMPROVEMENT ASSOC., et al, memorandum, fd.

(kv)(23)April 29,1993 - Memorandum Opinion and Order of Court pursuant to Maryland Rule B13 And Section 604 of the Baltimore Co. Charter That this Case is remanded to the CBA, fd. (CMK)



ASE NO. 92CV-10254

(10) Dec 7, 1992 Order of Court withdrawing Motion for Stay filed by South Rolling Road Improvement Assoc., et al; Denying Cross-motion to excuse E. Robert Chertkof, et al from securing a transcript; extending time to file record to 1/8/93, etc., fd. (JFF, II)

) Jan. 13, 1993 Transcript of Record, fd. (rec'd 1/8/93)

) Jan. 13, 1993 Notice of Record of Filing, fd.

Feb. 1, 1993- Children's Home, Inc's Motion to intervene fd. with proposed Motion to Remand.

4) Feb. 12, 1993 Joint Request and Order of Court that the time for Appellants' Memoranda to be filed in this case shall be extended to February 26, 1993, fd. (BKH)

Feb. 19, 1993 Opposition of E. Robert Chertkof, et, al., Appellant to the Motion to Intervene of Shildren's Home, Inc. with request for a hearing, and Exhibits, fd.

Feb. 22, 1993- Exhibit"D" to be Attached to Opposition to Motion to Intervene fd.

(17)Feb. 25,1993 - PEOPLE"S COUNSEL"S Memorandum, fd

Mar 2, 1993 - South Rolling Road Improvement Association's Cross-Appellants' Memorandum of Law, fd (rec'd 2/26/93)

19) Mar 1, 1993 Pltffs.' Memorandum in support of Appeal, fd.

20)March 12,1993 - CHILDREN"S HOMES, INC. Response to Appellants' opposition to otion to intervene, fd

Apr 1, 1993 - Appellants' Combined Response to Memoranda of People's Counsel and Rolling Road Improvement Association, et al

pril 2, 1993. Hon. Christian M. Kahl. Hearing had. Children's Home, Inc. otion to Intervene - Denied.

(22)April 14,1993 - Appellants' combined Response to memoranda of PEOPLE"S COUNSEL ROLLING ROAD IMPROVEMENT ASSOC., et al, memorandum, fd.

)(23)April 29,1993 - Memorandum Opinion and Order of Court pursuant to Maryland Rule And Section 604 of the Baltimore Co. Charter That this Case is remanded to the CBA, (CMK)

4) May 6, 1993 Pltff.'s Motion to alter or amend Judgment, fd.

) MAy 19,1993 (rec'd 5/11/93) Appellants, Howard & E. Robert Chertkof & CAton & Loudon R.R., Inc.'s motion to alter or amend judgment, fd.

26) May 22, 1993 Defdt's, People's counsel for Baltimore County, answer to motion to alter or amend judgment, fd. (recv'd 5-13-93)

27) May 22, 1993 Defdt's, South Rolling Road Improvement Association, answer to motion to alter or amend judgment, fd. (recv'd 5-13-93)

(Cal 365)

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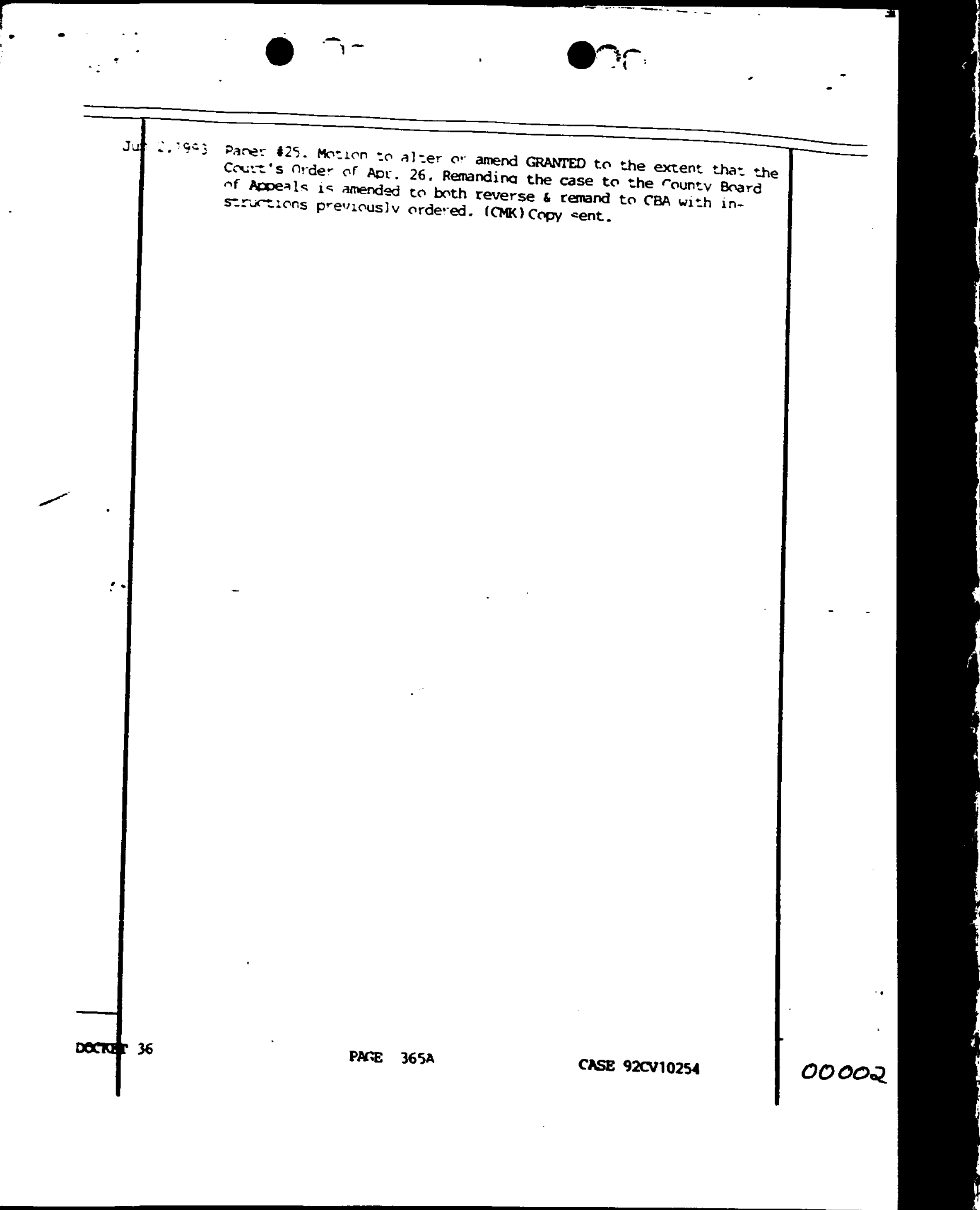

Jun 2,1993 Paper #25. Motion to alter or amend GRANTED to the extent that the Court's Order of Apr. 26. Remanding the case to the County Board of Appeals is amended to both reverse & remand to CBA with instructions previously ordered. (CMK) Copy sent.

DOCKET 36 PAGE 365A CASE 92CV10254

00002

Item #182 11/20/91 TO WCR

92-173-SPH 9

BALTIMORE COUNTY, MARYLAND
INTEROFFICE MEMORANDUM

TO: Arnold Jablon, Zoning Administrator and Development Coordinator

DATE: November 18, 1991

FROM: Pat Keller, Deputy Director, Office of Planning and Zoning

SUBJECT: Canton & Loudon Railroad Hearing

RECEIVED By SCJ

The Office of Planning and Zoning is in receipt of the petitioners request to include as one development tract a tract of land located at Bloomsbury Avenue and Spring Grove Land extending along the old Caton/Loudon Railroad right-of-way to the city line. In reference to the petitioners request staff offers the following.

1. Legal ownership of the railroad right-of-way should be firmly established. At the recent Charlestown Village Retirement Center CRG meeting the owners of Charlestown Village maintained that a portion of the right-of-way (subject of this hearing) was in their ownership and control. To date this office has not seen conclusive proof regarding the ownership of this right-of-way.

2. Note 11 on the petitioners plat states that density calculations were prepared utilizing the Catonsville Short Line Right-of Way plats of 1883. This issue of whether the property located within the railroad right-of-way can be considered as part of the development tract for purpose of density transfer needs to be addressed.

3. A discrepancy exists between the 20.9 acres (parcel B railroad R.O.W.) used for density transfer calculation and the 8.8198 acres shown on the tax assessment information sheet for this spare parcel attached.

4. Baltimore County and the State of Maryland have expressed their intent to preserve the Caton/Loudon right-of-way as a future light rail line with a possible greenway system as an interim use. Baltimore County will accept, as a dedication, the Rail R.O.W. for future greenway or transit use. The Charlestown Village Retirement Center, Shelter Builders (Maiden Choice Lane) and the Cella Avenue parking lot CRG's were all required to preserve this right-of-way for future use by Baltimore County.

---

5. Baltimore County Master Plan 1989-2000

   In reference to this particular site the Baltimore County Master Plan provides the following

   - Page 21, Land Use Structure, shows this area as located within the Catonsville Urban Center. The general area is classified as low density urban residential.
   - Page 92, Western Sectors Land Use Plan, show this area classified as Low Density Urban Residential. The area is bordered with Institutional/Private Open Space.
   - Page 90, Western Sector, Inventory shows this particular parcel as being located adjacent to an enhancement area. The enhancement areas were created to protect neighborhoods that were showing signs of stress (p.91). Action was targeted to prepare community conservation plans to stabilize these areas.

   -The Catonsville Plan, adapted by the County Council on October 7, 1991, as an amendment to the Master Plan, recommends that future development of the Orphan Home Property (located immediately north of this parcel) should occur at the existing zoning (density) of DR3.5.

6. The development plan presented by the petitioner is dependent upon using the density located with the railroad right-of-way. At the present time any development on that tract of land will have to comply with the development regulations. It is difficult to evaluate the effect of the development plan until the issue of ownership and density have been addressed. The shifting of density along the railroad right-of-way significantly changes the existing DR3.5 density on the parcel to be developed.

Although the petitions request does have direct implication with both the Master Plan and Catonsville Plan, this office believes the fundamental issues are that of legal ownership of the rail R.O.W. and whether the petitioners right to transfer the amount of density that is requested is in keeping with the spirit and intent of the Zoning Regulations. Does not the Beltway break contiguous ownership of the row?

BH:rdn
CTN&LDN/TXTROZ

ITEM #182

92-173-SPH

Comments concerning conflict with R.T.A. requirements:

The 75 foot R.T.A. buffer must be extended into Lots #5 and #6 as the 300 foot site line from the West end of the Baltimore County lot crosses these lots. Section 1B01.1.B.5.b (B.C.Z.R.) states, in part: "No other uses are permitted within the buffer area..."

Therefore, all buildings and yard areas must be removed from this 75 foot buffer and it must be designated as H.O.A. open space.

JOHN L. LEWIS
Planner II

JLL:scj

MICROFILMED

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: Pat Keller, Deputy Director, Office of Planning and Zoning

November 19, 1991

FROM: Stanley J. Schapiro, Deputy County Attorney

RE: Caton & Loudon Railroad

I am advised that your group has submitted comments concerning the transfer of density from the railroad property to the adjacent Parcel "A" as shown on the attached location map.

One of the comments relates to the ownership of the railroad property, and I am satisfied that the Caton & Loudon Railroad owns the railroad right of way in the area of condemnations filed by Baltimore County (Bloomsbury Road) and the State (I-95). Until there is a dispute as to ownership of the rest of the right of way, I do not see that as an issue.

Another concern appears to be whether the railroad company owns the right of way east of Maiden Choice Lane. As I explained to you that does not present a real issue, as they have sufficient density west of Maiden Choice Lane to satisfy their requirements.

The third issue was how the county could obtain the use of the right of way east of Maiden Choice Lane and I have already suggested you contact Natural Resources to get their help under the National Trails Systems Act.

SJS:ss

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

[illegible]

(410) 887-3353

February 26, 1992

Baltimore County Board of Appeals
County Office Building, Room 315
Towson, Maryland 21204

RE: Petition for Special Hearing
E/S Bloomsbury Avenue, N of Holmes Avenue at Caton/Loudon RR
1st Election District, 1st Councilmanic District
E. Robert Chertkof, Howard L. Chertkof, and the Caton and Loudon Railway Company - Petitioners
Case No. 92-173-SPH

Dear Board:

Please be advised that an three (3) separate appeals of the above-referenced case were filed in this office as follows:

1. Filed by Nan Florence on January 15, 1992
2. Filed by Paul L. Erickson on January 15, 1992
3. Filed by Julius W. Lichter on January 16, 1992

All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Very truly yours,

Lawrence E. Schmidt
Lawrence E. Schmidt
Zoning Commissioner

LES:cer

Enclosures

cc: E. Robert Chertkof - Caton and Loudon Railway Company
Suite 275, Commercenter East
1777 Reisterstown Road, Baltimore, MD 21208

Paul L. Erickson - Retirement & Health Services Corporation
703 Maiden Choice Lane, Baltimore, MD 21228

Nan Florence - South Rolling Road Community Association
302 Bloomsbury Avenue, Catonsville, MD 21228

Julius W. Lichter - Levin & Gann
305 W. Chesapeake Avenue, Towson, MD 21204

Richard H. Cassell - 12138 Faulkner Drive, Owings Mills, MD 21117

Richard Decker - 10 Holmehurst Avenue, Balto., MD 21228

Roger & Norma Graft - 8 Holmes Avenue, Balto., MD 21228

Caroline Alder - 207 S Rolling Road, Balto., MD 21228

Larry Wilt - 212 Bloomsbury Avenue, Balto., MD 21228

Phylene Raven - 304 S. Rolling Avenue, Balto., MD 21228

Janice Kraus - 313 Bloomsbury Avenue, Balto., MD 21228

Lee Cimino - 315 Bloomsbury Avenue, Balto., MD 21228

Paula Dennis - 118 S. Rolling Road, Balto., MD 21228

Paul & Mary Pohuski - 123 Bloomsbury Avenue, Balto., MD 21228

Charles B. Reisenweber - 410 Bloomsbury Avenue, Balto., MD 21228

Dr. Kurt SFiffert - 305 S Rolling Road, Balto., MD 21228

John Reese - Spring Grove Hospital Center, 21228

Dale Mauerhan - Spring Grove Hospital Center, 21228

Robert C. Hoerl - 300 Bloomsbury Avenue, Balto., MD 21228

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

File

APPEAL

Petition for Special Hearing
E/S Bloomsbury Avenue, N of Holmes Avenue at Caton/Loudon RR
1st Election District - 1st Councilmanic District
E. ROBERT CHERTKOF, HOWARD L. CHERTKOF, and the CATON AND LOUDON RAILWAY COMPANY - Petitioner
Case No. 92-173-SPH

Petition(s) for Special Hearing

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments (Included with ZAC Comments)

Zoning Comments (John Lewis)

Petitioners & Protestants Sign-In Sheets

Petitioner's Exhibits:
1. Revised Site Plan
2. Deed - Chertkoff
3. Certificate of incorporation of Railway Co.
4. Interstate Commerce Commission Docket
5. Smith to Caton/Loudon Deed transferring Parcel B
6. Original Plat of Railway Co. Holding
7. Letter from Franklin Realty (4/4/84)
8. Inquisition by State (Condemnation)
9. Inquisition from Circuit Court
10. Minutes to Charlestown CRG Meeting
11. Comments to Charlestown CRG
12. Real Property Sec. 6-102
13. Sec. 5-1010 - Natural Resources
14. Planning Comments
15. Retirement & Health Services Evaluation
16. Memo from Shapira (Office of Law)

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People's Counsel Exhibits:
1. Letter from Catonsville 2000
2., 2B, & 7 - Catonsville 2000 Analysis
3. Petition
4. - 6. Opposition letters from SRRCA and authority of Stuart Renaud

Zoning Commissioner's Order dated December 18, 1991 (Granted w/ Restrictions)

Notice of Appeal received January 17, 1992 from Julius W. Lichter, Attorney on behalf of the Petitioners

Notice of Appeal received January 16, 1992 from Nan Florence, Vice President of South Rolling Road Community Association

Notice of Appeal received January 15, 1992 from Paul L. Erickson, on behalf of St. Charles Associates, Ltd., Protestant

cc: E. Robert Chertkof - Caton and Loudon Railway Company
Suite 275, Commercenter East
1777 Reisterstown Road, Baltimore, MD 21208

Paul L. Erickson - Retirement & Health Services Corporation
703 Maiden Choice Lane, Baltimore, MD 21228

Nan Florence - South Rolling Road Community Association
302 Bloomsbury Avenue, Catonsville, MD 21228

Julius W. Lichter - Levin & Gann
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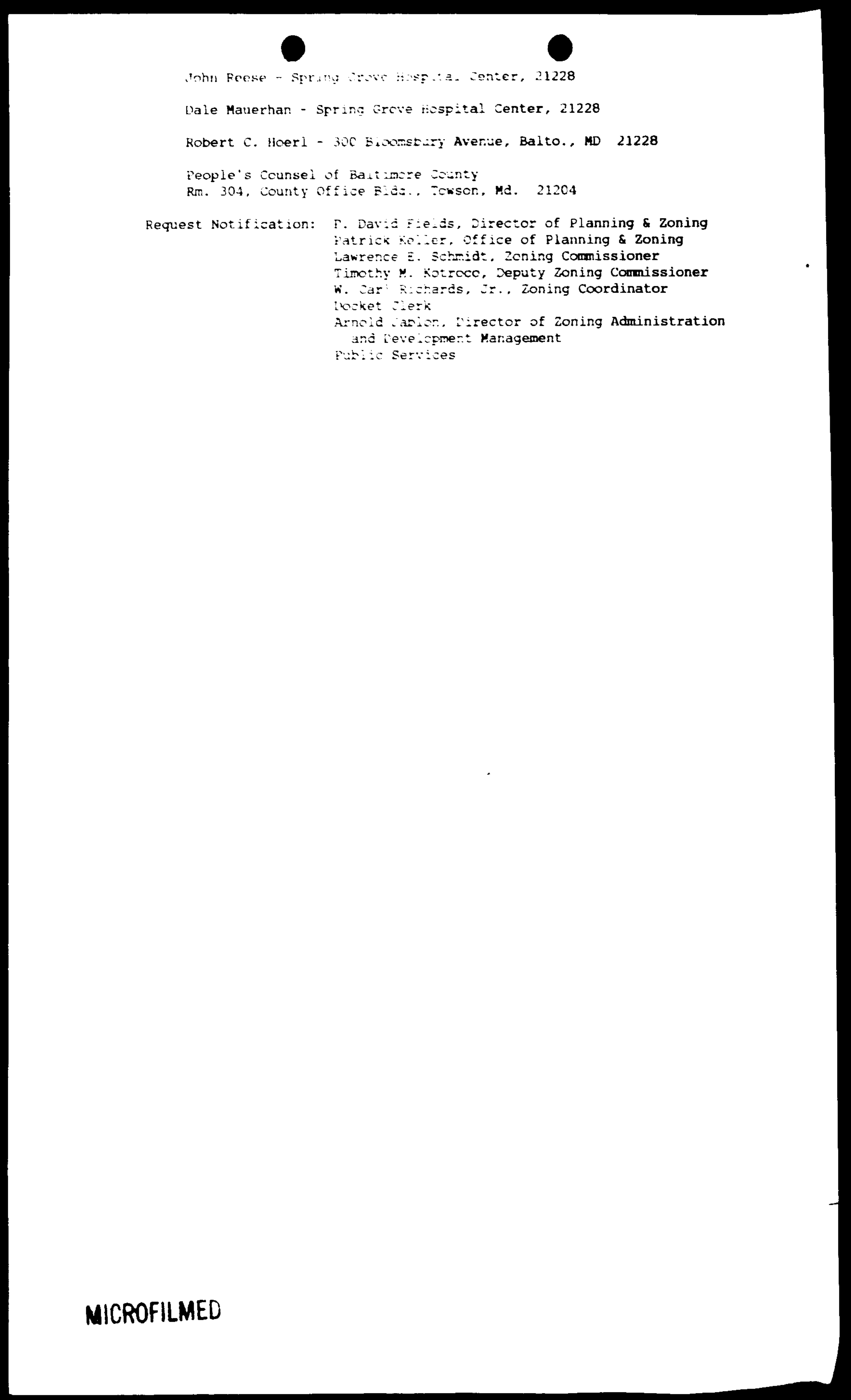

John Reese - Spring Grove Hospital Center, 21228

Dale Mauerhan - Spring Grove Hospital Center, 21228

Robert C. Hoerl - 300 Bloomsbury Avenue, Balto., MD 21228

People's Counsel of Baltimore County
Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning
Patrick Keller, Office of Planning & Zoning
Lawrence E. Schmidt, Zoning Commissioner
Timothy M. Kotroco, Deputy Zoning Commissioner
W. Carl Richards, Jr., Zoning Coordinator
Docket Clerk
Arnold Jablon, Director of Zoning Administration
and Development Management
Public Services

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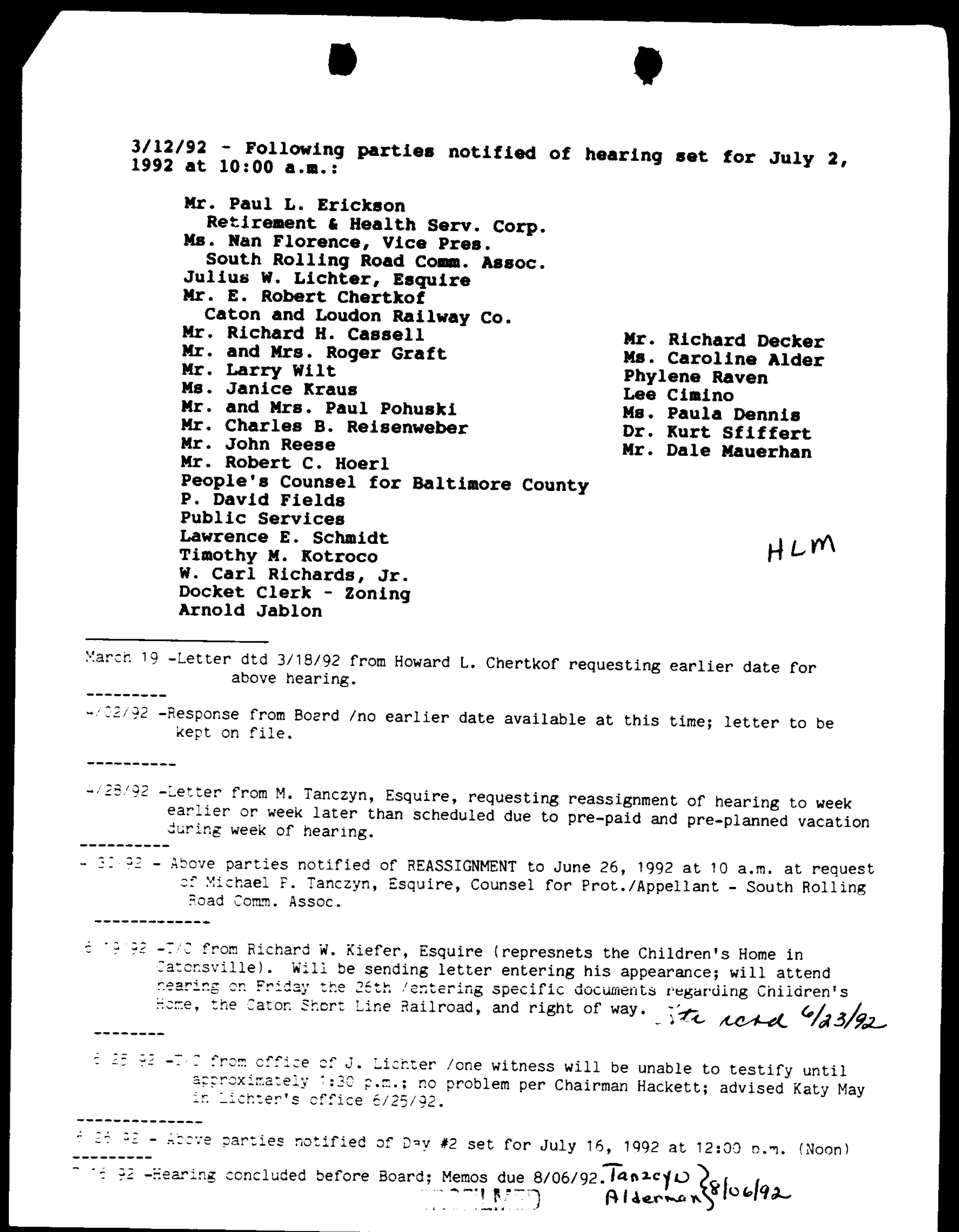

3/12/92 - Following parties notified of hearing set for July 2, 1992 at 10:00 a.m.:

Mr. Paul L. Erickson
Retirement & Health Serv. Corp.
Ms. Nan Florence, Vice Pres.
South Rolling Road Comm. Assoc.
Julius W. Lichter, Esquire
Mr. E. Robert Chertkof
Caton and Loudon Railway Co.
Mr. Richard H. Cassell
Mr. and Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. and Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
Mr. Robert C. Hoerl
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon

Mr. Richard Decker
Ms. Caroline Alder
Phylene Raven
Lee Cimino
Ms. Paula Dennis
Dr. Kurt Sfiffert
Mr. Dale Mauerhan

HLM

March 19 -Letter dtd 3/18/92 from Howard L. Chertkof requesting earlier date for above hearing.

4/02/92 -Response from Board /no earlier date available at this time; letter to be kept on file.

4/28/92 -Letter from M. Tanczyn, Esquire, requesting reassignment of hearing to week earlier or week later than scheduled due to pre-paid and pre-planned vacation during week of hearing.

4/30/92 - Above parties notified of REASSIGNMENT to June 26, 1992 at 10 a.m. at request of Michael P. Tanczyn, Esquire, Counsel for Prot./Appellant - South Rolling Road Comm. Assoc.

6/19/92 -T/C from Richard W. Kiefer, Esquire (represnets the Children's Home in Catonsville). Will be sending letter entering his appearance; will attend hearing on Friday the 26th /entering specific documents regarding Children's Home, the Caton Short Line Railroad, and right of way. Ltr recd 6/23/92

6/25/92 -T/C from office of J. Lichter /one witness will be unable to testify until approximately 1:30 p.m.; no problem per Chairman Hackett; advised Katy May in Lichter's office 6/25/92.

6/26/92 - Above parties notified of Day #2 set for July 16, 1992 at 12:00 p.m. (Noon)

7/16/92 -Hearing concluded before Board; Memos due 8/06/92. Tanczyn } 8/06/92
Alderman }

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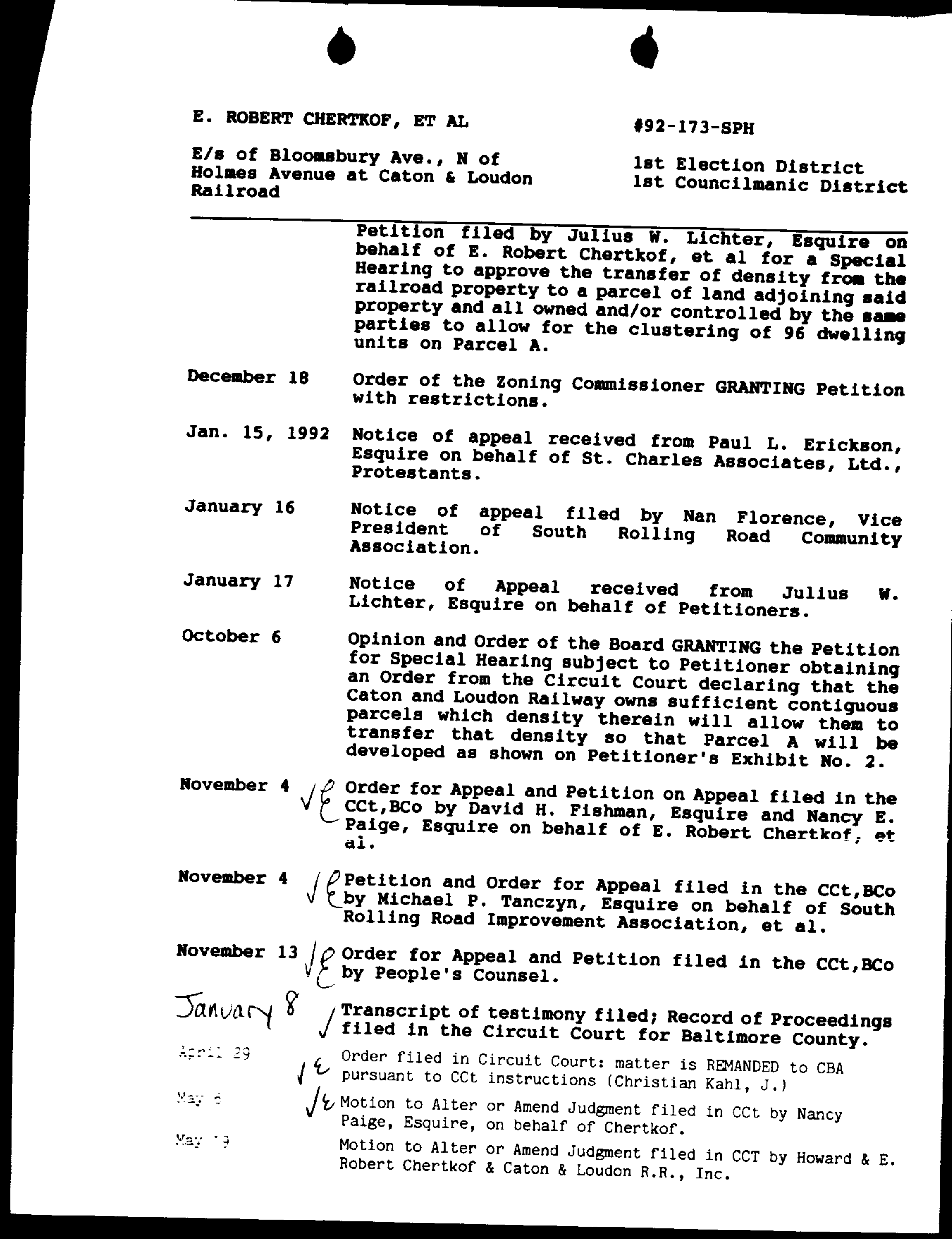
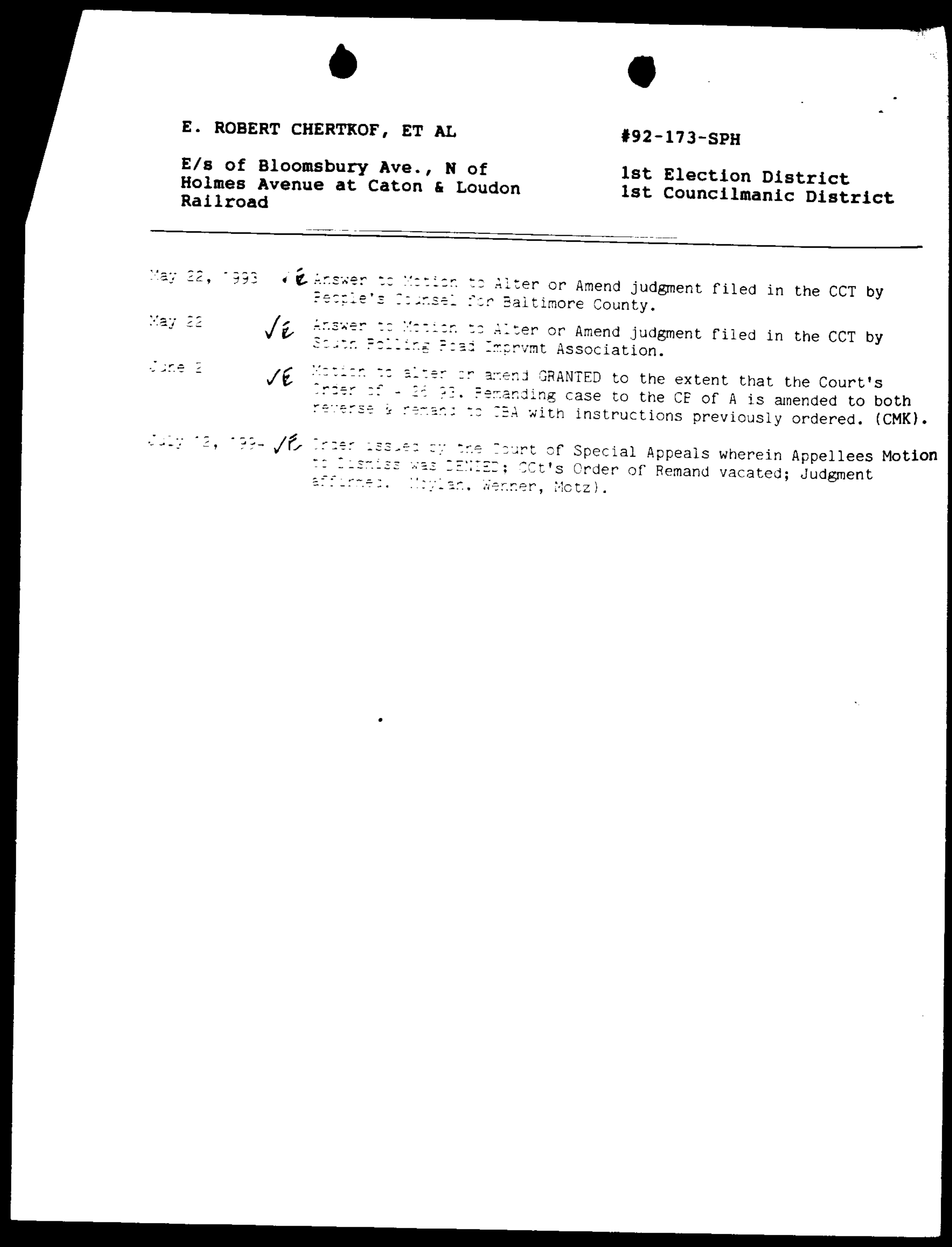


E. ROBERT CHERTKOF, ET AL **#92-173-SPH**

E/s of Bloomsbury Ave., N of Holmes Avenue at Caton & Loudon Railroad

1st Election District
1st Councilmanic District

	Petition filed by Julius W. Lichter, Esquire on behalf of E. Robert Chertkof, et al for a Special Hearing to approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwelling units on Parcel A.
December 18	**Order of the Zoning Commissioner GRANTING Petition with restrictions.**
Jan. 15, 1992	**Notice of appeal received from Paul L. Erickson, Esquire on behalf of St. Charles Associates, Ltd., Protestants.**
January 16	**Notice of appeal filed by Nan Florence, Vice President of South Rolling Road Community Association.**
January 17	**Notice of Appeal received from Julius W. Lichter, Esquire on behalf of Petitioners.**
October 6	**Opinion and Order of the Board GRANTING the Petition for Special Hearing subject to Petitioner obtaining an Order from the Circuit Court declaring that the Caton and Loudon Railway owns sufficient contiguous parcels which density therein will allow them to transfer that density so that Parcel A will be developed as shown on Petitioner's Exhibit No. 2.**
November 4	√E **Order for Appeal and Petition on Appeal filed in the CCt,BCo by David H. Fishman, Esquire and Nancy E. Paige, Esquire on behalf of E. Robert Chertkof, et al.**
November 4	√E **Petition and Order for Appeal filed in the CCt,BCo by Michael P. Tanczyn, Esquire on behalf of South Rolling Road Improvement Association, et al.**
November 13	√E **Order for Appeal and Petition filed in the CCt,BCo by People's Counsel.**
January 8	√ **Transcript of testimony filed; Record of Proceedings filed in the Circuit Court for Baltimore County.**
April 29	√E Order filed in Circuit Court: matter is REMANDED to CBA pursuant to CCt instructions (Christian Kahl, J.)
May 6	√E Motion to Alter or Amend Judgment filed in CCt by Nancy Paige, Esquire, on behalf of Chertkof.
May 19	Motion to Alter or Amend Judgment filed in CCT by Howard & E. Robert Chertkof & Caton & Loudon R.R., Inc.

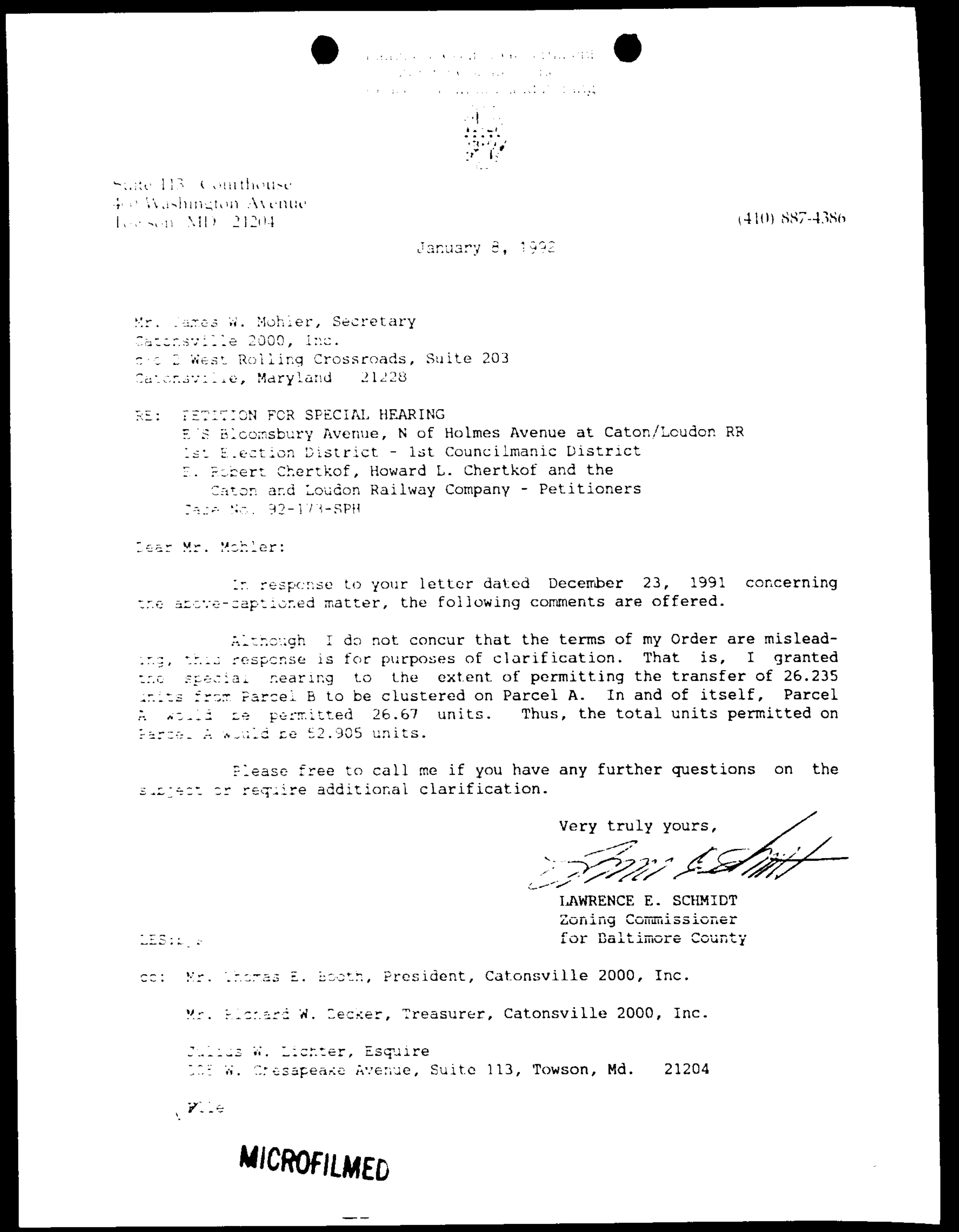


E. ROBERT CHERTKOF, ET AL **#92-173-SPH**

E/s of Bloomsbury Ave., N of Holmes Avenue at Caton & Loudon Railroad

1st Election District
1st Councilmanic District

May 22, 1993	√E Answer to Motion to Alter or Amend judgment filed in the CCT by People's Counsel for Baltimore County.
May 22	√E Answer to Motion to Alter or Amend judgment filed in the CCT by South Rolling Road Imprvmt Association.
June 2	√E Motion to alter or amend GRANTED to the extent that the Court's Order of 4-29-93. Remanding case to the CB of A is amended to both reverse & remand to CBA with instructions previously ordered. (CMK).
July 12, 1994	√E Order issued by the Court of Special Appeals wherein Appellees Motion to Dismiss was DENIED; CCt's Order of Remand vacated; Judgment affirmed. (Moylan, Wenner, Motz).



Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 8, 1992

Mr. James W. Mohler, Secretary
Catonsville 2000, Inc.
c/o 2 West Rolling Crossroads, Suite 203
Catonsville, Maryland 21228

RE: PETITION FOR SPECIAL HEARING
E/S Bloomsbury Avenue, N of Holmes Avenue at Caton/Loudon RR
1st Election District - 1st Councilmanic District
E. Robert Chertkof, Howard L. Chertkof and the
Caton and Loudon Railway Company - Petitioners
Case No. 92-173-SPH

Dear Mr. Mohler:

In response to your letter dated December 23, 1991 concerning the above-captioned matter, the following comments are offered.

Although I do not concur that the terms of my Order are misleading, this response is for purposes of clarification. That is, I granted the special hearing to the extent of permitting the transfer of 26.235 units from Parcel B to be clustered on Parcel A. In and of itself, Parcel A would be permitted 26.67 units. Thus, the total units permitted on Parcel A would be 52.905 units.

Please free to call me if you have any further questions on the subject or require additional clarification.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:mmn

cc: Mr. Thomas E. Booth, President, Catonsville 2000, Inc.

Mr. Richard W. Decker, Treasurer, Catonsville 2000, Inc.

Julius W. Lichter, Esquire
105 W. Chesapeake Avenue, Suite 113, Towson, Md. 21204

File

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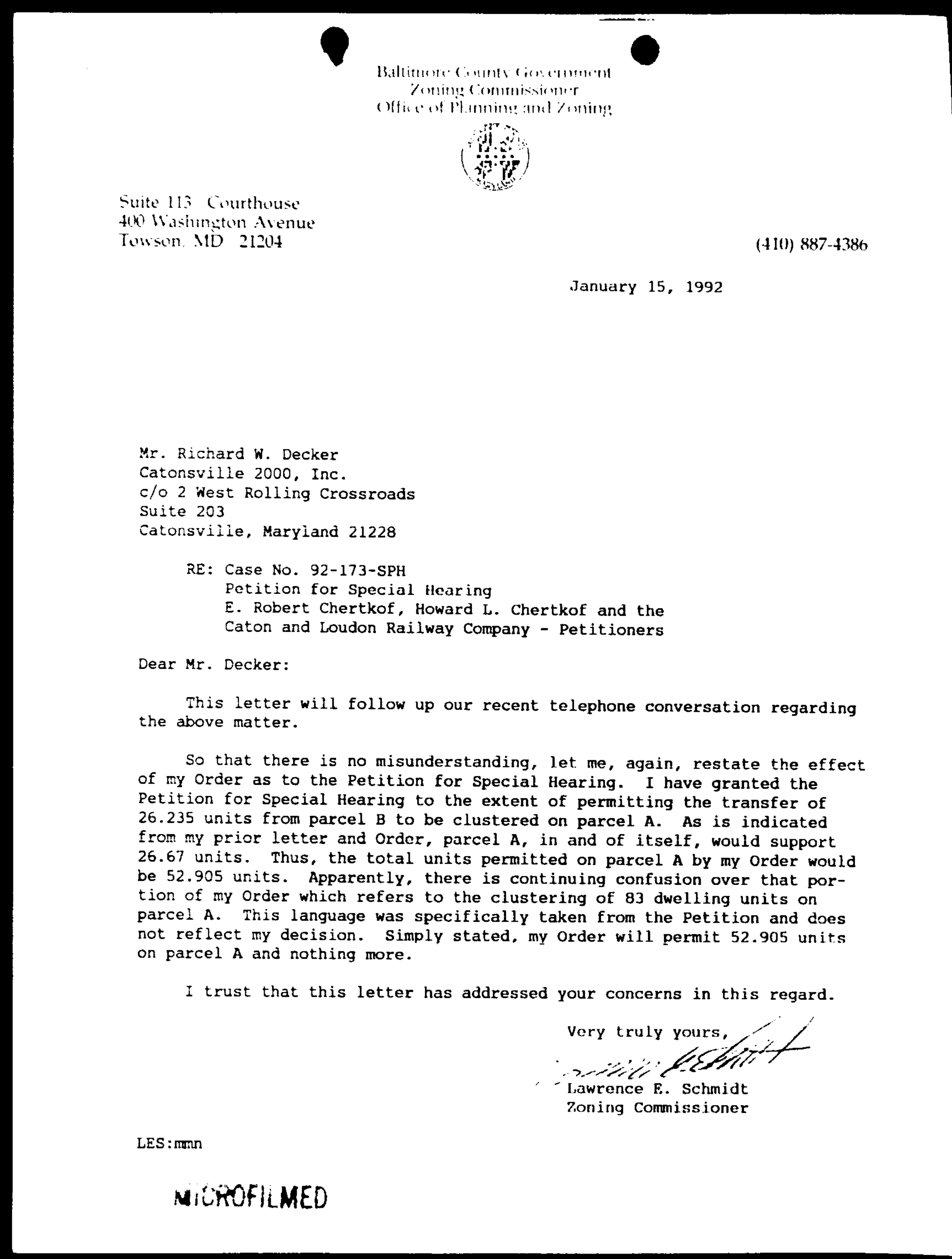


Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

Suite 113 Courthouse
400 Washington Avenue
Towson, MD 21204

(410) 887-4386

January 15, 1992

Mr. Richard W. Decker
Catonsville 2000, Inc.
c/o 2 West Rolling Crossroads
Suite 203
Catonsville, Maryland 21228

RE: Case No. 92-173-SPH
Petition for Special Hearing
E. Robert Chertkof, Howard L. Chertkof and the
Caton and Loudon Railway Company - Petitioners

Dear Mr. Decker:

This letter will follow up our recent telephone conversation regarding the above matter.

So that there is no misunderstanding, let me, again, restate the effect of my Order as to the Petition for Special Hearing. I have granted the Petition for Special Hearing to the extent of permitting the transfer of 26.235 units from parcel B to be clustered on parcel A. As is indicated from my prior letter and Order, parcel A, in and of itself, would support 26.67 units. Thus, the total units permitted on parcel A by my Order would be 52.905 units. Apparently, there is continuing confusion over that portion of my Order which refers to the clustering of 83 dwelling units on parcel A. This language was specifically taken from the Petition and does not reflect my decision. Simply stated, my Order will permit 52.905 units on parcel A and nothing more.

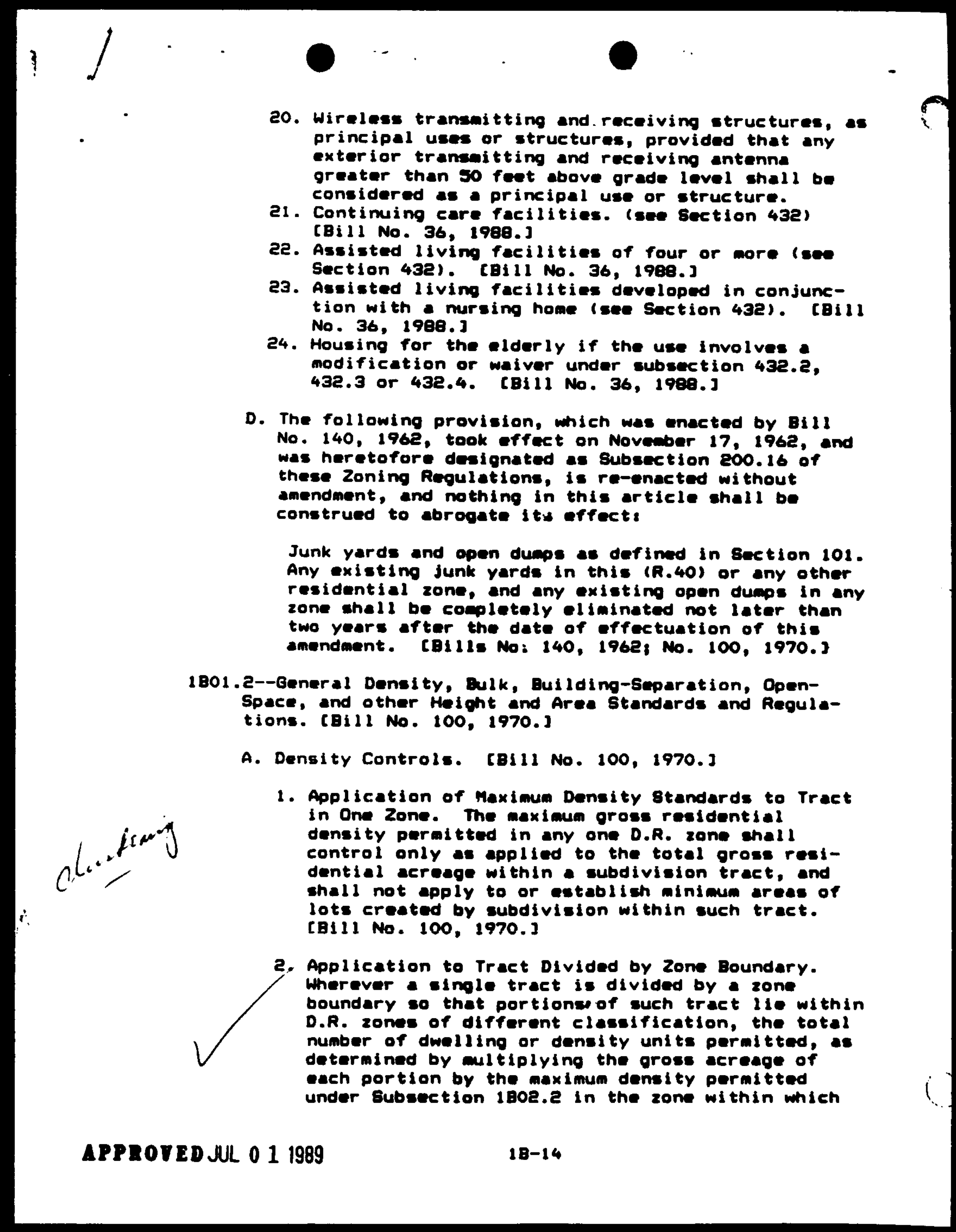
I trust that this letter has addressed your concerns in this regard.

Very truly yours,

Lawrence E. Schmidt
Zoning Commissioner

LES:mmn

MICROFILMED



20. Wireless transmitting and receiving structures, as principal uses or structures, provided that any exterior transmitting and receiving antenna greater than 50 feet above grade level shall be considered as a principal use or structure.
21. Continuing care facilities. (see Section 432) [Bill No. 36, 1988.]
22. Assisted living facilities of four or more (see Section 432). [Bill No. 36, 1988.]
23. Assisted living facilities developed in conjunction with a nursing home (see Section 432). [Bill No. 36, 1988.]
24. Housing for the elderly if the use involves a modification or waiver under subsection 432.2, 432.3 or 432.4. [Bill No. 36, 1988.]

D. The following provision, which was enacted by Bill No. 140, 1962, took effect on November 17, 1962, and was heretofore designated as Subsection 200.16 of these Zoning Regulations, is re-enacted without amendment, and nothing in this article shall be construed to abrogate its effect:

Junk yards and open dumps as defined in Section 101. Any existing junk yards in this (R.40) or any other residential zone, and any existing open dumps in any zone shall be completely eliminated not later than two years after the date of effectuation of this amendment. [Bills No: 140, 1962; No. 100, 1970.]

1B01.2--General Density, Bulk, Building-Separation, Open-Space, and other Height and Area Standards and Regulations. [Bill No. 100, 1970.]

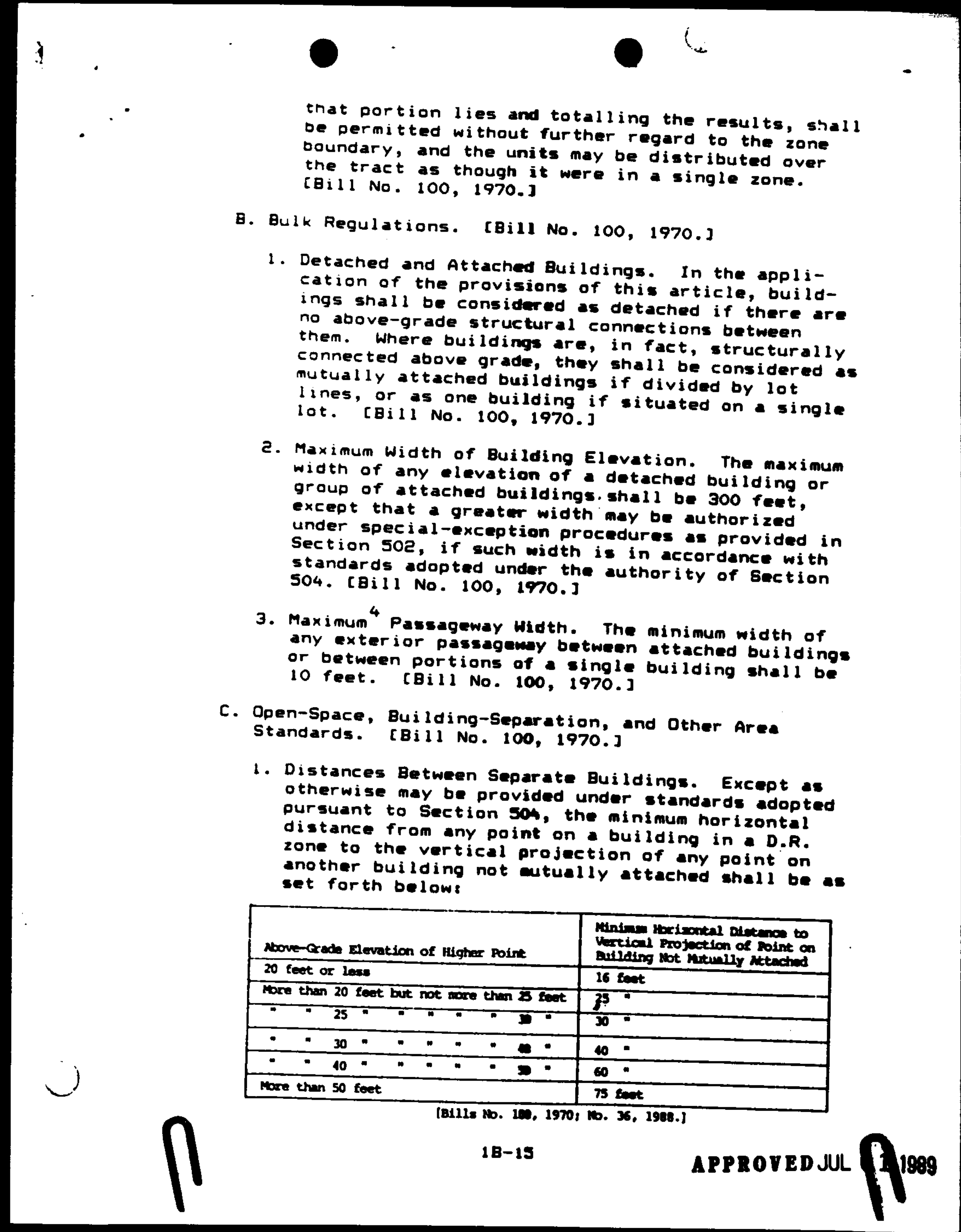
A. Density Controls. [Bill No. 100, 1970.]

1. Application of Maximum Density Standards to Tract in One Zone. The maximum gross residential density permitted in any one D.R. zone shall control only as applied to the total gross residential acreage within a subdivision tract, and shall not apply to or establish minimum areas of lots created by subdivision within such tract. [Bill No. 100, 1970.]

clustering

2. Application to Tract Divided by Zone Boundary. Wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. zones of different classification, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under Subsection 1B02.2 in the zone within which

APPROVED JUL 0 1 1989



that portion lies and totalling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone. [Bill No. 100, 1970.]

B. Bulk Regulations. [Bill No. 100, 1970.]

1. Detached and Attached Buildings. In the application of the provisions of this article, buildings shall be considered as detached if there are no above-grade structural connections between them. Where buildings are, in fact, structurally connected above grade, they shall be considered as mutually attached buildings if divided by lot lines, or as one building if situated on a single lot. [Bill No. 100, 1970.]

2. Maximum Width of Building Elevation. The maximum width of any elevation of a detached building or group of attached buildings shall be 300 feet, except that a greater width may be authorized under special-exception procedures as provided in Section 502, if such width is in accordance with standards adopted under the authority of Section 504. [Bill No. 100, 1970.]

3. Maximum[4] Passageway Width. The minimum width of any exterior passageway between attached buildings or between portions of a single building shall be 10 feet. [Bill No. 100, 1970.]

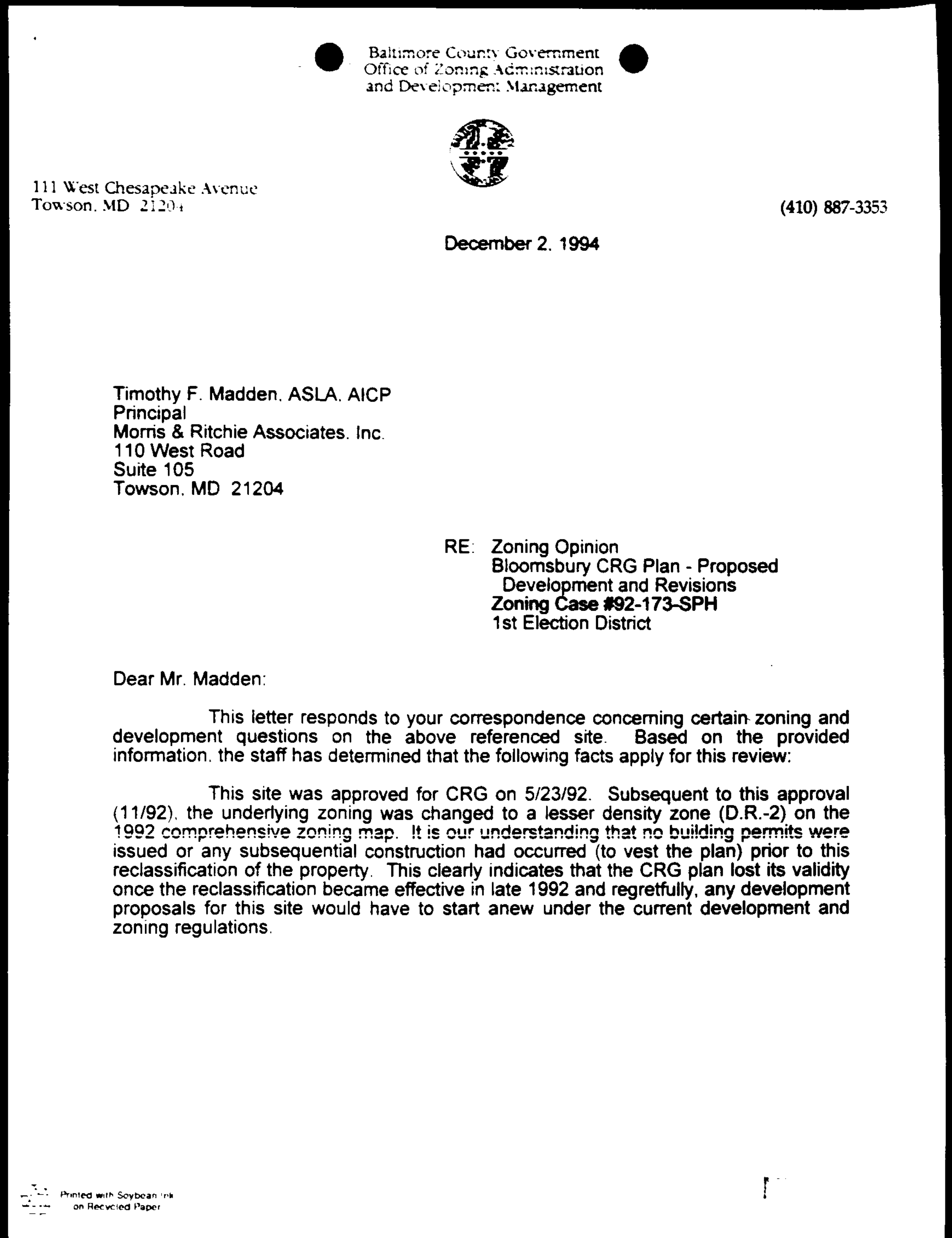
C. Open-Space, Building-Separation, and Other Area Standards. [Bill No. 100, 1970.]

1. Distances Between Separate Buildings. Except as otherwise may be provided under standards adopted pursuant to Section 504, the minimum horizontal distance from any point on a building in a D.R. zone to the vertical projection of any point on another building not mutually attached shall be as set forth below:

Above-Grade Elevation of Higher Point	Minimum Horizontal Distance to Vertical Projection of Point on Building Not Mutually Attached
20 feet or less	16 feet
More than 20 feet but not more than 25 feet	25 "
" " 25 " " " " " 30 "	30 "
" " 30 " " " " " 40 "	40 "
" " 40 " " " " " 50 "	60 "
More than 50 feet	75 feet

[Bills No. 100, 1970; No. 36, 1988.]

APPROVED JUL 0 1 1989



Baltimore County Government
Office of Zoning Administration
and Development Management

111 West Chesapeake Avenue
Towson, MD 21204

(410) 887-3353

December 2, 1994

Timothy F. Madden, ASLA, AICP
Principal
Morris & Ritchie Associates, Inc.
110 West Road
Suite 105
Towson, MD 21204

RE: Zoning Opinion
Bloomsbury CRG Plan - Proposed
Development and Revisions
Zoning Case #92-173-SPH
1st Election District

Dear Mr. Madden:

This letter responds to your correspondence concerning certain zoning and development questions on the above referenced site. Based on the provided information, the staff has determined that the following facts apply for this review:

This site was approved for CRG on 5/23/92. Subsequent to this approval (11/92), the underlying zoning was changed to a lesser density zone (D.R.-2) on the 1992 comprehensive zoning map. It is our understanding that no building permits were issued or any subsequential construction had occurred (to vest the plan) prior to this reclassification of the property. This clearly indicates that the CRG plan lost its validity once the reclassification became effective in late 1992 and regretfully, any development proposals for this site would have to start anew under the current development and zoning regulations.

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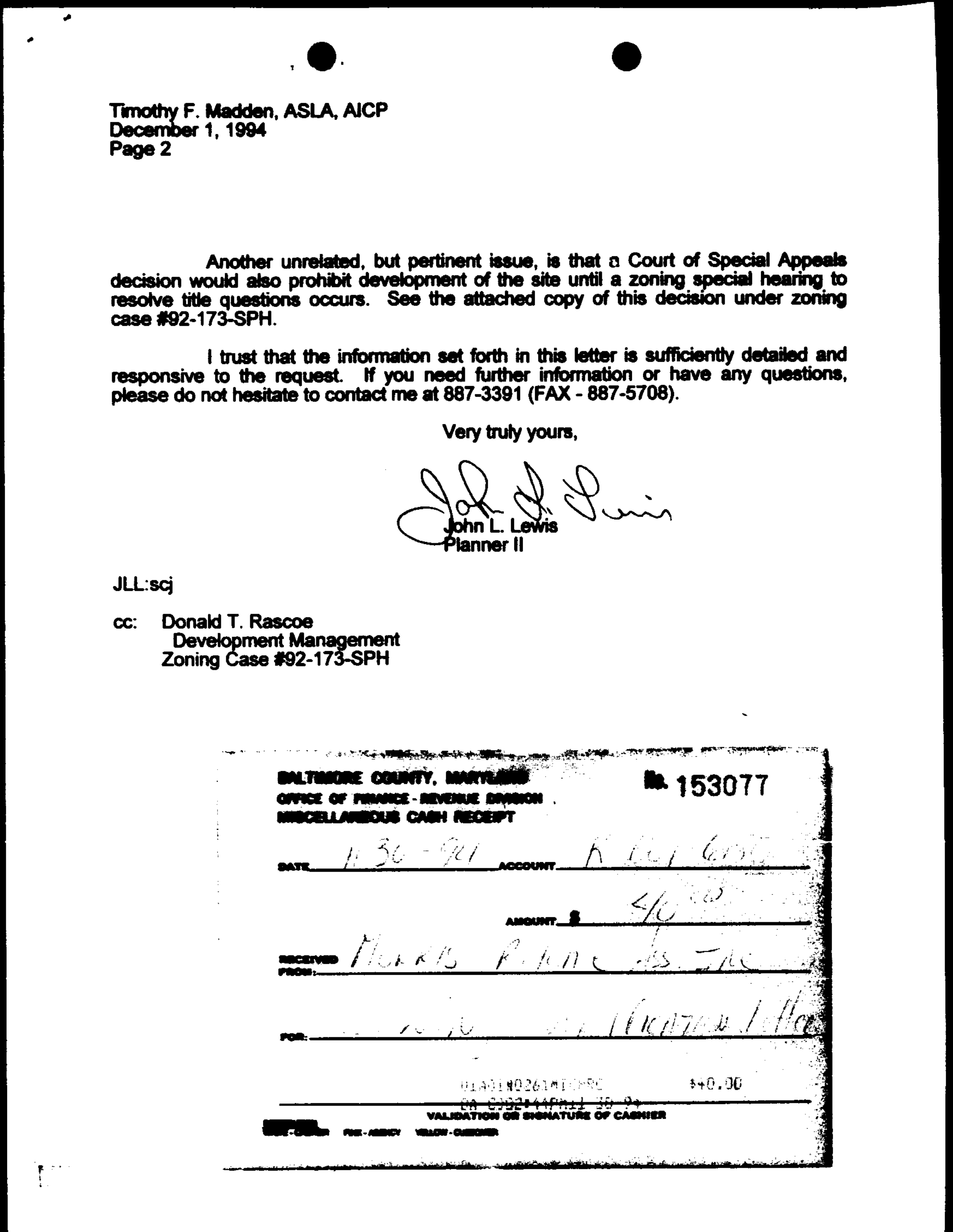
on Recycled Paper



Timothy F. Madden, ASLA, AICP
December 1, 1994
Page 2

Another unrelated, but pertinent issue, is that a Court of Special Appeals decision would also prohibit development of the site until a zoning special hearing to resolve title questions occurs. See the attached copy of this decision under zoning case #92-173-SPH.

I trust that the information set forth in this letter is sufficiently detailed and responsive to the request. If you need further information or have any questions, please do not hesitate to contact me at 887-3391 (FAX - 887-5708).

Very truly yours,

John L. Lewis
John L. Lewis
Planner II

JLL:scj

cc: Donald T. Rascoe
Development Management
Zoning Case #92-173-SPH

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

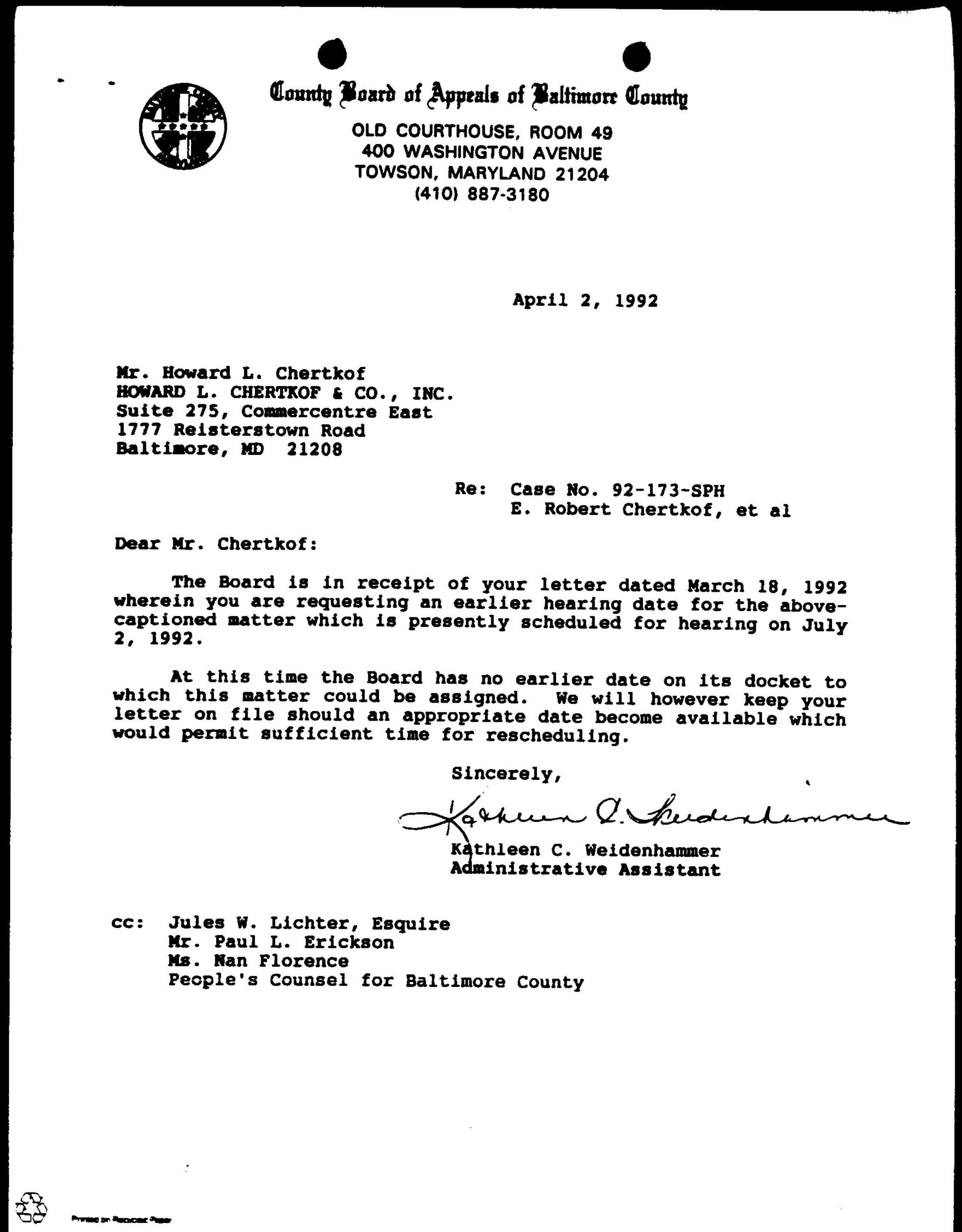
No. 153077

DATE 11-30-94 ACCOUNT [illegible]
AMOUNT $ 40.00
RECEIVED FROM: Morris Ritchie Ass. Inc
FOR: [illegible]

01A01#0261MICHRC $40.00
BA C002:41PM11-30-94

VALIDATION OR SIGNATURE OF CASHIER

WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER



County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

April 2, 1992

Mr. Howard L. Chertkof
HOWARD L. CHERTKOF & CO., INC.
Suite 275, Commercentre East
1777 Reisterstown Road
Baltimore, MD 21208

Re: Case No. 92-173-SPH
E. Robert Chertkof, et al

Dear Mr. Chertkof:

The Board is in receipt of your letter dated March 18, 1992 wherein you are requesting an earlier hearing date for the above-captioned matter which is presently scheduled for hearing on July 2, 1992.

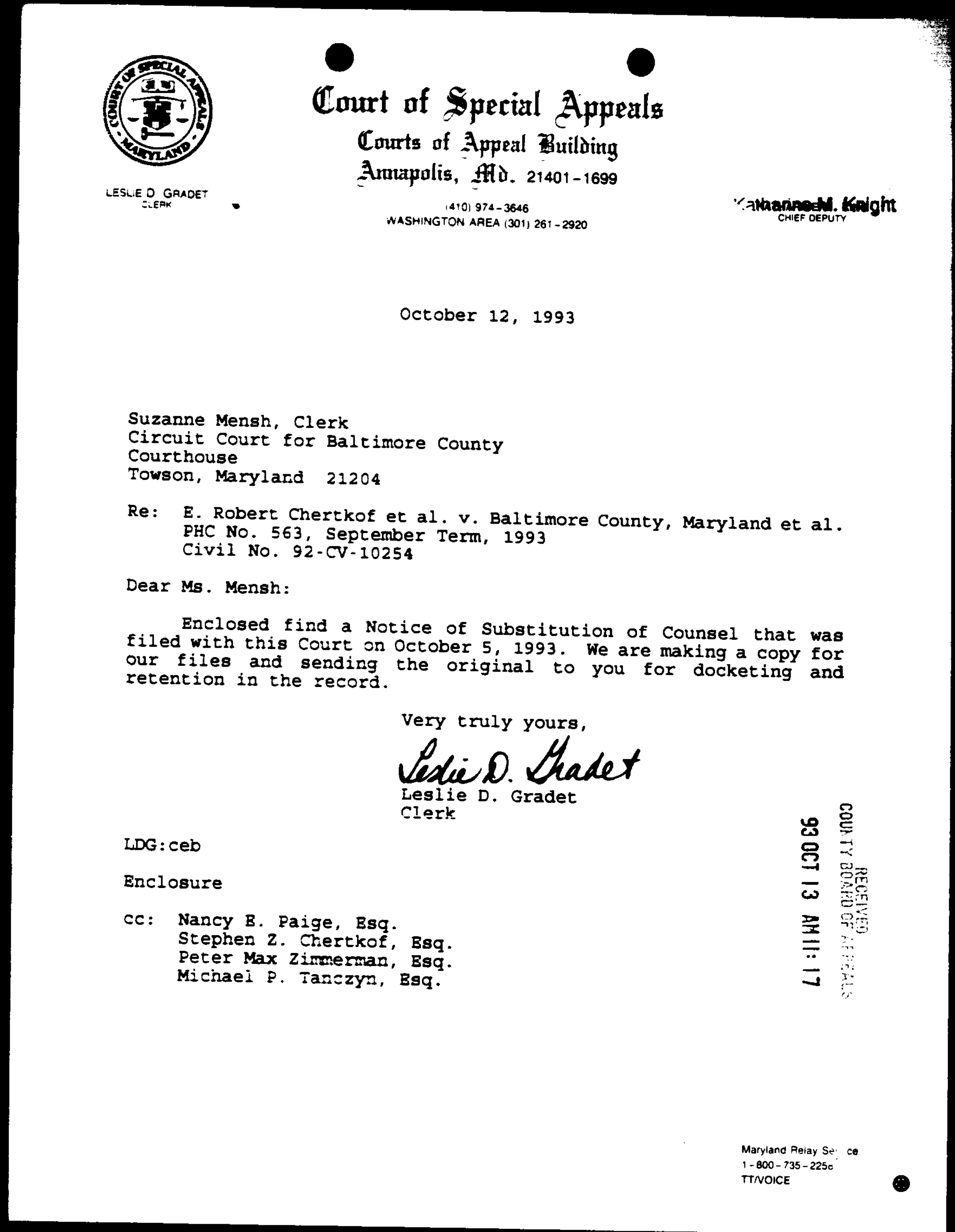
At this time the Board has no earlier date on its docket to which this matter could be assigned. We will however keep your letter on file should an appropriate date become available which would permit sufficient time for rescheduling.

Sincerely,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

cc: Jules W. Lichter, Esquire
Mr. Paul L. Erickson
Ms. Nan Florence
People's Counsel for Baltimore County

Printed on Recycled Paper



Court of Special Appeals
Courts of Appeal Building
Annapolis, Md. 21401-1699

LESLIE D. GRADET
CLERK

(410) 974-3646
WASHINGTON AREA (301) 261-2920

Katharine M. Knight
CHIEF DEPUTY

October 12, 1993

Suzanne Mensh, Clerk
Circuit Court for Baltimore County
Courthouse
Towson, Maryland 21204

Re: E. Robert Chertkof et al. v. Baltimore County, Maryland et al.
PHC No. 563, September Term, 1993
Civil No. 92-CV-10254

Dear Ms. Mensh:

Enclosed find a Notice of Substitution of Counsel that was filed with this Court on October 5, 1993. We are making a copy for our files and sending the original to you for docketing and retention in the record.

Very truly yours,

Leslie D. Gradet
Leslie D. Gradet
Clerk

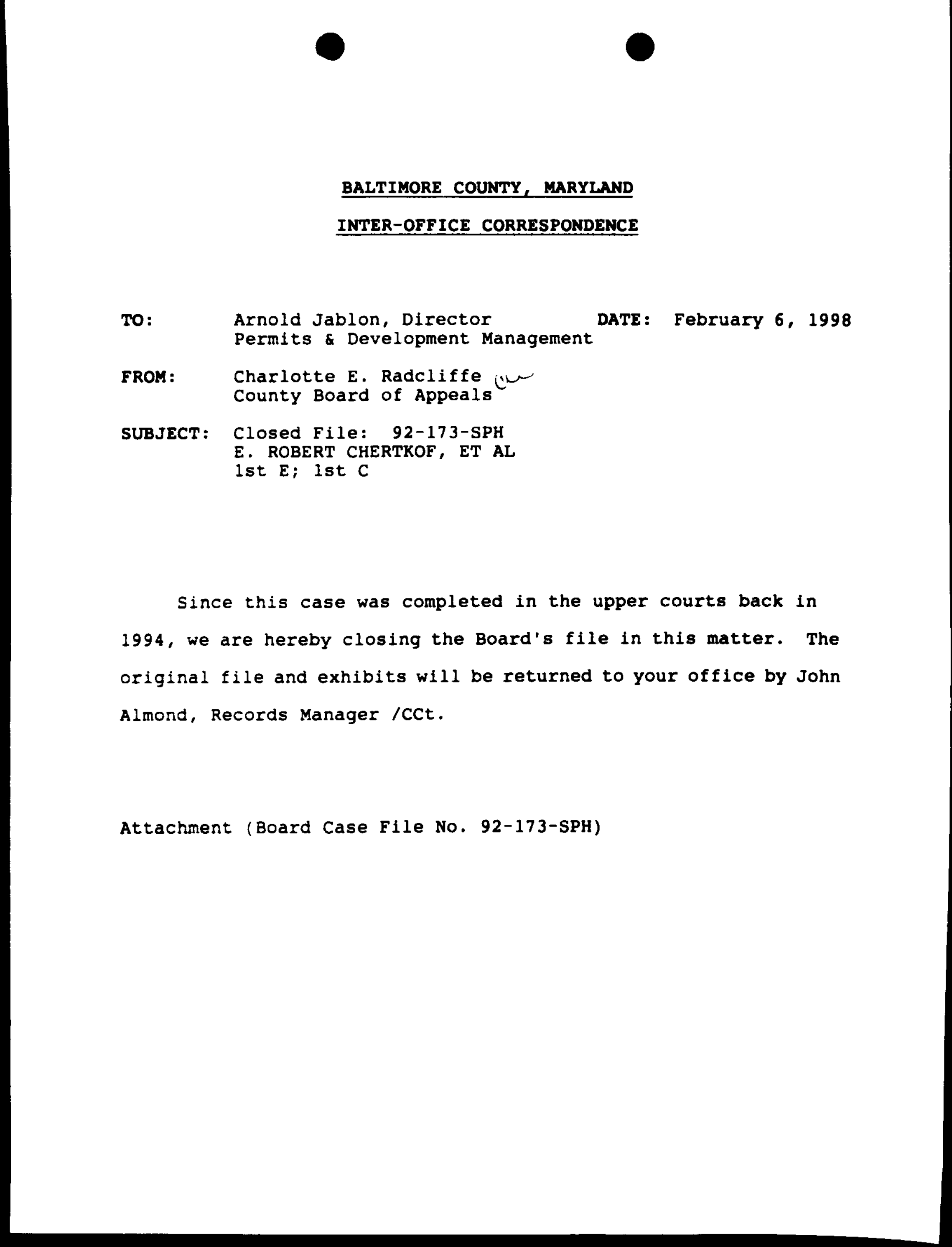
LDG:ceb

Enclosure

cc: Nancy E. Paige, Esq.
Stephen Z. Chertkof, Esq.
Peter Max Zimmerman, Esq.
Michael P. Tanczyn, Esq.

RECEIVED
COUNTY BOARD OF APPEALS
93 OCT 13 AM 11:17

Maryland Relay Service
1-800-735-2258
TT/VOICE



BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

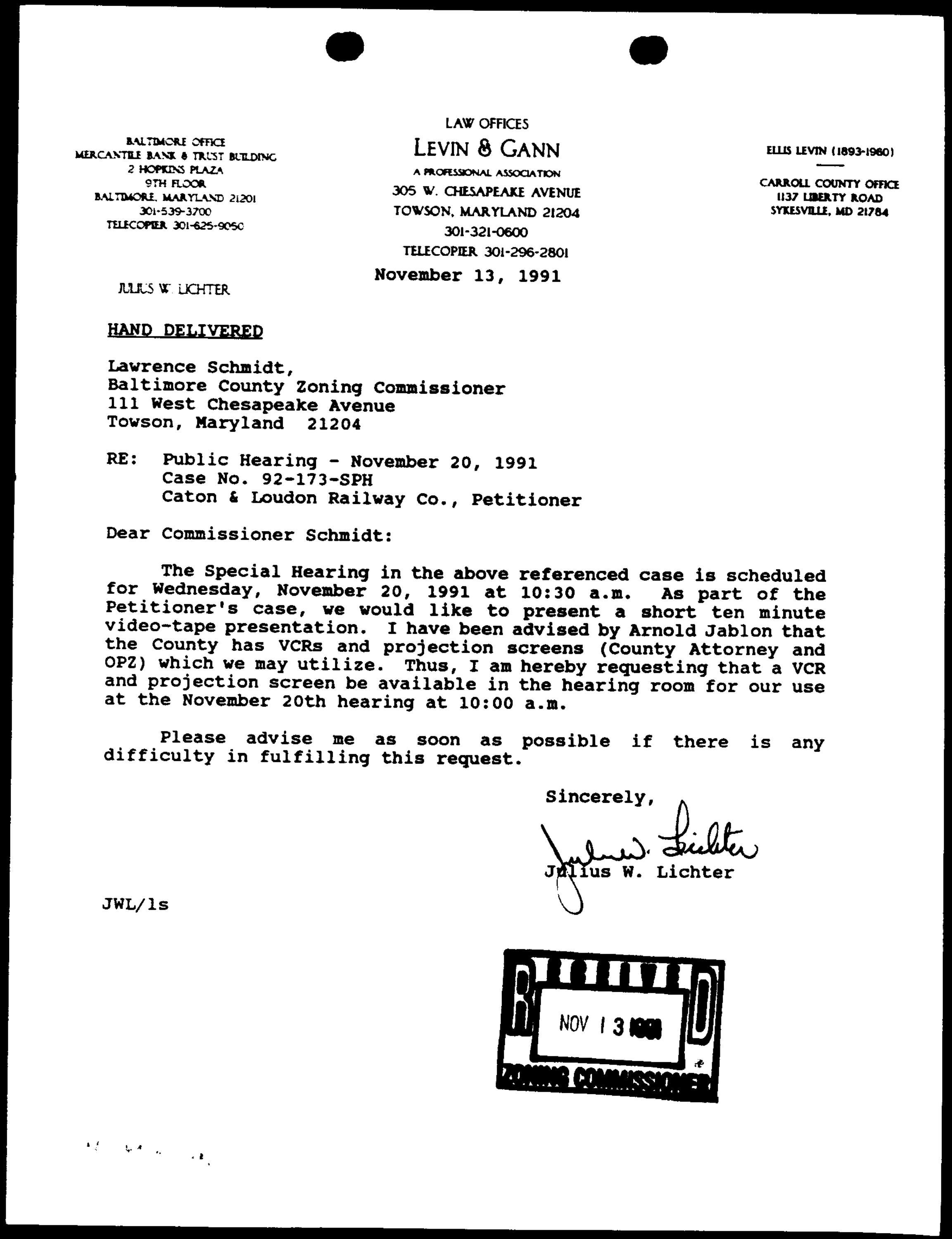
TO: Arnold Jablon, Director
Permits & Development Management
DATE: February 6, 1998

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: 92-173-SPH
E. ROBERT CHERTKOF, ET AL
1st E; 1st C

Since this case was completed in the upper courts back in 1994, we are hereby closing the Board's file in this matter. The original file and exhibits will be returned to your office by John Almond, Records Manager /CCt.

Attachment (Board Case File No. 92-173-SPH)



LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-321-0600
TELECOPIER 301-296-2801

BALTIMORE OFFICE
MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
301-539-3700
TELECOPIER 301-625-9050

ELLIS LEVIN (1893-1960)

CARROLL COUNTY OFFICE
1137 LIBERTY ROAD
SYKESVILLE, MD 21784

JULIUS W. LICHTER

November 13, 1991

HAND DELIVERED

Lawrence Schmidt,
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Public Hearing - November 20, 1991
Case No. 92-173-SPH
Caton & Loudon Railway Co., Petitioner

Dear Commissioner Schmidt:

The Special Hearing in the above referenced case is scheduled for Wednesday, November 20, 1991 at 10:30 a.m. As part of the Petitioner's case, we would like to present a short ten minute video-tape presentation. I have been advised by Arnold Jablon that the County has VCRs and projection screens (County Attorney and OPZ) which we may utilize. Thus, I am hereby requesting that a VCR and projection screen be available in the hearing room for our use at the November 20th hearing at 10:00 a.m.

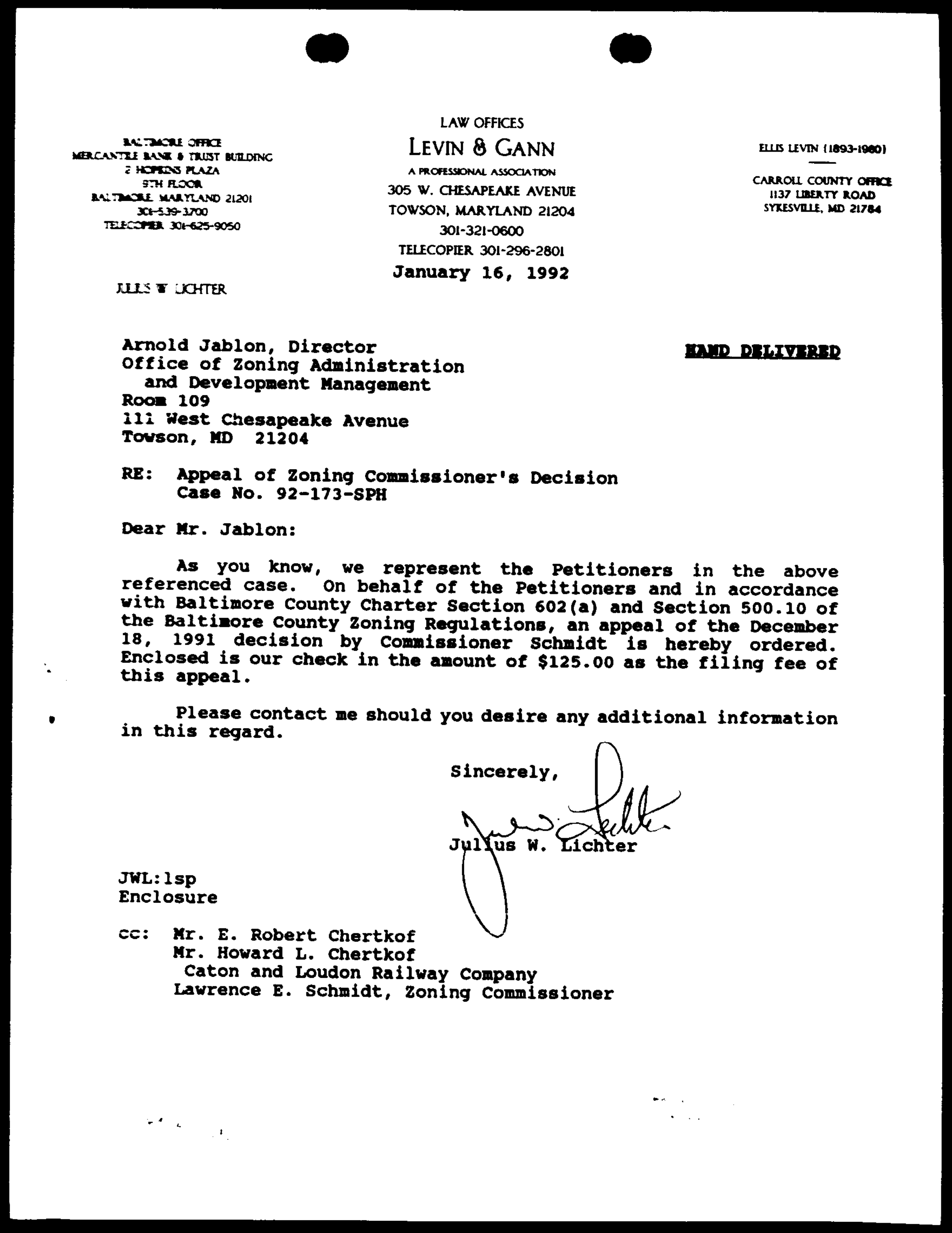
Please advise me as soon as possible if there is any difficulty in fulfilling this request.

Sincerely,

Julius W. Lichter
Julius W. Lichter

JWL/ls

RECEIVED
NOV 13 1991
ZONING COMMISSIONER



LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
301-321-0600
TELECOPIER 301-296-2801

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9TH FLOOR
BALTIMORE, MARYLAND 21201
301-539-3700
TELECOPIER 301-625-9050

ELLIS LEVIN (1893-1960)

CARROLL COUNTY OFFICE
1137 LIBERTY ROAD
SYKESVILLE, MD 21784

JULIUS W. LICHTER

January 16, 1992

HAND DELIVERED

Arnold Jablon, Director
Office of Zoning Administration
and Development Management
Room 109
111 West Chesapeake Avenue
Towson, MD 21204

RE: Appeal of Zoning Commissioner's Decision
Case No. 92-173-SPH

Dear Mr. Jablon:

As you know, we represent the Petitioners in the above referenced case. On behalf of the Petitioners and in accordance with Baltimore County Charter Section 602(a) and Section 500.10 of the Baltimore County Zoning Regulations, an appeal of the December 18, 1991 decision by Commissioner Schmidt is hereby ordered. Enclosed is our check in the amount of $125.00 as the filing fee of this appeal.

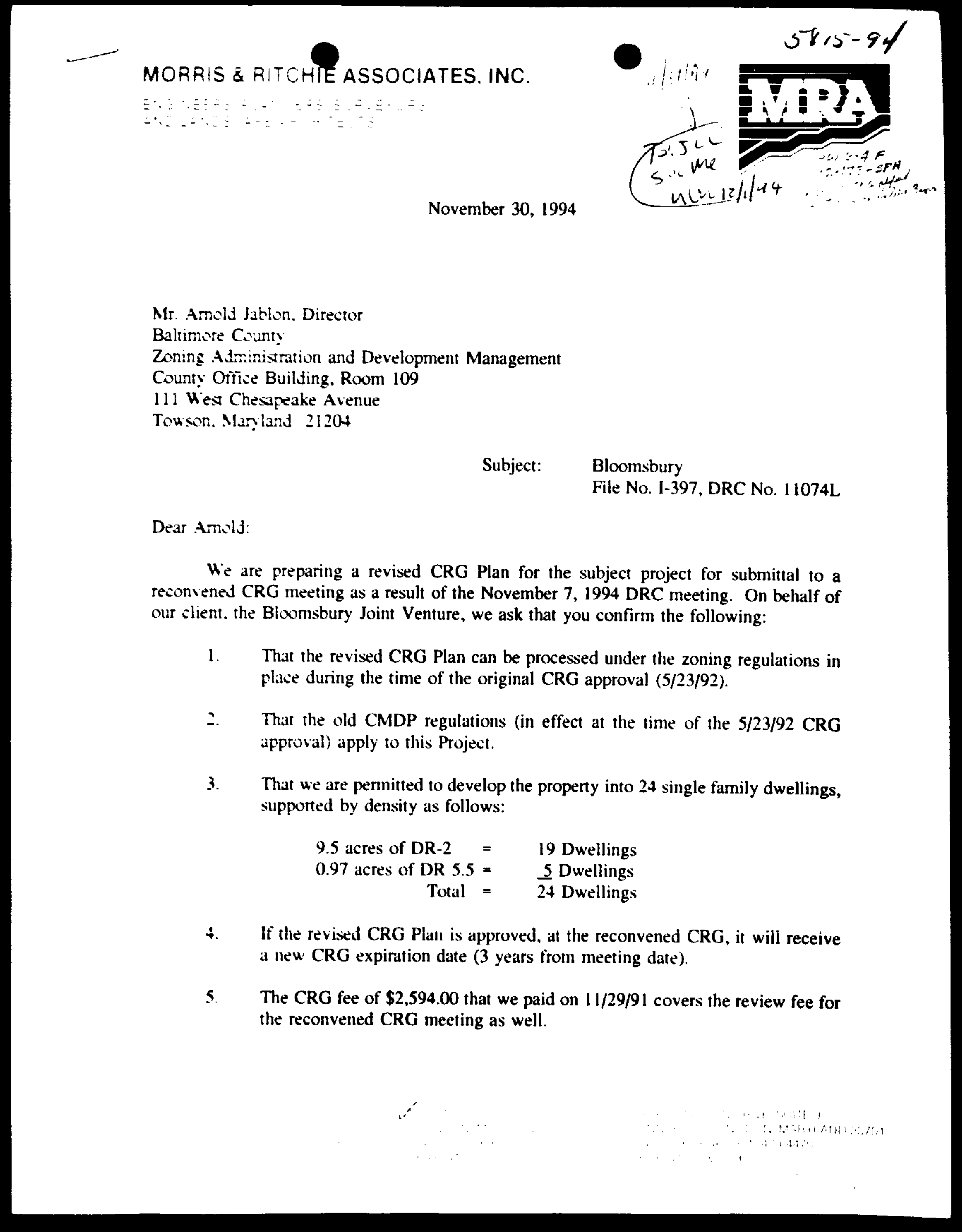
Please contact me should you desire any additional information in this regard.

Sincerely,

Julius W. Lichter

JWL:lsp
Enclosure

cc: Mr. E. Robert Chertkof
Mr. Howard L. Chertkof
Caton and Loudon Railway Company
Lawrence E. Schmidt, Zoning Commissioner



5815-94

MORRIS & RITCHIE ASSOCIATES, INC.

MRA

November 30, 1994

Mr. Arnold Jablon, Director
Baltimore County
Zoning Administration and Development Management
County Office Building, Room 109
111 West Chesapeake Avenue
Towson, Maryland 21204

Subject: Bloomsbury
File No. I-397, DRC No. 11074L

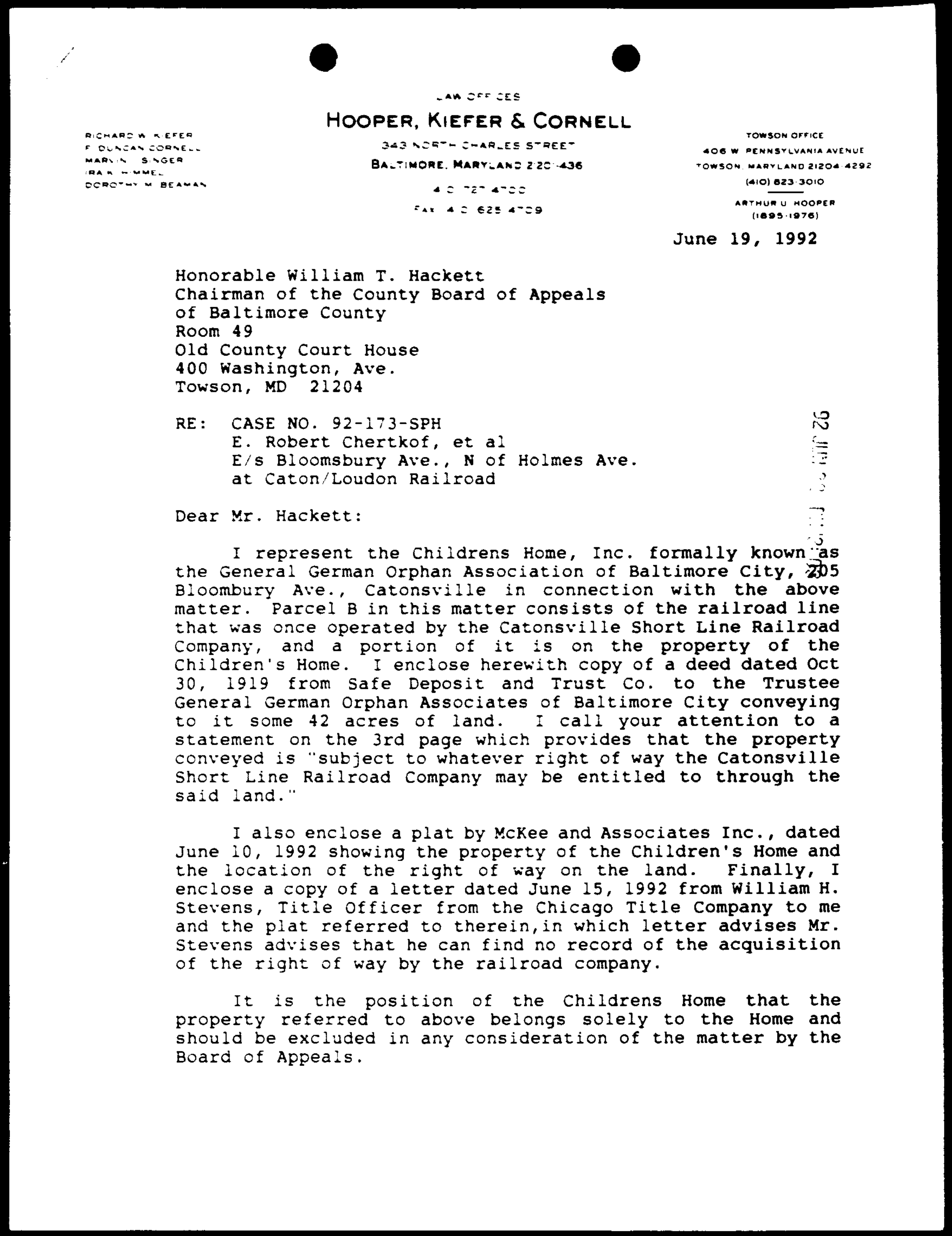
Dear Arnold:

We are preparing a revised CRG Plan for the subject project for submittal to a reconvened CRG meeting as a result of the November 7, 1994 DRC meeting. On behalf of our client, the Bloomsbury Joint Venture, we ask that you confirm the following:

1. That the revised CRG Plan can be processed under the zoning regulations in place during the time of the original CRG approval (5/23/92).
2. That the old CMDP regulations (in effect at the time of the 5/23/92 CRG approval) apply to this Project.
3. That we are permitted to develop the property into 24 single family dwellings, supported by density as follows:

9.5 acres of DR-2	=	19 Dwellings
0.97 acres of DR 5.5	=	5 Dwellings
Total	=	24 Dwellings

4. If the revised CRG Plan is approved, at the reconvened CRG, it will receive a new CRG expiration date (3 years from meeting date).
5. The CRG fee of $2,594.00 that we paid on 11/29/91 covers the review fee for the reconvened CRG meeting as well.



LAW OFFICES
HOOPER, KIEFER & CORNELL
343 NORTH CHARLES STREET
BALTIMORE, MARYLAND 21201-436
410 727 4700
FAX 410 625 4709

RICHARD W. KIEFER
F. DUNCAN CORNELL
MARVIN I. SINGER
IRA K. HIMMEL
DOROTHY M. BEAMAN

TOWSON OFFICE
406 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4292
(410) 823-3010

ARTHUR U. HOOPER
(1895-1976)

June 19, 1992

Honorable William T. Hackett
Chairman of the County Board of Appeals
of Baltimore County
Room 49
Old County Court House
400 Washington, Ave.
Towson, MD 21204

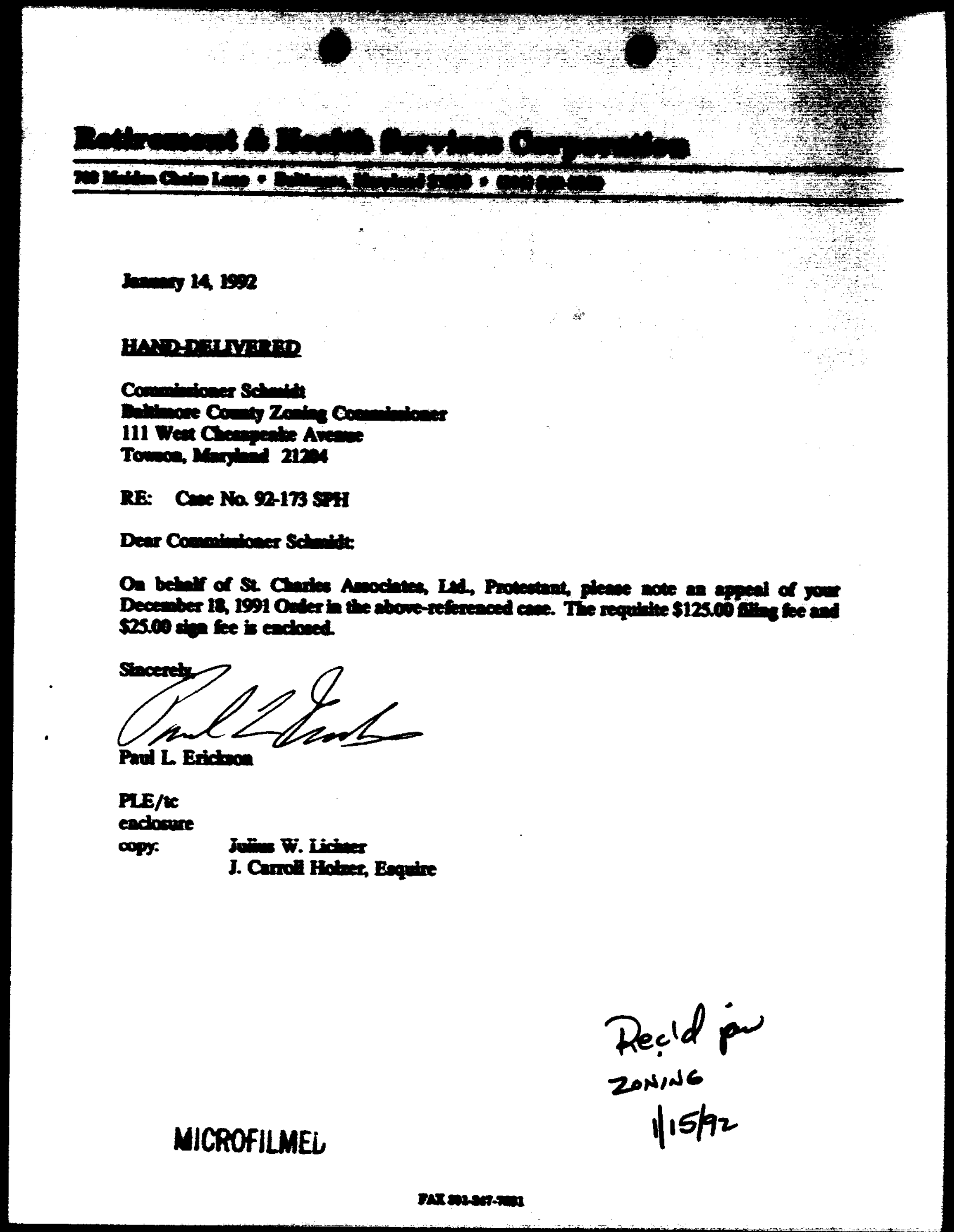
RE: CASE NO. 92-173-SPH
E. Robert Chertkof, et al
E/s Bloomsbury Ave., N of Holmes Ave.
at Caton/Loudon Railroad

Dear Mr. Hackett:

I represent the Childrens Home, Inc. formally known as the General German Orphan Association of Baltimore City, 205 Bloombury Ave., Catonsville in connection with the above matter. Parcel B in this matter consists of the railroad line that was once operated by the Catonsville Short Line Railroad Company, and a portion of it is on the property of the Children's Home. I enclose herewith copy of a deed dated Oct 30, 1919 from Safe Deposit and Trust Co. to the Trustee General German Orphan Associates of Baltimore City conveying to it some 42 acres of land. I call your attention to a statement on the 3rd page which provides that the property conveyed is "subject to whatever right of way the Catonsville Short Line Railroad Company may be entitled to through the said land."

I also enclose a plat by McKee and Associates Inc., dated June 10, 1992 showing the property of the Children's Home and the location of the right of way on the land. Finally, I enclose a copy of a letter dated June 15, 1992 from William H. Stevens, Title Officer from the Chicago Title Company to me and the plat referred to therein,in which letter advises Mr. Stevens advises that he can find no record of the acquisition of the right of way by the railroad company.

It is the position of the Childrens Home that the property referred to above belongs solely to the Home and should be excluded in any consideration of the matter by the Board of Appeals.



Retirement & Health Services Corporation
700 Maiden Choice Lane • Baltimore, Maryland [illegible] • [illegible]

January 14, 1992

HAND-DELIVERED

Commissioner Schmidt
Baltimore County Zoning Commissioner
111 West Chesapeake Avenue
Towson, Maryland 21204

RE: Case No. 92-173 SPH

Dear Commissioner Schmidt:

On behalf of St. Charles Associates, Ltd., Protestant, please note an appeal of your December 18, 1991 Order in the above-referenced case. The requisite $125.00 filing fee and $25.00 sign fee is enclosed.

Sincerely,

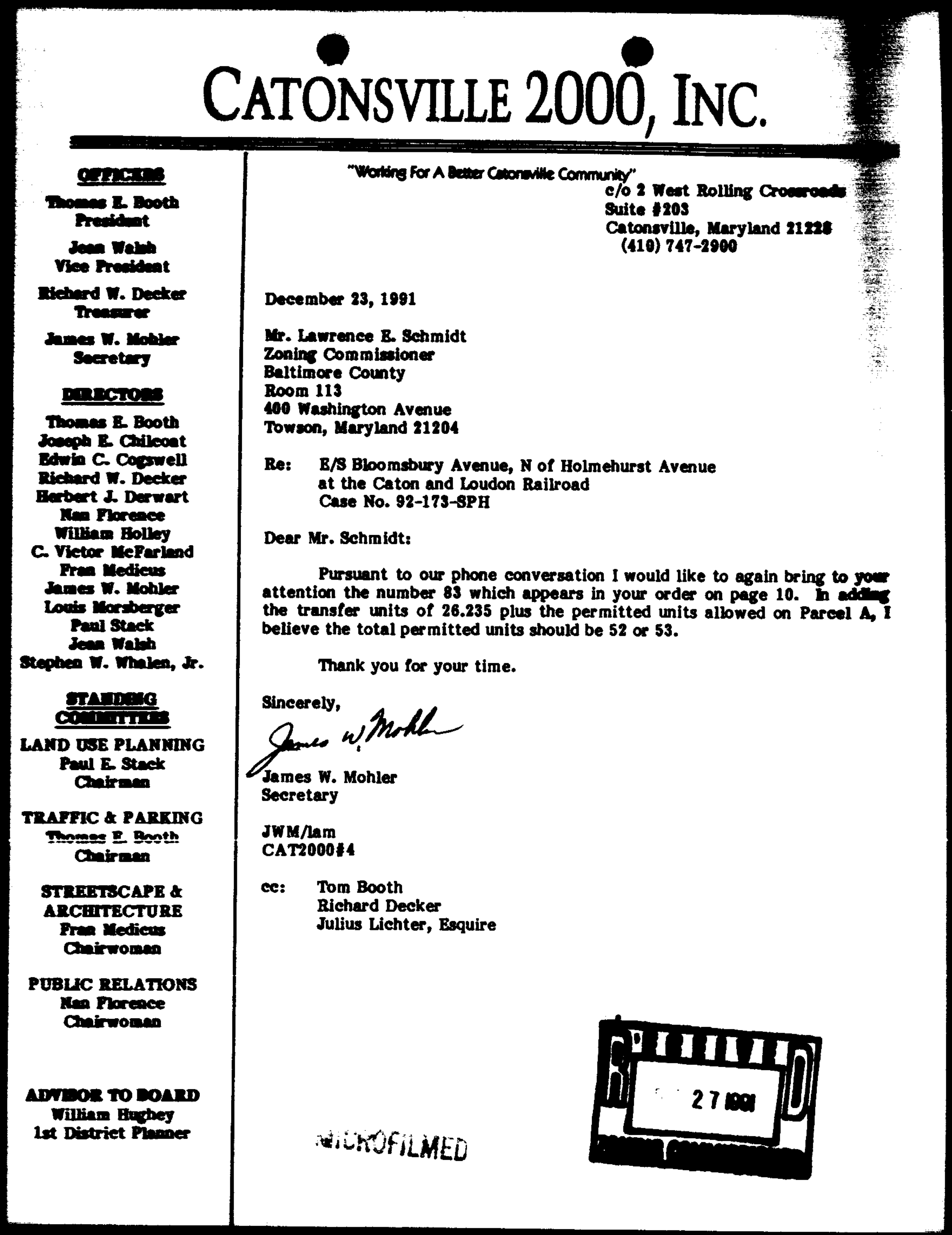
Paul L. Erickson

PLE/tc
enclosure
copy: Julius W. Lichter
J. Carroll Holzer, Esquire

Rec'd for
ZONING
1/15/92

MICROFILMED

FAX [illegible]



CATONSVILLE 2000, INC.
"Working For A Better Catonsville Community"
c/o 2 West Rolling Crossroads
Suite #203
Catonsville, Maryland 21228
(410) 747-2900

OFFICERS
Thomas E. Booth
President
Jean Walsh
Vice President
Richard W. Decker
Treasurer
James W. Mohler
Secretary

DIRECTORS
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Joseph E. Chilcoat
Edwin C. Cogswell
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Herbert J. Derwart
Nan Florence
William Holley
C. Victor McFarland
Fran Medicus
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Paul Stack
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Fran Medicus
Chairwoman
PUBLIC RELATIONS
Nan Florence
Chairwoman

ADVISOR TO BOARD
William Hughey
1st District Planner

December 23, 1991

Mr. Lawrence E. Schmidt
Zoning Commissioner
Baltimore County
Room 113
400 Washington Avenue
Towson, Maryland 21204

Re: E/S Bloomsbury Avenue, N of Holmehurst Avenue
at the Caton and Loudon Railroad
Case No. 92-173-SPH

Dear Mr. Schmidt:

Pursuant to our phone conversation I would like to again bring to your attention the number 83 which appears in your order on page 10. In adding the transfer units of 26.235 plus the permitted units allowed on Parcel A, I believe the total permitted units should be 52 or 53.

Thank you for your time.

Sincerely,

James W. Mohler

James W. Mohler
Secretary

JWM/lam
CAT2000#4

cc: Tom Booth
Richard Decker
Julius Lichter, Esquire

27 1991

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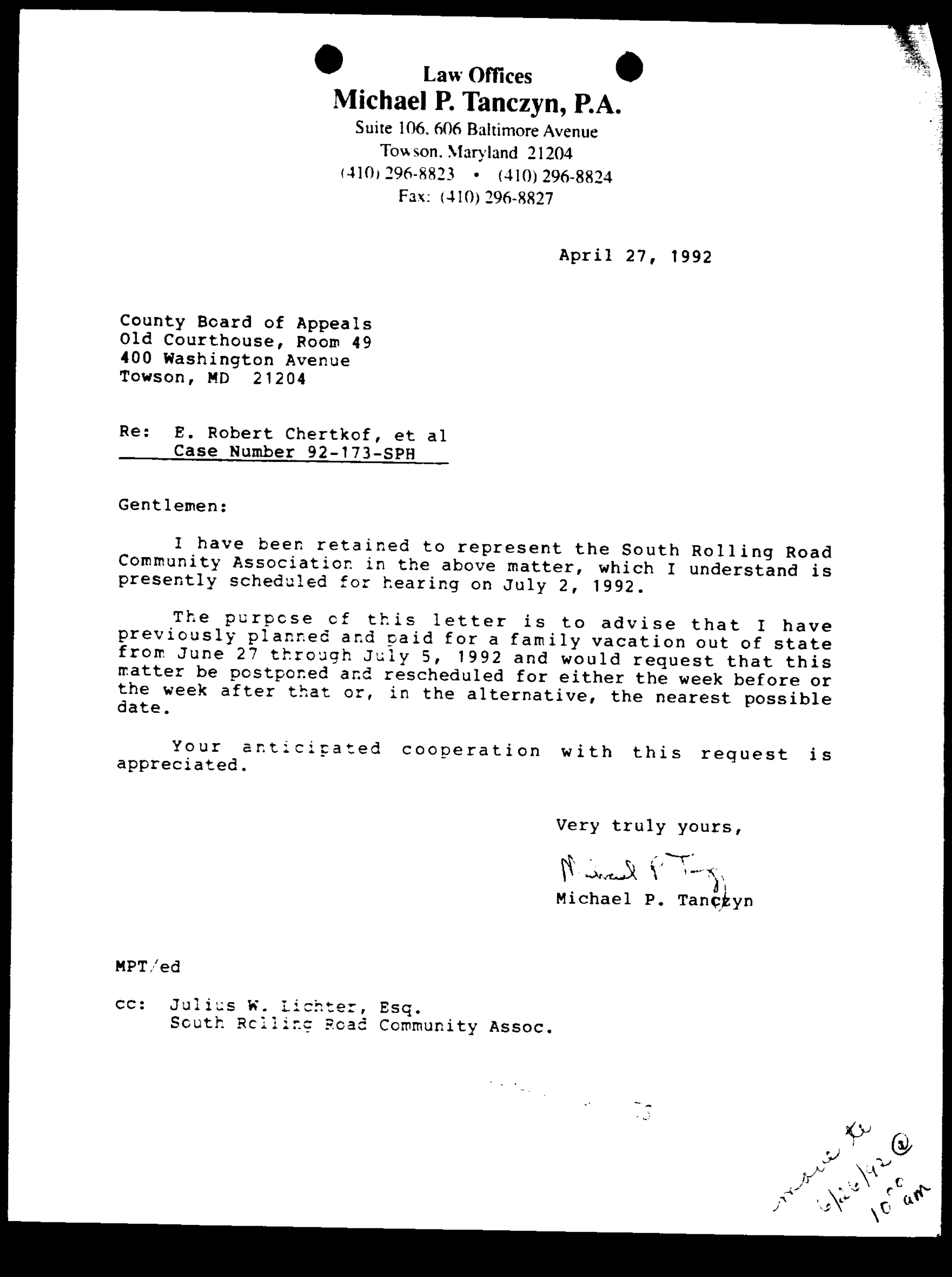


Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824
Fax: (410) 296-8827

April 27, 1992

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: E. Robert Chertkof, et al
Case Number 92-173-SPH

Gentlemen:

I have been retained to represent the South Rolling Road Community Association in the above matter, which I understand is presently scheduled for hearing on July 2, 1992.

The purpose of this letter is to advise that I have previously planned and paid for a family vacation out of state from June 27 through July 5, 1992 and would request that this matter be postponed and rescheduled for either the week before or the week after that or, in the alternative, the nearest possible date.

Your anticipated cooperation with this request is appreciated.

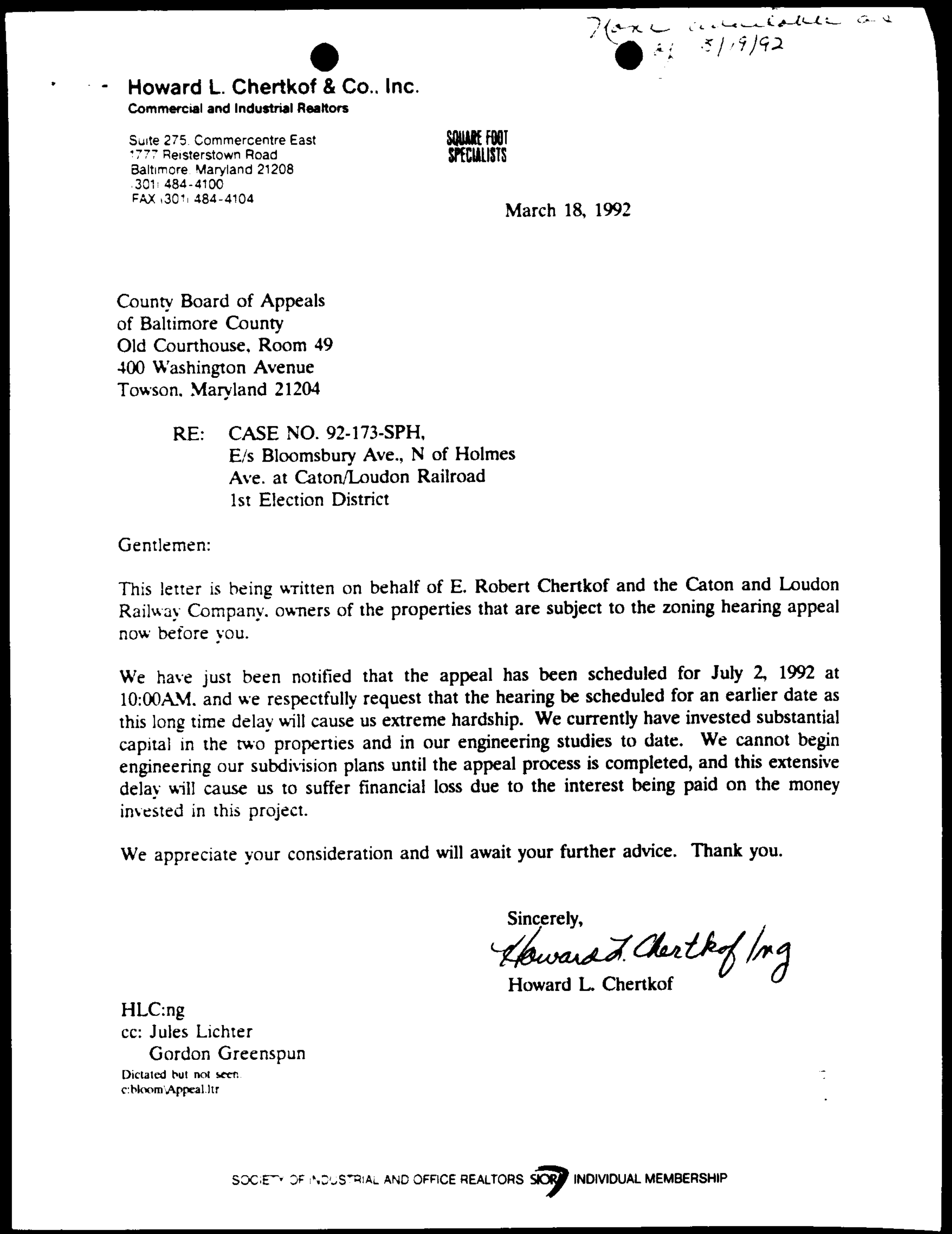
Very truly yours,

Michael P. Tanczyn

MPT/ed

cc: Julius W. Lichter, Esq.
South Rolling Road Community Assoc.

moved to 6/26/92 @ 10^{00} am



[illegible] 3/19/92

Howard L. Chertkof & Co., Inc.
Commercial and Industrial Realtors
Suite 275, Commercentre East
1777 Reisterstown Road
Baltimore, Maryland 21208
(301) 484-4100
FAX (301) 484-4104
SQUARE FOOT SPECIALISTS

March 18, 1992

County Board of Appeals
of Baltimore County
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

RE: CASE NO. 92-173-SPH,
E/s Bloomsbury Ave., N of Holmes
Ave. at Caton/Loudon Railroad
1st Election District

Gentlemen:

This letter is being written on behalf of E. Robert Chertkof and the Caton and Loudon Railway Company, owners of the properties that are subject to the zoning hearing appeal now before you.

We have just been notified that the appeal has been scheduled for July 2, 1992 at 10:00AM, and we respectfully request that the hearing be scheduled for an earlier date as this long time delay will cause us extreme hardship. We currently have invested substantial capital in the two properties and in our engineering studies to date. We cannot begin engineering our subdivision plans until the appeal process is completed, and this extensive delay will cause us to suffer financial loss due to the interest being paid on the money invested in this project.

We appreciate your consideration and will await your further advice. Thank you.

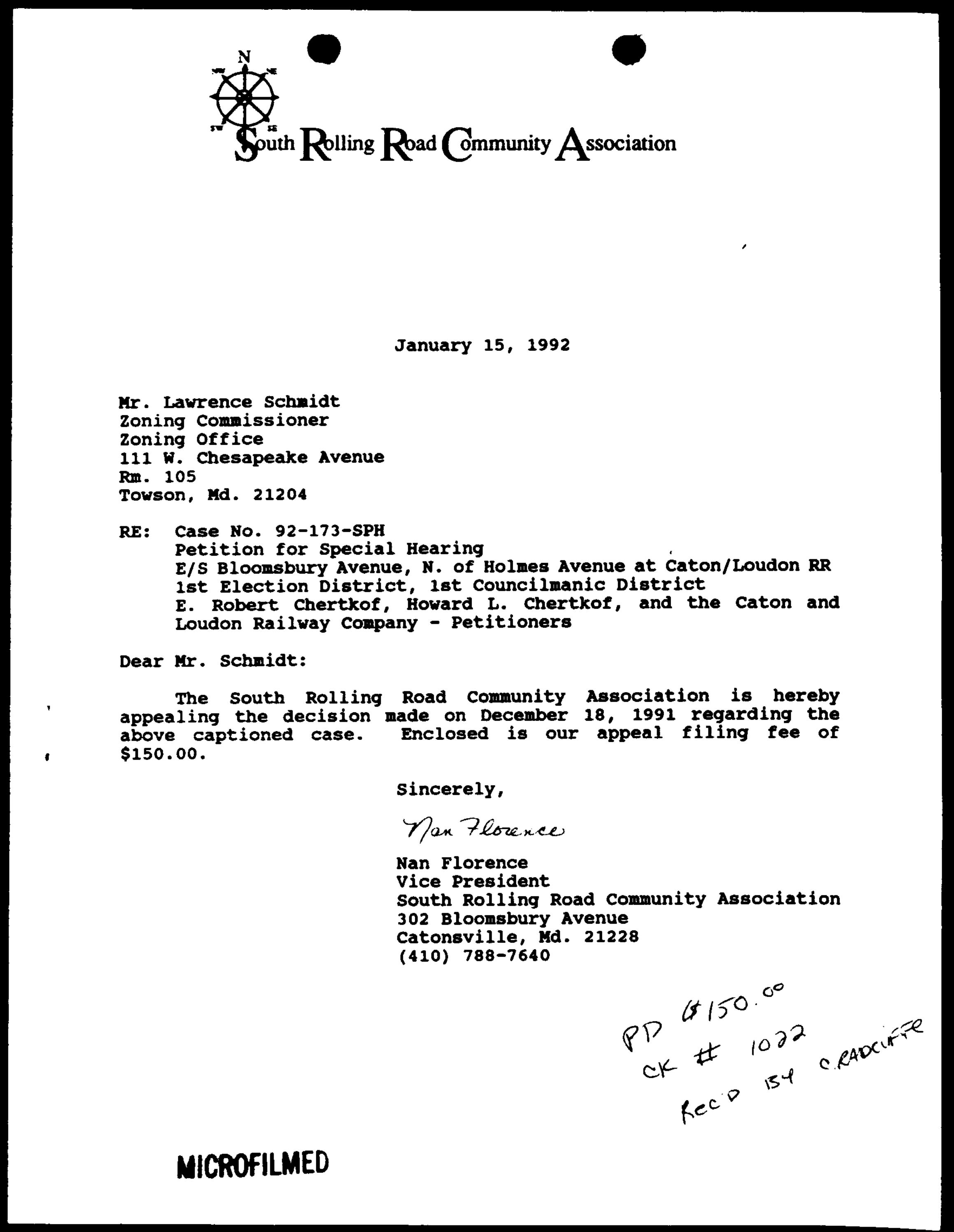
Sincerely,

Howard L. Chertkof /ng

Howard L. Chertkof

HLC:ng
cc: Jules Lichter
Gordon Greenspun
Dictated but not seen
c:bloom\Appeal.ltr

SOCIETY OF INDUSTRIAL AND OFFICE REALTORS SIOR INDIVIDUAL MEMBERSHIP



South Rolling Road Community Association

January 15, 1992

Mr. Lawrence Schmidt
Zoning Commissioner
Zoning Office
111 W. Chesapeake Avenue
Rm. 105
Towson, Md. 21204

RE: Case No. 92-173-SPH
Petition for Special Hearing
E/S Bloomsbury Avenue, N. of Holmes Avenue at Caton/Loudon RR
1st Election District, 1st Councilmanic District
E. Robert Chertkof, Howard L. Chertkof, and the Caton and Loudon Railway Company - Petitioners

Dear Mr. Schmidt:

The South Rolling Road Community Association is hereby appealing the decision made on December 18, 1991 regarding the above captioned case. Enclosed is our appeal filing fee of $150.00.

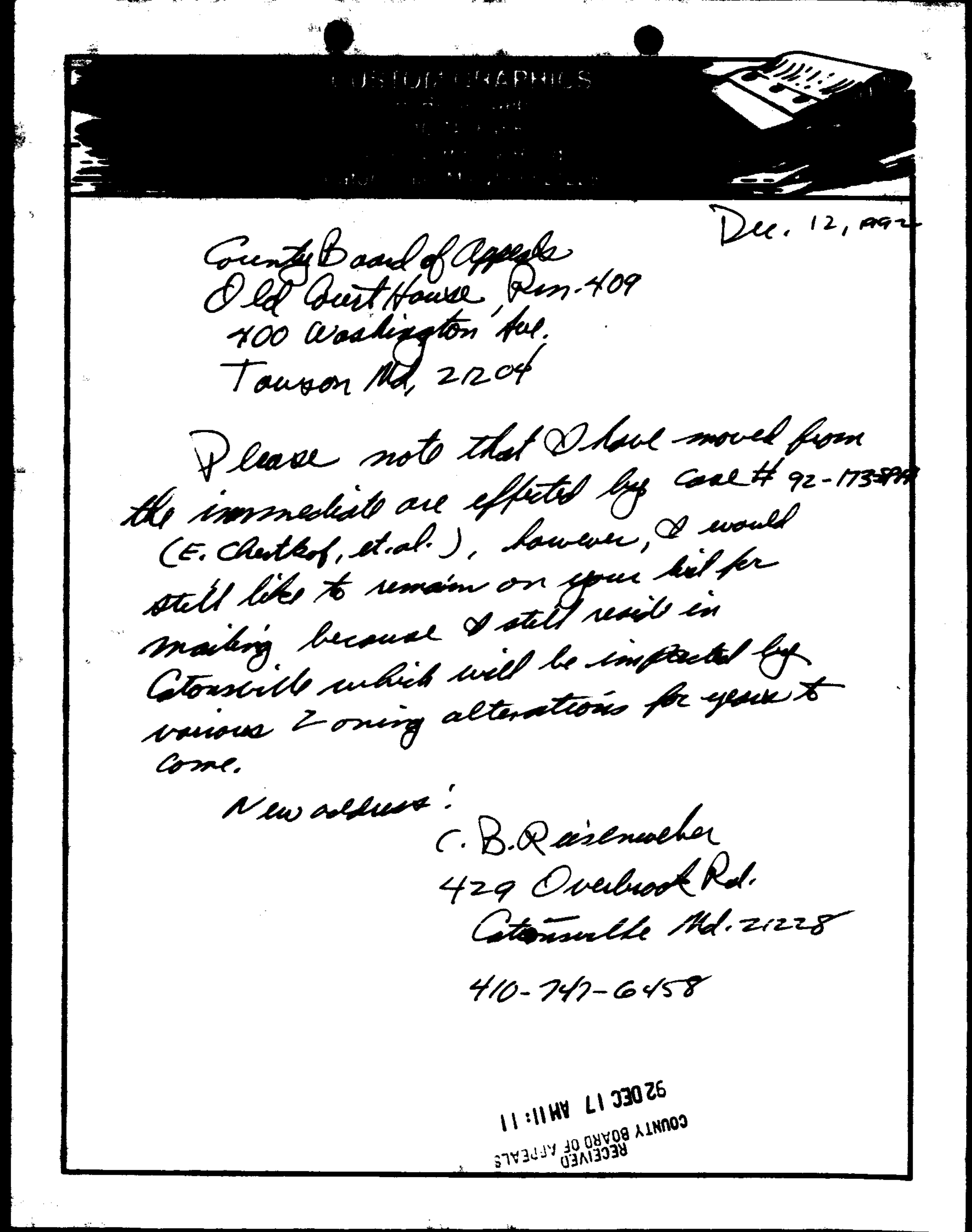
Sincerely,

Nan Florence

Nan Florence
Vice President
South Rolling Road Community Association
302 Bloomsbury Avenue
Catonsville, Md. 21228
(410) 788-7640

PD $150.00
CK # 1022
Rec'd by C. RADCLIFFE

MICROFILMED



CUSTOM GRAPHICS

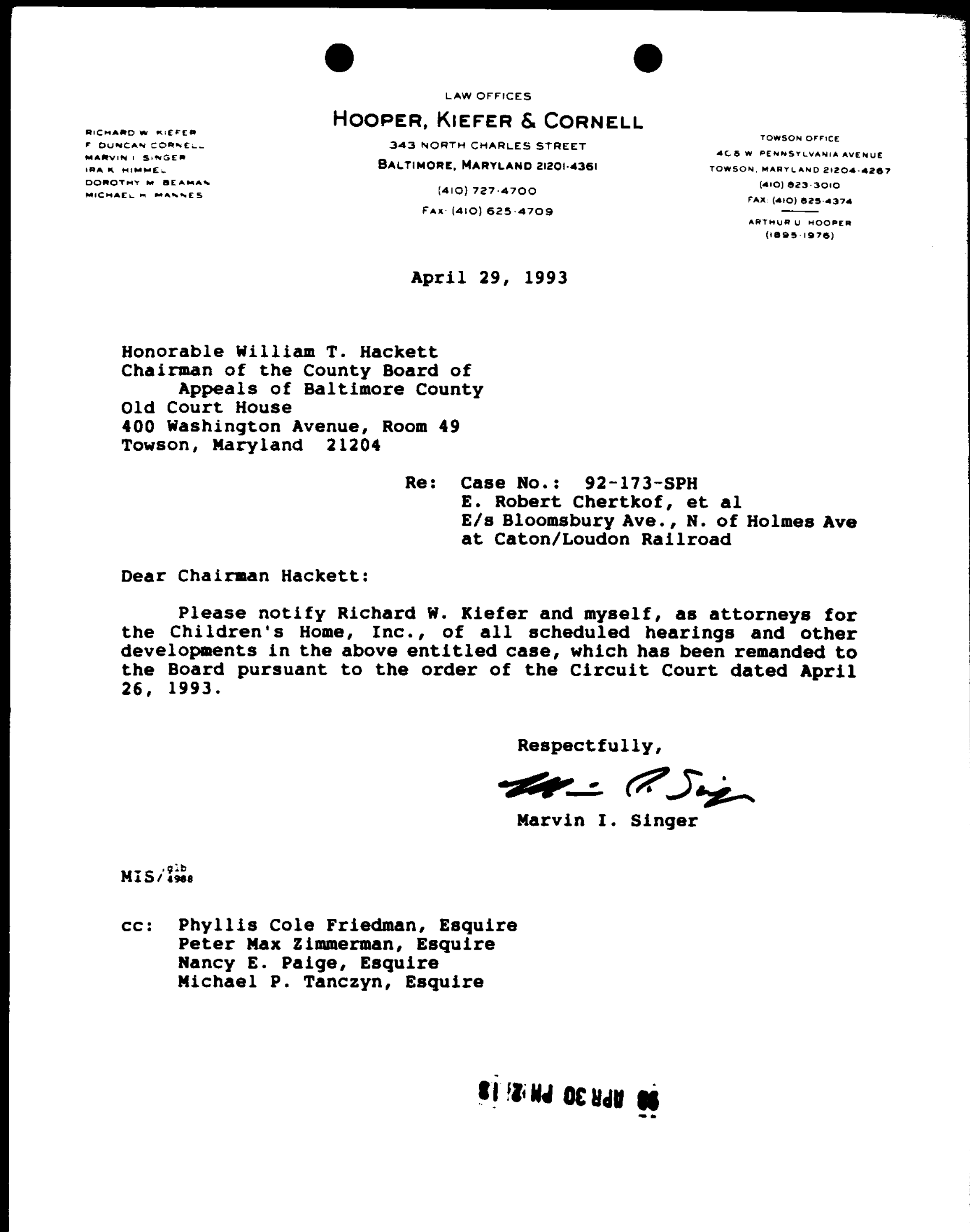
Dec. 12, 1992

County Board of Appeals
Old Court House, Rm. 409
400 Washington Ave.
Towson Md. 21204

Please note that I have moved from the immediate are effected by case # 92-173-SPH (E. Chertkof, et.al.), however, I would still like to remain on your list for mailing because I still reside in Catonsville which will be impacted by various zoning alterations for years to come.

New address:
C. B. Raisenweber
429 Overbrook Rd.
Catonsville Md. 21228
410-747-6458

RECEIVED
COUNTY BOARD OF APPEALS
92 DEC 17 AM 11:11



LAW OFFICES
HOOPER, KIEFER & CORNELL
343 NORTH CHARLES STREET
BALTIMORE, MARYLAND 21201-4361
(410) 727-4700
FAX (410) 625-4709

RICHARD W. KIEFER
F. DUNCAN CORNELL
MARVIN I. SINGER
IRA K. HIMMEL
DOROTHY M. BEAMAN
MICHAEL H. MANNES

TOWSON OFFICE
405 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4267
(410) 823-3010
FAX (410) 825-4374

ARTHUR U. HOOPER
(1895-1976)

April 29, 1993

Honorable William T. Hackett
Chairman of the County Board of
Appeals of Baltimore County
Old Court House
400 Washington Avenue, Room 49
Towson, Maryland 21204

Re: Case No.: 92-173-SPH
E. Robert Chertkof, et al
E/s Bloomsbury Ave., N. of Holmes Ave
at Caton/Loudon Railroad

Dear Chairman Hackett:

Please notify Richard W. Kiefer and myself, as attorneys for the Children's Home, Inc., of all scheduled hearings and other developments in the above entitled case, which has been remanded to the Board pursuant to the order of the Circuit Court dated April 26, 1993.

Respectfully,

Marvin I. Singer

MIS/glb
4988

cc: Phyllis Cole Friedman, Esquire
Peter Max Zimmerman, Esquire
Nancy E. Paige, Esquire
Michael P. Tanczyn, Esquire

93 APR 30 PM 12:18

PK

THE CHILDREN'S HOME Established 1863
205 Bloomsbury Avenue • Catonsville, Maryland 21228 • (410) 744-7310
TTY 788-1553
FAX 455-0071

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November 20, 1991

DEC 02 1991
OFFICE OF PLANNING AND ZONING

Office of Planning and Zoning
401 Bosley Avenue
Towson, MD 21204

92-173

RE: #072173SPH

TO WHOM IT MAY CONCERN:

The Children's Home would like to be on record as opposing the concept of the transfer of density for the property owned by Mr. Howard L. Chertkof.

The Children's Home does not feel that the building of 138 units on such small acreage would fit into the present composition of the community.

We want to be on record as opposing this change in zoning.

Sincerely,

Charles E. Offutt jb

Charles E. Offutt
President
Board of Directors

RECEIVED
NOV 21 1991
OFFICE OF PLANNING & ZONING

CEF:jb

To:
Zoning
[illegible]

11/15/91

To: Lawrence Schmidt, Zoning Commisioner
111 W. Cheseapeake Ave. room 123

Towson, Md. 21204

From: Sally Biser Sally Biser
218 Bloomsbury Ave.
Catonsville, Md. 21228

Re: 92-173-SPH

I am writing to express my concern about the request to rezone the property on Bloomsbury Ave. which would result in increasing the density allowed. In a recent article in the Baltimore Sun, the intersection of Rolling and Valley Roads was identified by Baltimore County Traffic Department as one of the 5 worst intersections in Baltimore County. This is within one mile of the proposed rezoning site. I know of no plan to resolve this traffic problem and see no logical reason to increase the problem. Further, this same request (to increase the number of units on this site) was proposed 2 years ago and was rejected at that time. What has changed to make this proposal anymore acceptable now; none as far as I am concerned. There are currently two developlments where building is still occurring and I would expect will produce as many children as the schools in the area can absorb; consequently this is another reason I don't want to see this increased density approved.

I do think that single family homes are consistent with the neighborhood and I would certainly be in favor of building not to exceed the current zoning approval.

cc: Mrs. Manley

MICROFILMED

9/4/94

To: Angel Julio

Re: 92 CV 10254 (E Robert Chertkof et al.)
On appeal to the Court of Special Appeals, No. 1509 (Sep 1993)

Dear Ms. Julio:

We found a set of hearing transcripts and the Record from the proceedings before the County Board of Appeals (Balt. County). These materials were apparently omitted from the docket sheet on this case.

I would like these materials to be transmitted to the Court of Special Appeals in Annapolis. I intend to file a motion to supplement the Record with the Court of Special Appeals. Please call me tomorrow to confirm this and discuss any other details. I can be reached at (202) 898-4800. Thanks to you and the other people here for helping me locate this material.

Stephen Chertkof

MICROFILMED

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
Richard Decker	10 Holmehurst Ave 21228
Roger T. Graf	8 Holmes Ave. 21228
Norma Graft	8 Holmes Ave. 21228
[illegible]	207 S. Rolling Rd. 21228
Nan Florence	302 Bloomsbury Ave 21228
Larry Wilt	212 Bloomsbury Ave 21228
[illegible]	304 S Rolling Rd 21228
James Kraus	313 Bloomsbury Ave 21228
Lee Cimino	315 Bloomsbury Ave 21228
Paula [illegible]	118 S Rolling Rd 21228
Paul Pokuski	123 BLOOMSBURY AVE 21228
Mary Pokuski	123 Bloomsbury Ave 21228
[illegible]	118 So Rolling Rd 21228
Charles E. [illegible]	410 Bloomsbury Ave. 21228
DR. KURT SEIFFERT	305 S. Rolling Rd 21228
John Reese	Spring Grove Hospital Center 21228
Dale [illegible]	Spring Grove Hospital Center 21228
Robert C. Hoerl	300 Bloomsbury Ave 21228

MICROFILMED

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME	ADDRESS
Richard H. Cassell	12135 Faulkner Dr. Owings Mills, MD 21117
Gordon Greenspun	1777 Reisterstown Road Balto MD 21208
Howard L. Chertkof	1777 Reisterstown Rd, Suite [illegible] Balt, Md, 21208
Howard L. Alderman Jr. Esq	Levin & Gann PA
Julius W. Lichter, Esq	305 W. Chesapeake Avenue #113 Towson MD 21204
[illegible]	

MICROFILMED

54

IN THE MATTER OF *
E. ROBE[illegible] et al *
For A

[illegible]mes A

Caton/Louden Railroad

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., July 16, 1992.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
S. DIANE LEVERO
JUDSON H. LIPOWITZ

Reported by:
C.E. Peatt

[redacted]

BOARD OF APPEALS

1

ORIGINAL 9[illegible] 10254

IN THE MATTER OF	*	BEFORE THE
E. ROBERT [illegible], et al	*	COUNTY [illegible] APPEALS
For A Sp[illegible]	*	OF
Propert[illegible]		[illegible]UNTY
East Si[illegible]		[illegible]-173-SPH
North of [illegible]s Avenue		[illegible] 1992
Caton/Louden Railroad	*	

* * * * *

The above-entitled case came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, Towson, Maryland 21204 at 10 o'clock a.m., June 26, 1992.

* * * * *

BOARD MEMBERS:

WILLIAM T. HACKETT, Chairman
S. DIANE LEVERO
JUDSON H. LIPOWITZ

Reported by:
C.E. Peatt

[redacted]

MICROFILMED

BOARD OF APPEALS

CATONSVILLE 2000, INC.

"Working For A Better Catonsville Community"

c/o 2 West Rolling Crossroads
Suite #203
Catonsville, Maryland 21228
(301) 747-2900

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Fran Medicus
Chairwoman

PUBLIC RELATIONS
Nan Florence
Chairwoman

ADVISOR TO BOARD
William Hughey
1st District Planner

People's Counsel
No 1

November 18, 1991

Mr. Lawrence E. Schmidt
Zoning Commissioner
Baltimore County
Room 113
400 Washington Avenue
Towson, Maryland 21204

Re: E/S Bloomsbury Avenue, N of Holmes Avenue
Case No. 92-173-S.P.H.

Dear Mr. Schmidt:

Two members of the Catonsville 2000, Inc. Zoning Committee recently met with the representatives of the above proposed plan. On November 14, 1991 these two members reported their findings and concerns to our Board. We had an excellent turnout for this Board meeting, 12 members out of a possible 14 were in attendance.

After a lengthy discussion, a motion was **unanimously** approved to **oppose** the request to transfer density from the railroad property to a parcel of land adjoining said property and also to oppose the clustering of 96 dwelling units, later amended to 83 dwelling units, on Parcel A.

In order to clarify the Catonsville 2000, Inc. stand, I have enclosed a proposed development plat. On the plat we have outlined in red what we believe to be Parcel A and outlined in yellow part of the railroad property.

Following is a list of some of our reasons:

1. We feel the request is not in the full spirit and intent of the development regulations, zoning regulations or the Catonsville Plan.
2. On October 7, 1991, the Baltimore County Council passed Resolution No. 67-91 that incorporates the CATONSVILLE PLAN into the BALTIMORE COUNTY MASTER PLAN. The Plan specifically recommends the adjoining property, The Children's Home, to be developed at its existing DR3.5 level. The Plan further states that additional residential units should maintain the scale and character and residential density of the Village.
3. In the past the question has been raised about ownership due to many reversionary clauses.
4. It would permit Parcel A to be developed at a density much, much larger than OPZ, the Council and the Master Plan intended. Most of the immediate densities are DR3.5.

traffic Eng - No comment.
Fire Dept "
Planning & Zoning - 20 ages.
Dept.

PC No 2 B

P.C. Exh 2 b

CATONSVILLE 2000
ANALYSIS

The Level II recommendation of residential development on the site is acceptable, but some mechanism must be provided which will assure an overall density not to exceed DR 3.5 and yet permit the option of limited high-rise development on the site. Our concern is that blanket OT zoning on the site could lead to development which would fail to preserve the character of the community and could overburden the infrastructure. Perhaps spot zoning or a restriction requiring that development must be pursuant to a planned unit development (PUD) consistent with these objectives could be evaluated. Again, an integral part of any planned use of the property should include dedication of a substantial portion for recreational use; we recommend that the allocation be one-third of the acreage.

The Children's Home

If the Children's Home does not change its policy of "no change" for the development of its property, we recommend that the Home's Board make use of the open space and recreational areas available to the Recreation and Parks Council for expansion of existing athletic programs.

If and when a change in the "no change" policy occurs, we endorse the reuse of the property for residential development at the existing DR 3.5 level, which would be consistent with Design Goal 5, discussed above. Additionally, we recommend that if development occurs, a significant portion of the property (at least one third) be acquired by Baltimore County for recreational use.

P.C. Exh 2 a

7. Design Plan

The design plan is developed to retain and reinforce the existing village character of Catonsville and to guide future development to reinforce that character. This is achieved by creating a unified village identity for the area, increasing parking efficiency and availability and suggesting opportunities for future development that maintain the scale and character of the village.

Goals:

1. *Unify the Frederick Road corridor area to minimize damage done to the village character by newer developments and maintain the village scale by implementing a unified streetscape design.*
2. *Add to and alter the street system to allow for increased alternatives in auto travel paths in the commercial area, which will also help keep through traffic out of residential areas.*
3. *Rationalize parking - make it more accessible and convenient in areas that need it most.*
4. *Direct new activity and development to the village core.*
5. *Add additional residential units to the village, that maintain the scale and character to the village.*
6. *Maintain and expand existing recreation space and develop a system of small civic spaces in the village core to complement the residential and institutional uses.*

Recommendations

Recommendations for the primary focus area are summarized below. Block by block descriptions for the length of Frederick Road follow and provide additional detail and assessment of priorities.

CATONSVILLE 2000
ANALYSIS

DESIGN PLAN

Because recommendations for development or redevelopment of key sites are guided by the "Design Plan" section of the Consultant's plan, the land use committee began by reviewing the six goals outlined therein. The committee endorses the goals and believes that they clearly set standards for the future development of Catonsville in a way that reinforces the existing Village character—a fundamental objective for Catonsville 2000.

We agree strongly with Goal #3 and reiterate the high priority for additional parking facilities in the 800 and 900 blocks.

We agree strongly with the concept that Catonsville 2000 should be involved in the implementation of study and monitoring the study with the County.

We recommend that Goal 5 be expanded to state "Add additional residential units to the village that maintain the scale, character, and residential density of the village."

We agree strongly with Goal #6 and emphasize that the focus of any expansion should be the old Catonsville Middle School on Bloomsbury Avenue.

PC 2

People's Counsel No 3

PETITION

As residents of Catonsville, we the undersigned, are opposed to granting a transfer of density to and/or increased density for Parcel 365 on the Baltimore County Tax Map #101 located at the Northwest corner of the Spring Grove Road and Bloomsbury Avenue.

PRINTED NAME	ADDRESS	SIGNATURE	DATE
Robert C. [illegible]	[illegible] Bloomsbury Ave.	Robert C. [illegible]	11/8/91
[illegible]	[illegible]	[illegible]	11/8/91
[illegible]	[illegible] Bloomsbury	[illegible]	11/8/91
[illegible]	742 Bloomsbury A 10		11/8/91
[illegible]	[illegible] A-8		11/8/91
[illegible]	[illegible]		" "
[illegible]	[illegible] Bloomsbury Ave. D-4		" "
[illegible]	[illegible] Bloomsbury Ave D-1		" "
[illegible]	[illegible] Bloomsbury Ave. D-3		" "
[illegible]	[illegible]		" "
[illegible]	[illegible] Bloomsbury [illegible] 21228		" "
[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	11/8/91
[illegible]	[illegible]	[illegible]	11/8/91
[illegible]	[illegible] AVE	MELVIN F HOERL	11-8-91
[illegible]	[illegible] Ave.	[illegible]	[illegible]
[illegible]	[illegible] Ave	Barbara J [illegible]	11/8/91
[illegible]	[illegible] Ave	[illegible]	11-9-91
[illegible]	[illegible] Ave	Roger Graff	11-9-91
[illegible]	[illegible] Ave.	Norma Graff	11-9-91
[illegible]	[illegible] Ave	Margaret [illegible]	11-9-91
[illegible]	[illegible]	Joseph [illegible]	11-9-91

P.C. No 4

South Rolling Road Community Association

RESOLVED: That the position of the South Rolling Road Community Association as adopted by the Board of Directors on the zoning matter known as:

92-173-SPH ITEM #182 E/S BLOOMSBURY AVENUE, N.OF HOLMES AVENUE CATON-LOUDON RAILROAD RIGHT-OF-WAY TO CITY LINE. SPECIAL HEARING TO CONSIDER TRANSFER OF DENSITY FROM THE RAILROAD PROPERTY (PARCEL B) TO A PARCEL OF LAND ADJOINING SAID PROPERTY AND ALL OWNED AND/OR CONTROLLED BY THE SAME PARTIES TO ALLOW FOR THE CLUSTERING OF 96 DWELLING UNITS ON PARCEL A(PARCEL 365 TAX MAP 101)

is that: The Board of Directors of the South Rolling Road Community Association is opposed to the above mentioned zoning request of the petitioners. Some of these reasons are as follows:

1. The increased traffic caused by this project would create undue hardship to the surrounding community. Traffic volume on our neighborhood streets has long been a problem for area residents.
2. No area is provided which is useful for recreational open space and/or facilities for the same parcel's potential residents and very little space is even possible with the total number of proposed dwelling units requested.
3. We believe that the resulting density level, if the transfer is granted, would not be a "density appropriate to a small town community" as called for in the Catonsville Plan.
4. We feel that this requested transfer of density is inconsistent with the intent of the provisions of transfer of density regulations.

The Board was unanimous in its decision to oppose the request of the petitioners for these reasons at it's November 5, 1991 Board of Director's meeting.

AS WITNESS OUR HANDS AND SEAL THIS 19th DAY OF NOVEMBER 1991.

ATTEST:

South Rolling Road Community Association

Caroline Alder
Secretary

Stuart Renaud
Stuart Renaud
President

South Rolling Road Community Association

SOUTH ROLLING ROAD COMMUNITY ASSOCIATION

Resolved: That at the first South Rolling Road Community Association meeting for the year it was approved that responsibility and authority for review and action on all zoning matters for the year be placed in the following members of the Zoning Committee :

Stuart Renaud
Nan Florence
Norman Schmuff

AS WITNESS OUR HANDS AND SEAL THIS 19th day of November 1991.

ATTEST:

South Rolling Road Community Association

Caroline Alder
Secretary

Stuart Renaud
President

PC No 5

South Rolling Road Community Association

November 18, 1991

Mr. Lawrence E. Schmidt
Baltimore County Zoning Commissioner
111 W. Chesapeake Avenue
Room 123
Towson, Md. 21204

PC No 6

SUBJECT: 92-173-SPH ITEM #182 E/S BLOOMSBURY AVENUE, N. OF HOLMES AVENUE CATON-LOUDON RAILROAD RIGHT-OF-WAY TO CITY LINE. SPECIAL HEARING TO CONSIDER TRANSFER OF DENSITY FROM THE RAILROAD PROPERTY (PARCEL B) TO A PARCEL OF LAND ADJOINING SAID PROPERTY AND ALL OWNED AND/OR CONTROLLED BY THE SAME PARTIES TO ALLOW FOR THE CLUSTERING OF 96 DWELLING UNITS ON PARCEL A (PARCEL 365 TAX MAP 101).

Dear Mr. Schmidt:

This letter is written on behalf of the South Rolling Road Community Association (SRRCA) which represents some 1800 households surrounding the subject property. The SRRCA strongly opposes the proposed transfer of density to the above referenced Parcel A for the following reasons:

•Increased traffic

The increased traffic would create undue hardship to the surrounding community. Traffic volume on our neighborhood streets has long been a problem for area residents.

••Bloomsbury Avenue

Bloomsbury Avenue is currently overburdened, handling traffic for The University of Maryland–Baltimore County campus, Catonsville Community College, and Catonsville High School. This is our neighborhood street; our children walk to school on this street; and there are two school facilities on this street. Residents on Bloomsbury, the only street proposed for access to the proposed Parcel A, are currently experiencing difficulties getting out of their driveways because of heavy traffic. There have been a continuing series of accidents at the intersection of Bloomsbury Avenue and Hilltop Road/Mellor Avenue.

••Bloomsbury Avenue and Frederick Road

A recent traffic study conducted by Baltimore County revealed that during peak traffic hours *over 1000 cars* travel through the Frederick Road/Ingleside/Bloomsbury Avenue ("D" rated) intersection. Much of this traffic passes the Parcel A site.

••South Rolling Road and Valley Road

The nearby intersection of South Rolling Road, and Hilltop/Valley Road is *one of the seven worst* (i.e. "F" rated) in the county.

Patapsco Woods is a 185 unit single family detached subdivision located east of Hilton Avenue and west of Catonsville Community College. Units here are selling for base prices in the $220,000 to $250,000 range. The principal market for this development are local trade-up buyers. College Hills is a 175 unit luxury townhouse project located on a 72 acre site west of Rolling Road and east of Catonsville Community College. This project, which started construction late last year is selling 24 foot wide units base priced in the $200,000 to $210,000 range.

Other developments have been built in the South Rolling Road area over the past few years include Highfields and the initial single family detached section of College Hills. Residential projects developed in the primary market area over the last five years have generally been very successful. Currently there area no other major residential development projects within the primary market area. Scattered development on lots in existing neighborhoods is typical. Other small in-fill projects have been developed within the primary market area in recent years.

3. Secondary Market Area - Residential: Residential development is much more frequent outside of the primary market area. In the Baltimore County portion of the secondary market area the vast majority of this development is occurring in areas that are not considered Catonsville, even given its broadest geographic definition. One development node is in the Rolling Road/Security area just north of Interstate 70. The major project here is Parkview Trails which consists of townhouses and single family detached units. The price positions of new housing in the Security area is substantially lower than new home products in the primary market area. Housing products in this area generally target the first-time buyer currently residing in the large number of rental units in this area.

Another major development occurring just south of the PMA is River Chase, a townhouse project located northeast of the I-95/Metropolitan Boulevard interchange in Arbutus. Units here are based priced at $100,000. In the Westchester/Rockwell areas of far western Catonsville, several smaller scale residential projects have been built over the past few years. Current projects include the 108 unit Westchester condominium and Preakness Falls North townhouses. Small developable parcels have been available in this area and in-fill type projects have been developed on a regular basis this decade.

The amount of residential development in both the primary and secondary market areas in Baltimore County pales compared to development activity within northeastern Howard County. The Howard County portion of the secondary market area is functionally different from the primary market area. Howard County is located within the heart of the Baltimore-Washington corridor and has been one of the fastest growing jurisdictions in the Baltimore region for two decades.

With the exception of Ellicott City, the vast majority of Howard County was rural until the development of Columbia in the 1960's. Since that time it has developed into an archetypal 1980's suburban county characterized by service oriented employment, large scale and increasingly expensive residential development and a highly educated, wealthy population.

Housing development within the Ellicott City area, along with Elkridge, the most Baltimore oriented areas of the County, has long attracted Catonsville area households, especially those purchasing move-up housing. Overall new housing in Howard County is among the most expensive of any jurisdiction in the Baltimore region. Virtually all new detached housing is base priced above $200,000 with some production projects priced well into the mid-$300,000's.

4. Residential Development Opportunities and Constraints:
   - Residential projects developed in Catonsville over the past several years have generally been successful.
   - A Catonsville location offers good access to downtown Baltimore, the Baltimore-Washington corridor and Howard County.
   - Unlike many other new suburban areas that developed in the post-war period Catonsville has its own functional downtown district, a differentiated, well maintained housing stock, established neigh-

CATONSVILLE 2000
ANALYSIS

The synopsis on pages 3.6-7, section B, accurately reflects the situation for residential development. While additional residential development in Catonsville could assist the economic viability of the Village businesses, traffic and land planning concerns require that new development generally be limited to low to moderate densities.

People's Counsel No 7

HLTH SVCS TEL:410-247-7881 Jun 25'92 17:41 No.006 P.01

Petitioner #1

RETIREMENT & HEALTH SERVICES CORPORATION
703 Maiden Choice Lane * Baltimore, Maryland 21228 * (410) 242-2880 /FAX (410) 247-7881

FAX TRANSMITTAL SHEET

Date: June 25, 1992

To: Howard Alderman, Esquire

Fax No.: 296-2801

RE: Dismissal of Blumsbury appeal

Message: Transmitted herewith is withdrawal of appeal

No. of sheets (including this page): 2

From: Paul L. Erickson

In case of transmission problems, please call Retirement & Health Services Corporation at (410) 242-2880 Ext. 314.

G:USERS\PLE\WP\ALDERMAN.FAX/June 25, 1992

Petitioner's Ex. #3

LIBER 8631 PAGE 232 (1) 1891125-33 County

DEED

THIS DEED made this 22nd day of October, 1990 from THE DWC TRUST HOLDING COMPANY, a Maryland corporation, party of the first

PETITIONER'S EXHIBIT No 2

LIBER 8631 PAGE 232 (1) 1891125-33 County

DEED

THIS DEED made ~~this~~ 22nd day of October, 1990 from THE DWC TRUST HOLDING COMPANY, a Maryland corporation, party of the first part, Grantor, to HELEN CHERTKOF GIMBEL and STEPHANIE PRINCE, successor Co-Trustees for the benefit of Helen Chertkof Gimbel and her descendants under a Revocable Trust Agreement (the "Trust Agreement") dated February 9, 1969, made by David W. Chertkof, Settlor (the "Gimbel Family Trust Share"), ETHEL CHERTKOF POSNICK and HELENE K. MILLER, successor Co-Trustees for the benefit of Ethel Chertkof Posnick and her descendants under the Trust Agreement (the "Posnick Family Trust Share"), BENJAMIN CLAYTEN and MARTHA LEE FENDLER, successor Co-Trustees for the benefit of Benjamin Clayten and his descendants under the Trust Agreement (the "Clayten Family Trust Share"), and HOWARD L. CHERTKOF and E. ROBERT CHERTKOF, both of Baltimore County, Maryland.

By the Trust Agreement David W. Chertkof ("DWC") of Baltimore County, Maryland created an inter vivos trust (the "DWC Trust") for the benefit of himself, his wife, Annie Chertkof, his children, vis, Helen Chertkof Gimbel, Ethel Chertkof Posnick, Benjamin Clayten and Jack O. Chertkof, and their descendants. David W. Chertkof died September 17, 1968, Annie Chertkof died September 13, 1969, and Jack O. Chertkof died May 19, 1982, leaving two surviving children, vis, Howard L. Chertkof and E. Robert Chertkof.

The Trust Agreement provides, inter alia, that after the death of DWC and Annie Chertkof, the trust estate is to be divided into

D RC/F	57.00
D T TX	2154.10
D DOCS	2155.00
RECD	0
SM CLERK	4366.10

#02875 C002 R02 T08:4
10/25/

CULTURAL TRANSFER TAX APPLICABLE
ATURE JK DATE 10-24-90

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
JK 10-24-90

TRANSFER TAX NOT REQUIRED
Director of Finance
BALTIMORE COUNTY MARYLAND
Per Joy Burgee
10-24-9

Petitioner's Ex. #4

The State of Maryland

Executive Department

I, WILLIAM J. MCWILLIAMS Secretary of State, of the State of Maryland, under and by virtue of the authority vested in me by Section 62 of Article 35 of the Annotated Code of Maryland, Do Hereby Certify that

THE ATTACHED CERTIFICATE OF INCORPORATION
OF THE CATON AND LOUDON RAILWAY
COMPANY
IS A TRUE AND CORRECT COPY

PETITIONER'S EXHIBIT No 3

as the same is taken from and compared with the original, CERTIFICATE now on file in my office, IN RAILROAD RECORD NO. 4, FOLIO 247, etc.

In Testimony Whereof, I have hereunto set my hand and have caused to be affixed the official seal of the Secretary of State at Annapolis, Maryland, this 11th day of October in the year one thousand nine hundred and Forty-five

Secretary of State.

Kurt V. Thompson

G. Dudley Iverson SEAL
G. Dudley Iverson

Julius Grossman SEAL
Julius Grossman

Herman D. Gimbel SEAL
Herman D. Gimbel

This report will not be printed in full in the permanent series of Interstate Commerce Commission reports.

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 15235

CATON & LOUDON RAILWAY COMPANY PURCHASE

Submitted May 15, 1946. Decided June 26, 1946.

Purchase by the Caton & Loudon Railway Company of the properties of the Catonsville Short Line Railroad Company, approved and authorized.

J. Nicholas Shriver, Jr., for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

BY DIVISION 4:

The Caton & Loudon Railway Company on March 18, 1946, applied for authority under section 5(2) of the Interstate Commerce Act, as amended, to purchase the railroad properties of The Catonsville Short Line Railroad Company. A hearing has been held. No representations have been made by State authorities and no objection to the application has been offered. All points mentioned herein are in Maryland.

The Catonsville Short Line Railroad Company was in receivership from December 31, 1941, to July 5, 1945, when a proposed sale of its properties to Howard A. Sweeten, as agent, was authorized by the Circuit Court of Baltimore County, the court having jurisdiction of the receivership proceeding. Sweeten later paid the receiver $35,000 for all the properties owned by the company. Of this amount $14,000 was advanced by a realty company to which was transferred title to certain noncarrier lands involved in the sale. The remaining $21,000, being the agreed purchase price of the railroad property, was supplied by those who later incorporated the applicant. In that connection the applicant borrowed $25,000 from its president, it being understood that the $4,000 remaining after the payment of $21,000 for the line would be used for working capital.

The applicant secured its charter under the laws of Maryland on September 26, 1945. Proposed shareholders have subscribed for 200 shares of stock at $50 a share, and have paid 10 percent of the purchase price therefor. The applicant has also issued a note in the amount of $25,000 to cover the loan advanced by its president. A separate application relating to the issuance of securities by the applicant, Finance Docket No. 15236, Caton & Loudon Ry. Co. Stock, 261 I.C.C.________ is decided concurrently herewith.

The line sought to be purchased is single track and of standard gauge. It extends from a point approximately 850 feet south of the intersection of Frederick Road and Mellor Avenue, in Catonsville, southerly and southeasterly approximately 4 miles to its connection with the line of the Philadelphia, Baltimore & Washington Railroad Company, a portion of the Pennsyl-

PETITIONER'S EXHIBIT No 4

Petitioner's Ex. #5

PETITIONER'S EXHIBIT No 5

Liber No 1410 107

93118 Michael Paul Smith Rec et al Deed to The Hudson Realty Company et al USS $38.50 SS $35.00	THIS DEED Made this 31st day of October in the year one thousand nine hundred and forty five by and between Michael Paul Smith Receiver of The Catonsville Short Line Railroad Company party of the first part Howard A Sweeten and Viola Sweeten his wife of Baltimore City

State of Maryland parties of the second part The Hudson Realty Company a corporation of the State of Maryland party of the third part and Caton & Loudon Railway Company also a corporation of the State of Maryland party of the fourth part

WHEREAS by an order of the Circuit Court of Baltimore County in Equity passed on April 14 1943 in a cause in said Court entitled Ex parte inthe Matter of the Petition of The Catonsville Short Line Railroad Company for the Appointment of a Receiver (Equity Docket No 43 folio 167) the said Michael Paul Smith was appointed Receiver to receive and take charge of all the property and assets of the said The Catonsville Short Line Railroad Company and in his discretion to sell and convey any of said property and to report any such sale to said Court for confirmation and the said Receiver has filed in said proceedings his approved Bond and

WHEREAS the said Michael Paul Smith Receiver as aforesaid acting pursuant to said order has sold unto Howard A Sweeten Agent all the real and tangible property belonging to The Catonsville Short Line Railroad Company at and for the sum of Thirty five Thousand Dollars which said sale has been duly reported to and ratified by said Court and

WHEREAS the said Howard A Sweeten acted as Agent for the said parties of the third and fourth parts in the purchase of the whole property sold by the said Receiver with the understanding that the fee simple property hereinafter first described should be transferred to the said party of the third part and the right of way and appurtenant property hereinafter secondly thirdly and fourthly described should be conveyed to the said party of the fourth part and the said Howard A Sweeten Agent as aforesaid has requested the said party ofthe first part Receiver as aforesaid to unite with him and his wife in this deed to convey to the said party of the third part the parcel of land hereinafter first described and to convey to the said party of the fourth part the parcels of land secondly thirdly and fourthly described which the said party of the first part Receiver as aforesaid has agreed to do

NOW THEREFORE THIS DEED WITNESSETH That in consideration of the premises and the sum of Thirty Five Thousand Dollars this day paid the receipt whereof is hereby acknowledged the said party of the first part Receiver as aforesaid acting by virtue of the power and authority vested in him by the order of the Circuit Court of Baltimore County hereinabove referred to and the said parties of the second part do hereby grant and convey unto the said parties of the third and fourth parts their successors and assigns all those lots of ground situate lying and being in Baltimore County in the State of Maryland and hereinafter designated and described

(A) In consideration of the above recited premises the said parties of the first and second parts do hereby grant and convey unto the said party of the third part its successors and assigns all that lot of ground situate in Baltimore County State of Maryland and described as follows that is to say

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Petitioner's Ex. #6

This report will not be printed in full in the permanent series of Interstate Commerce Commission reports.

INTERSTATE COMMERCE COMMISSION

Finance Docket No. 15235

CATON & LOUDON RAILWAY COMPANY PURCHASE

Submitted May 15, 1946. Decided June 26, 1946.

Purchase by the Caton & Loudon Railway Company of the properties of the Catonsville Short Line Railroad Company, approved and authorized.

J. Nicholas Shriver, Jr., for applicant.

REPORT OF THE COMMISSION

DIVISION 4, COMMISSIONERS PORTER, MAHAFFIE, AND MILLER

BY DIVISION 4:

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FRANKLIN REALTY & FINANCE COMPANY
19 WEST FRANKLIN STREET
BALTIMORE, MARYLAND 21201
(301) 727-5155

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 4, 1984

Mr. John Erickson
Investment Planning Services, Inc.
711 Maiden Choice Lane
Catonsville, Maryland 21228

Dear Mr. Erickson:

RE: CATON & LOUDON RAILWAY

Confirming our meeting here in our office of last week and your subsequent phone call to me on April 4th, you asked permission to erect a fence on the right-of-way of the railroad adjoining your property known to us as the St. Charles College site. You explained that although you could put a fence on your own property, the topography was so rolling that it would be very difficult and costly and that you could make a significant savings by putting the fence along the flat area of the railroad right-of-way.

Permission was categorically and unconditionally denied.

On April 4th, you called me on the telephone and indicated that since our meeting, you have had a discussion with your attorneys, Piper & Marbury, and have also been in contact with George Constable, the Attorney with St. Mary's an adjoining landowner, and that you intended to erect your fence sometime during the summer on the railroad property with or without our permission.

Please accept this letter as formal notice that if you trespass on our property, we will take whatever steps necessary to protect our interests and will hold you fully responsible for any damages that we may suffer.

Should this letter not correctly reflect the substance of our meeting and subsequent conversation, I would appreciate your notifying me in writing with a clarification.

Very truly yours,

FRANKLIN REALTY & FINANCE COMPANY,
Managing Agent for the Caton & Loudon Railway

Howard L. Chertkof

HLC/ls

bcc/Ted Hirsch

PETITIONER'S EXHIBIT No 7

Sun 9-8-81

Pet. Ex. #15

Crowther, Jr., Edwin Scott and B. McLain Hardesty. Thomas Gorsuch, secretary, and W. W. Mathews, treasurer, also assisted. The judges were J. F. Shepard and W. P. T. Turpin, who awarded the first prize of $40 to the Gunpowder Club.

The next diversion, and which was one of the most interesting of the day, was a trial of equestrian skill for ladies. Three ladies, nicely attired in riding habits, entered the contest, namely: Miss Isabel Gore, attended by Bernard Gore; Miss E. A. Ward, attended by Colgate O. Cockey; Miss Mary Griffith, attended by B. Griffith. Miss Ward, who is a sister of Miss Buckingham of "Mazeppa" fame, rode her sister's well known "James Melville," and with it made quite a dash. The contest was for the best and most graceful lady rider, for which a set of silver perfumery bottles valued at $20 was offered as the first and a silver flower stand valued at $10 was offered as the second prize. The tests were for the usual gaits of saddle-horses, and included skill in managing and grace in sitting the animals. The judges were Washington Stevenson, Edwin Scott and Dr. G. M. Bosley, who awarded the first prize to Miss Gore and the second to Miss Ward. After the regular contest the ladies rode around the track at a lively gait, Miss Ward riding in a full gallop, and was much admired for her skill in horsemanship.

The next trial of equestrian skill was for boys under 14 years of age, the best rider to receive a saddle and the second best a bridle. The entries for this contest were as follows: Reuben Stump, Robert M. Taylor, Thos. Craddock, Arthur Craddock, Charles Howard, John Howard, James McKenny Merryman and John Bosley. The saddle was awarded to A. Craddock and the bridle to Robt. M. Taylor, quite a little boy, who rode a pony.

The bicycle race, which followed, was an interesting feature. The judges were F. W. Thomas, Yates Penniman and E. Mickle. The first race was for a half mile, the prizes being, first, a piece of plate valued at $30, and the second a medal valued at $10. The entries were Abram G. Powell, of Germantown, Pa.; Samuel T. Clark and G. W. Coale, both members of the Baltimore Bicycle Club. Mr. Powell won the first prize, time 1.45, and Mr. Clark the second. The second bicycle race was for two miles, and those participating were Mr. Powell, Mr. Clark and G. H. Boehm, the latter also of the Baltimore Bicycle Club. The first prize, which was a piece of plate valued at $50, was awarded to Mr. Powell, time 9¼ minutes, and the second prize, a medal valued at $10, was given to Mr. Clark. The presentation of the prizes was made by Mr. C. Whyte, son of Senator Whyte.

Following were two trotting and a pony race. The first was of the 2.50 class, for the fastest stallion, mare or gelding, owned in Maryland, trotting in harness, mile heats, best three in five, for $50, $30, and $20. The judges were Joseph P. Webster Col. W. S. Franklin and R. H. Woolen. A. W. Fossett timer. The entries were Buzz, by Edward Baltz; Billy Badeye, by Josh C. Bosley; Calico Maid, by Fredk. Kell; Bertha M., by Wm. Shelby, and Cheerful Charley, by Fredk. Stalfort. Billy Badeye won in three straight heats. Time 2.47¼, 2.47, 2.45¾. Cheerful Charley second, Calico Maid third.

The second race was for the fastest stallion, mare or gelding owned in Baltimore county, not over three years old, trotting in harness, mile heats, best three in five: society to add $50 to the purse and two members of the board of managers to give $50 more; second horse to receive $50 of the stakes. The entries were Mambrino Druid, by Wm. Johnson, and J. W. Hoyt, by John Ridgely of H. The first two heats were won by Druid; time 3.02 and 3.01¼. The third heat was conceded to Druid by the owner of the other horse and this ended the race.

The last race was for the fastest saddle pony owned in Baltimore county not exceeding 13½ hands high, running half-mile heats, best two in three, the prizes being a saddle, bridle and a whip. The entries were John Rebel, by John Nicholas; Nelly Bird, by Daniel Jenifer; Jack, by Robert M. Taylor, and Ruby, by Edward Shoemaker. Rebel won the saddle, Bird the bridle and Ruby the whip. Washington Stevenson acted as judge in the pony race in the place of Mr. Webster.

The programme was concluded with a competition between cornet bands, for a prize of $40. Prof. A. Holland and Prof. J. B. Nussear were the judges. The contestants were the Glen Rock Silver Cornet Band, Jos. Dise, leader, and the Beckleysville Cornet Band, No. 1, J. L. Burgoyne, secretary. The prize was awarded to the Glen Rock Band.

Today the annual address is to be delivered by Hon. Samuel J. Randall, ex-Speaker of the United States House of Representatives. There

to cut their tobacco to prevent the premature waste, notwithstanding the growth is greatly less than an average crop.

LOCAL MATTERS.

Proposed Railroad to Catonsville.—A meeting of citizens of Catonsville was held last night in the Hall of the Library and Literary Association of that place, to further a movement started some weeks since to construct a railroad from St. Agnes Station, on the Baltimore and Potomac Railroad, to Catonsville, a distance of three and one-half miles. The meeting was called to order by Mr. Eugene Carrington, who stated its object, and nominated Mr. John Gill, of the firm of Gill & Fisher, for chairman, and he was elected. Mr. Chas. Keidel, of the firm of Wm. Knabe & Co., was made secretary. Mr. John Glenn made an address, stating that it is proposed that the new railroad shall start from the Baltimore and Potomac Railroad, near St. Agnes Station, passing through the lands of J. B. Brinkley, near Loudon Park Cemetery, Seemuller estate, the Beachfield estate, R. W. L. Rasin, John Gill, Dr. G. A. Liebig, T. L. Tinsley, John Wethered, Spring Grove Asylum, and Mitz estate, crossing Bloomsbury lane to the Glenn property, reaching the Frederick road at a point near its junction with Mellor's lane. The estimated cost of the line is $50,000. It is proposed to open negotiations with the Baltimore and Potomac Railroad to stock the new road when finished. Mr. Glenn said that Catonsville is now farther from the business heart of Baltimore city than Washington, and when the road was built it would be about the same distance as Madison and Boundary avenues. He referred to the success of other railroads which had offered rapid transit from the city, and predicted like success for the road proposed, owing to the superior attractions of the country through which the road is projected. He would give the enterprise his support and subscribed $5,000.

A committee was appointed to solicit subscriptions, composed of Messrs. John Gill, Eugene Carrington, Rev. G. W. Eberling, Dr. C. G. W. Macgill, John Glenn, Gustav Gieske and Charles E. Fusting. The following subscriptions were received: Gustav Gieske, $2,500; H. J. Farber, $2,000; John Glenn, $5,000; T. L. Tinsley, $2,000; John Gill, $2,500; Charles Kiedel, $1,000; Dr. G. A. Liebig, $1,000; Mrs. Caroline Fusting, F. K. Danneuburg, $500; Rev. T. W. Punnett, $500; Dr. C. G. W. Macgill, John Zehner, $500; John Hubner, $500; William H. Bayne, $500; Rev. Joseph F. Jennison, $200; Dr. A. H. Lee, $200; Dr. W. Simon, $200; Louis Kiedel, $150; Dr. H. J. Coskery, $150; John Ege, $100; Frederick Meixel, $100; John S. Wilson, $100; B. O. Frizzell, $100; George W. Appleby, $50; John B. Unger, $25; total, $21,375. The shares were fixed at $25. After the subscriptions were announced the meeting adjourned until the 21st inst. The result of the meeting is regarded with great satisfaction by those having the project in charge.

Slight Fires.—The alarm from box 141, President street and Canton avenue, at five o'clock yesterday afternoon, was caused by a spark from a smokestack at Otto Duker & Co.'s planing mill igniting a shaft in the same building used for ventilation. The fire was extinguished by the employes of the place before the department arrived. The damage was slight.

A slight fire was caused at No. 163 East Fayette street yesterday by a lighted coal-oil lamp falling against the floor. Damage $10.

The two-story brick stable, owned and occupied by Michael Hagerty, in the rear of No. 527 West Lombard street, was partially destroyed by fire. The origin is supposed to be incendiary. The loss will be about $500, covered by insurance in the German Fire Insurance Company of Baltimore.

A slight fire in Neal, Armstrong & Co.'s, Baltimore and Holliday streets, at 6.45 P. M., was extinguished by the private watchman, Richard Bassett, with a bucket of water that he was about to put into the water-cooler, and without sounding an alarm, and with $250 damage to some goods.

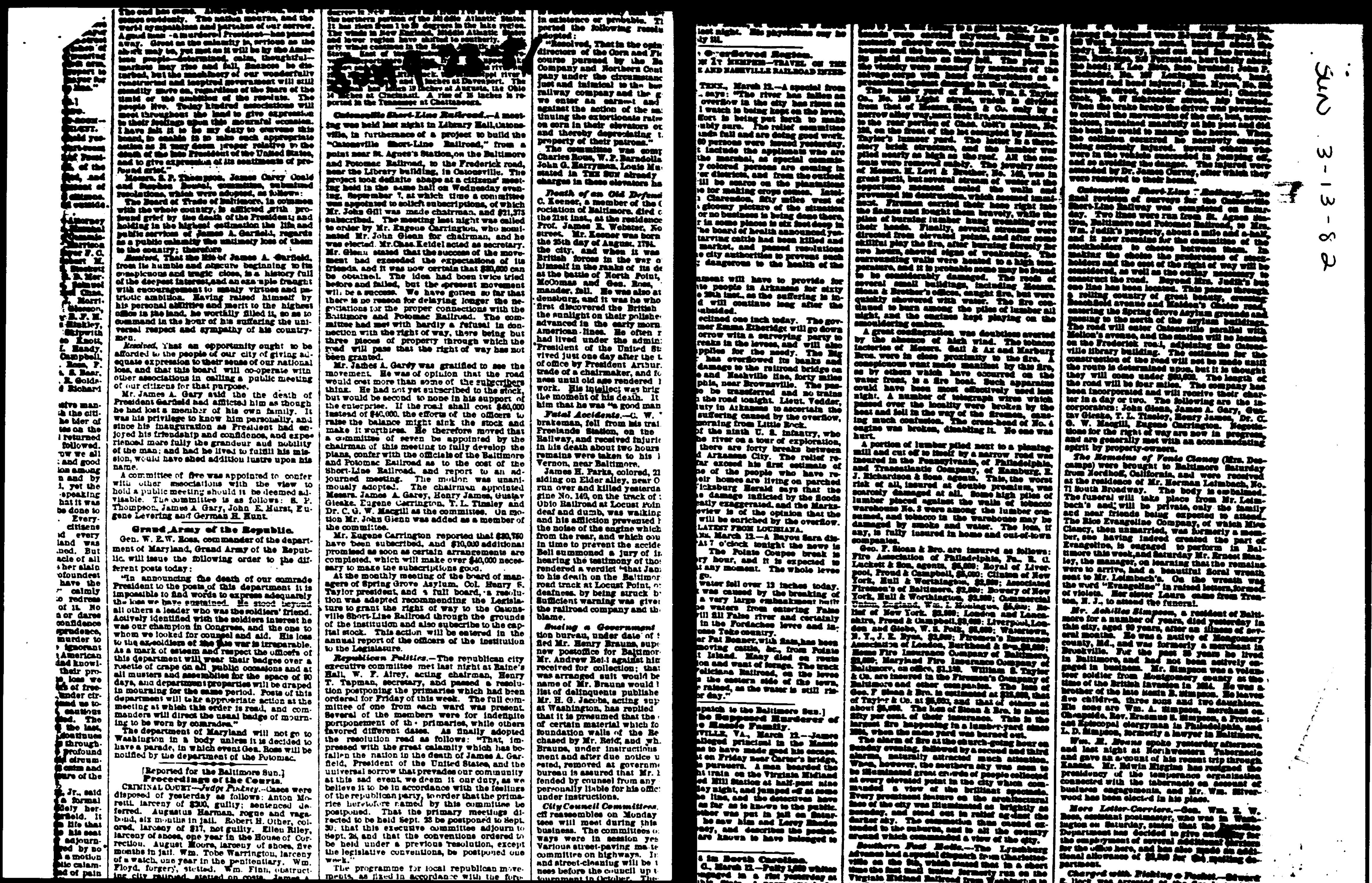
Personal.—Gen. Bradley T. Johnson returned to Baltimore yesterday from a visit to the Greenbrier White Sulphur Springs, and City Solicitor T. W. Hall from a trip to the North=Mr. John W. Garrett will leave Deer Park for Baltimore on Saturday or Monday next=Col. J. Carroll Walsh, of Harford county, Md., is in Cincinnati on a visit to Mr. King, ex-first vice-president of the Baltimore and Ohio Road=Mr. John King, Jr., will leave Cincinnati about the 16th inst. and spend a few days in Baltimore, and then sail for Europe=Major

F. Coskery and Mr. Duncan C. Clark. Am
those present were Drs. John Morris, Wil
Green, Chas. M. Morfit, J. E. Clagett, Archi
Atkinson, Chas. A. Bevan, J. G. Wiltshire, T
S. Latimer, Edward H. White, C. B. Gambl
C. Chew, D. I. McKew, T. C. Maddux, J
Scarff, W. D. Booker, John Monmonier, Wr
Lockwood, Frank Donaldson, Wm. E. A. A
B. B. Brown, Judson Gilman, Thomas Murd
Aaron Friedenwald, Randolph Page, Joh
Uhler, J. W. Houck and J. P. Thom. An
others present were Messrs. James L. McL
John H. Thomas, Robert Johnson, Col. J.
Clark, Robert M. McLane, Philip J. Roch
Giraud Wright, Wm. H. Peirce, Charles J.
John P. Poe, Willoughby N. Smith, Col. Ro
Carter Smith, Wm. Steuart Symington, C
Fenner Lee, Gen. James R. Herbert, Ge
Clay Dallam, F. D. Morrison, Felix Sull
Gilmore Hoffman, Capt. W. S. Anderson, C.
ton Stewart, Michael Caughey, Eugene
Edward L. Key, Christopher Billopp, Wil
C. Shiey and Capt. W. L. Ritter. The f
offerings were numerous and beautiful. A
conclusion of the services the cortege
formed and moved to Garrison Forest Chu
near Pikesville, where the interment took p
Revs. William T. Lockwood and W. S. J
officiating.

The certificate of death in the case of D
Lloyd Howard was changed yesterday f
death by drowning to death superinduce
uraemic apoplexy, and the immediate c
drowning. Dr. Howard had suffered gr
from urœmia, being the result of an atta
yellow fever which he had while serving
the United States commission in New Orl
during the epidemic of yellow fever in
He had often expressed apprehension of
results. The change was made by Cor
Morfit, after consultation with Dr. Jame
Steuart, health commissioner, and Dr. Ja
McHenry Howard, assistant surgeon of
Marine Hospital. From an examination of
body the physicians were assured that al
symptoms were of death from apoplexy
not from ordinary drowning. A meetin
officers and employes of the health departm
will be held in the City Hall today for ap
priate action in reference to the death of
Howard. There will also be a special mee
of the Society of the Army and Navy of
Confederate States in Maryland tomorrow e
ing, in Raine's Hall.

Golden Wedding.—Mr. Louis Gutman
Rosa, his wife, celebrated their golden
ding, the fiftieth anniversary of their marri
yesterday evening, at their home, No. 353
Lombard street. Besides sons-in-law
daughters-in-law, only the lineal descend
of the hale and active couple were pre
comprising three sons and two daughters
their wives and husbands respectively, th
grandchildren and two great grandchild
and they numbered forty persons in all.
marriage ceremony was repeated accordin
the Orthodox Hebrew style by Rev. B. Z.
senbaum, of Shearith Israel congregation
husband wearing his hat and talis, a s
cloak, and the wife having her neck encir
by the same heavy gold chain she wore a
marriage fifty years ago, in Mercsinger, in
Grand Duchy of Baden. The room was
rated with evergreens, the figures 1831 and
being formed. Each of the sons presented
parents with $100, and the sons-in-law $5
gold, while the friends sent gold pieces, flo
&c. With the exception of Julius Gutma
Baltimore, nearly all the descendants pr
were from Washington, Norfolk and
places. Among them were M. and S.
heimer and son, S. Goodman, wife and son
Emanuel Gutman, of Washington city, an
Frankford and wife and M. S. Frankfor
Norfolk. F. Hess and wife, a sister of Mr.
Gutman, celebrated their golden weddin
months ago, and a married sister of Mrs.
man two years ago, indicating an unus
long-lived family.

Dental Association.—The annual me
of the Dental Association of Maryland an
District of Columbia commenced yesterd
the Baltimore College of Dental Surgery,
ner of Eutaw and Franklin streets. Dr.
Noble, of Washington, president of the as
ation, occupied the chair; Dr. T. S. Water
Baltimore, vice-president; Dr. H. M. Scho
of Washington, secretary. The meeting
opened with prayer by Rev. Thomas G
when an adjournment to the afternoo
taken. Dr. J. E. Scott, of Baltimore, ma
address of welcome upon the reassembli
the association. The president then mad
opening address, in the course of which
ferred to the late Dr. Byron F. Coy, of this
Dr. T. W. Coyle was made treasurer, in th
sence of Dr. J. B. Ten Eyck. Drs. W. B. F



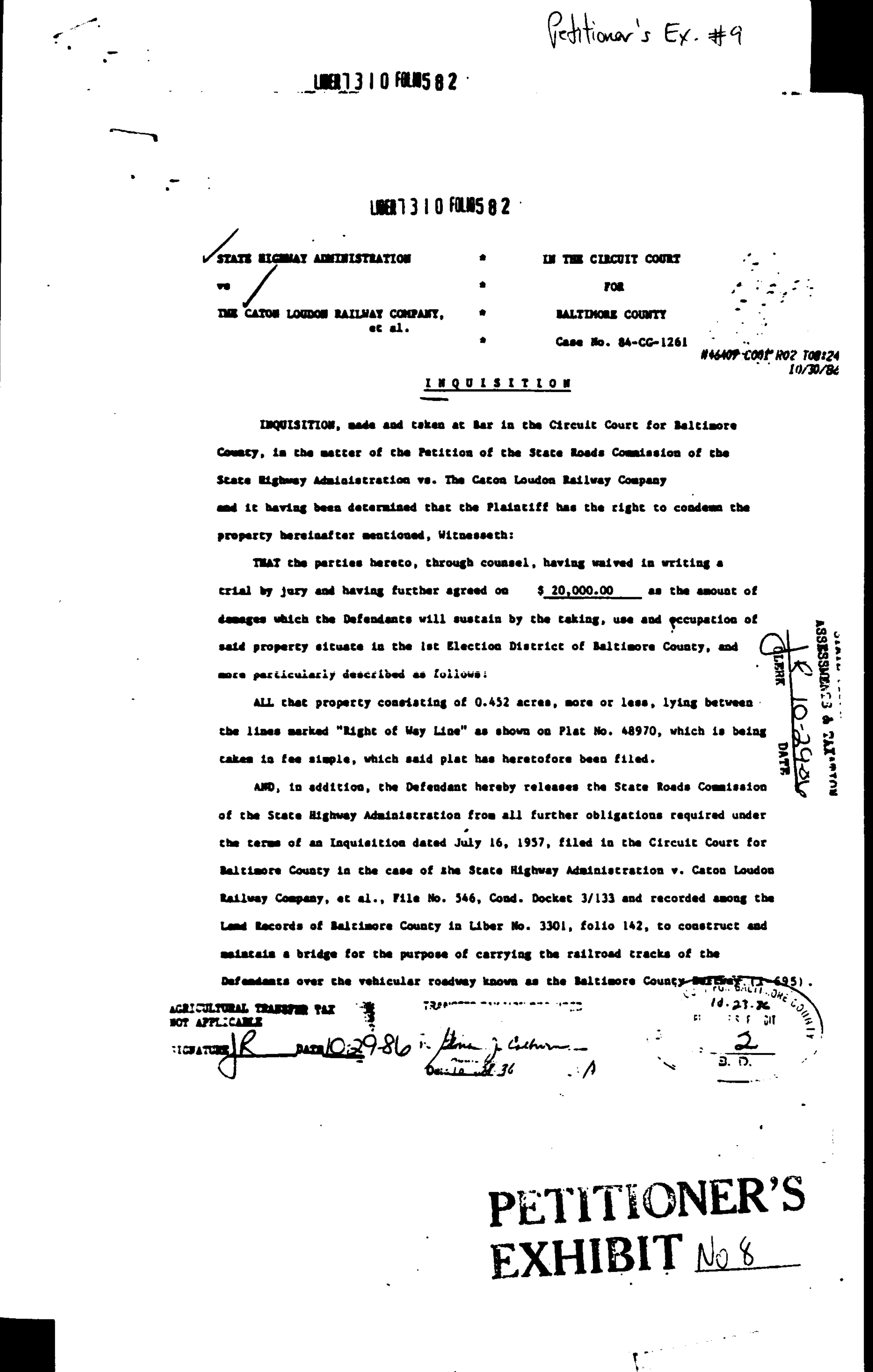
Sun 3-13-82

Catonsville Short-Line Railroad.—A meeting was held last night in Library Hall, Catonsville, in furtherance of a project to build the "Catonsville Short-Line Railroad," from a point near St. Agnes's Station, on the Baltimore and Potomac Railroad, to the Frederick road, near the Library building, in Catonsville. The project took definite shape at a citizens' meeting held in the same hall on Wednesday evening, September 7, at which time a committee was appointed to solicit subscriptions, of which Mr. John Gill was made chairman, and $21,375 subscribed. The meeting last night was called to order by Mr. Eugene Carrington, who nominated Mr. John Glenn for chairman, and he was elected. Mr. Chas. Keidel acted as secretary. Mr. Glenn stated that the success of the movement had exceeded the expectations of its friends, and it was now certain that $30,000 can be obtained. The idea had been twice tried before and failed, but the present movement will be a success. We have gotten so far that there is no reason for delaying longer the negotiations for the proper connections with the Baltimore and Potomac Railroad. The committee had met with hardly a refusal in connection with the right of way, there being but three pieces of property through which the road will pass that the right of way has not been granted.

Mr. James A. Garey was gratified to see the movement. He was of opinion that the road would cost more than some of the subscribers think. He had not yet subscribed to the stock, but would be second to none in his support of the enterprise. If the road shall cost $60,000 instead of $40,000, the efforts of the officers to raise the balance might sink the stock and make it worthless. He therefore moved that a committee of seven be appointed by the chairman of this meeting to fully develop the plans, confer with the officials of the Baltimore and Potomac Railroad as to the cost of the Short-Line Railroad, and report to an adjourned meeting. The motion was unanimously adopted. The chairman appointed Messrs. James A. Garey, Henry James, Gustav Gieske, Eugene Carrington, T. L. Tinsley and Dr. C. G. W. Macgill as the committee. On motion Mr. John Glenn was added as a member of the committee.

Mr. Eugene Carrington reported that $20,750 have been subscribed, and $10,000 additional promised as soon as certain arrangements are completed, which will make over $40,000 necessary to make the subscriptions good.

At the monthly meeting of the board of managers of Spring Grove Asylum, Col. Henry S. Taylor president, and a full board, a resolution was adopted recommending the Legislature to grant the right of way to the Catonsville Short-Line Railroad through the grounds of the institution and also subscribe to the capital stock. This action will be entered in the annual report of the officers of the institution to the Legislature.



Petitioner's Ex. #9

LIBER 7 3 1 0 FOLIO 5 8 2

STATE HIGHWAY ADMINISTRATION * IN THE CIRCUIT COURT
vs * FOR
THE CATON LOUDON RAILWAY COMPANY, et al. * BALTIMORE COUNTY
* Case No. 84-CG-1261

#46409 C001 R02 T08:24
10/30/86

INQUISITION

INQUISITION, made and taken at Bar in the Circuit Court for Baltimore County, in the matter of the Petition of the State Roads Commission of the State Highway Administration vs. The Caton Loudon Railway Company and it having been determined that the Plaintiff has the right to condemn the property hereinafter mentioned, Witnesseth:

THAT the parties hereto, through counsel, having waived in writing a trial by jury and having further agreed on $ 20,000.00 as the amount of damages which the Defendants will sustain by the taking, use and occupation of said property situate in the 1st Election District of Baltimore County, and more particularly described as follows:

ALL that property consisting of 0.452 acres, more or less, lying between the lines marked "Right of Way Line" as shown on Plat No. 48970, which is being taken in fee simple, which said plat has heretofore been filed.

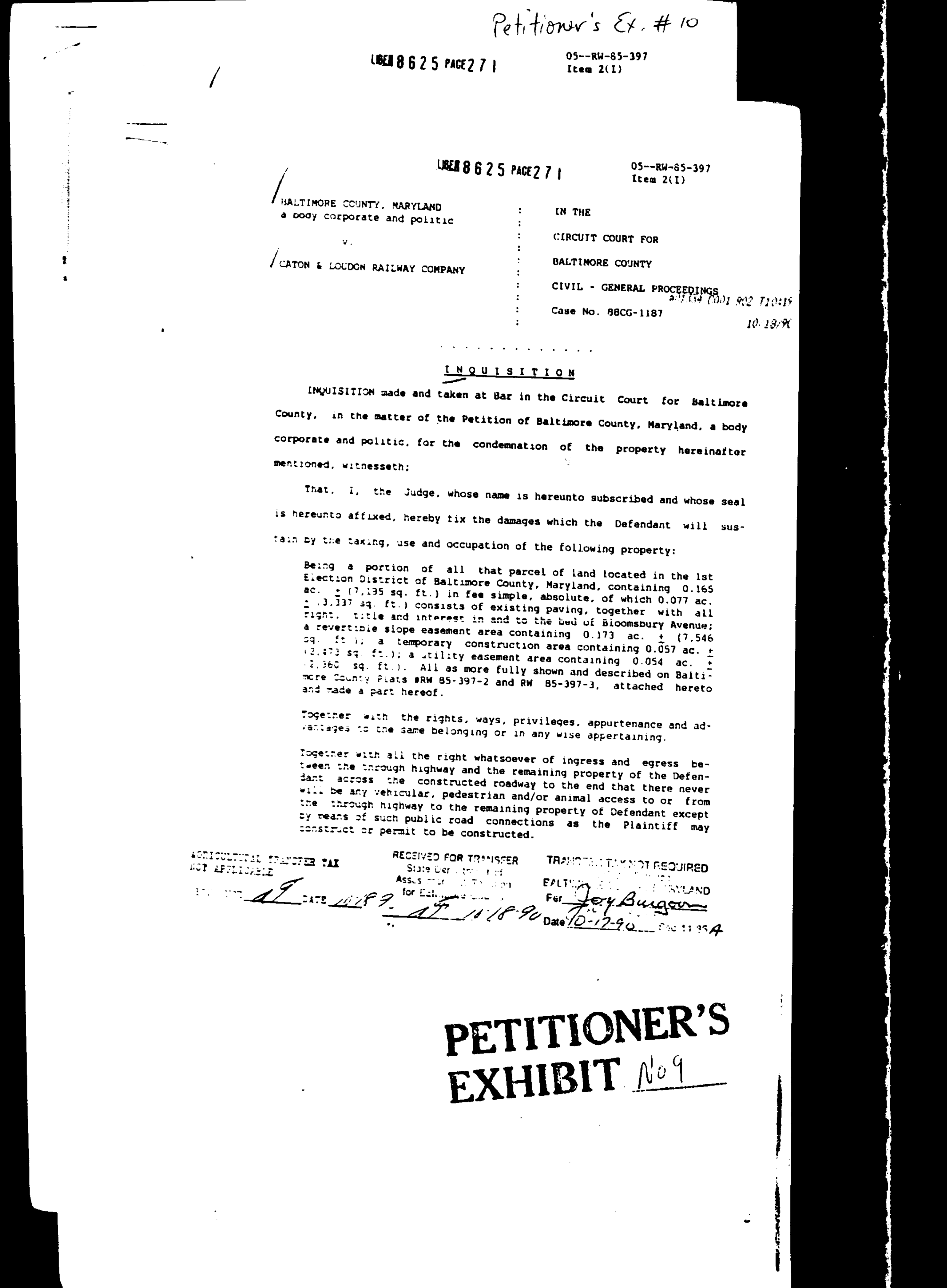
AND, in addition, the Defendant hereby releases the State Roads Commission of the State Highway Administration from all further obligations required under the terms of an Inquisition dated July 16, 1957, filed in the Circuit Court for Baltimore County in the case of the State Highway Administration v. Caton Loudon Railway Company, et al., File No. 546, Cond. Docket 3/133 and recorded among the Land Records of Baltimore County in Liber No. 3301, folio 142, to construct and maintain a bridge for the purpose of carrying the railroad tracks of the Defendants over the vehicular roadway known as the Baltimore County ~~Beltway~~ (I-695).

STATE DEPT. OF ASSESSMENTS & TAXATION
JR 10-29-86
CLERK DATE

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
SIGNATURE JR DATE 10-29-86

10-27-86
2
B. D.

PETITIONER'S EXHIBIT No 8



Petitioner's Ex. #10

LIBER 8 6 2 5 PAGE 2 7 1

05--RW-85-397
Item 2(I)

BALTIMORE COUNTY, MARYLAND a body corporate and politic : IN THE
v. : CIRCUIT COURT FOR
CATON & LOUDON RAILWAY COMPANY : BALTIMORE COUNTY
: CIVIL - GENERAL PROCEEDINGS
: Case No. 88CG-1187

10/18/90

INQUISITION

INQUISITION made and taken at Bar in the Circuit Court for Baltimore County, in the matter of the Petition of Baltimore County, Maryland, a body corporate and politic, for the condemnation of the property hereinafter mentioned, witnesseth;

That, I, the Judge, whose name is hereunto subscribed and whose seal is hereunto affixed, hereby fix the damages which the Defendant will sustain by the taking, use and occupation of the following property:

Being a portion of all that parcel of land located in the 1st Election District of Baltimore County, Maryland, containing 0.165 ac. ± (7,195 sq. ft.) in fee simple, absolute, of which 0.077 ac. ± (3,337 sq. ft.) consists of existing paving, together with all right, title and interest in and to the bed of Bloomsbury Avenue; a revertible slope easement area containing 0.173 ac. ± (7,546 sq. ft.); a temporary construction area containing 0.057 ac. ± (2,473 sq. ft.); a utility easement area containing 0.054 ac. ± (2,360 sq. ft.). All as more fully shown and described on Baltimore County Plats #RW 85-397-2 and RW 85-397-3, attached hereto and made a part hereof.

Together with the rights, ways, privileges, appurtenance and advantages to the same belonging or in any wise appertaining.

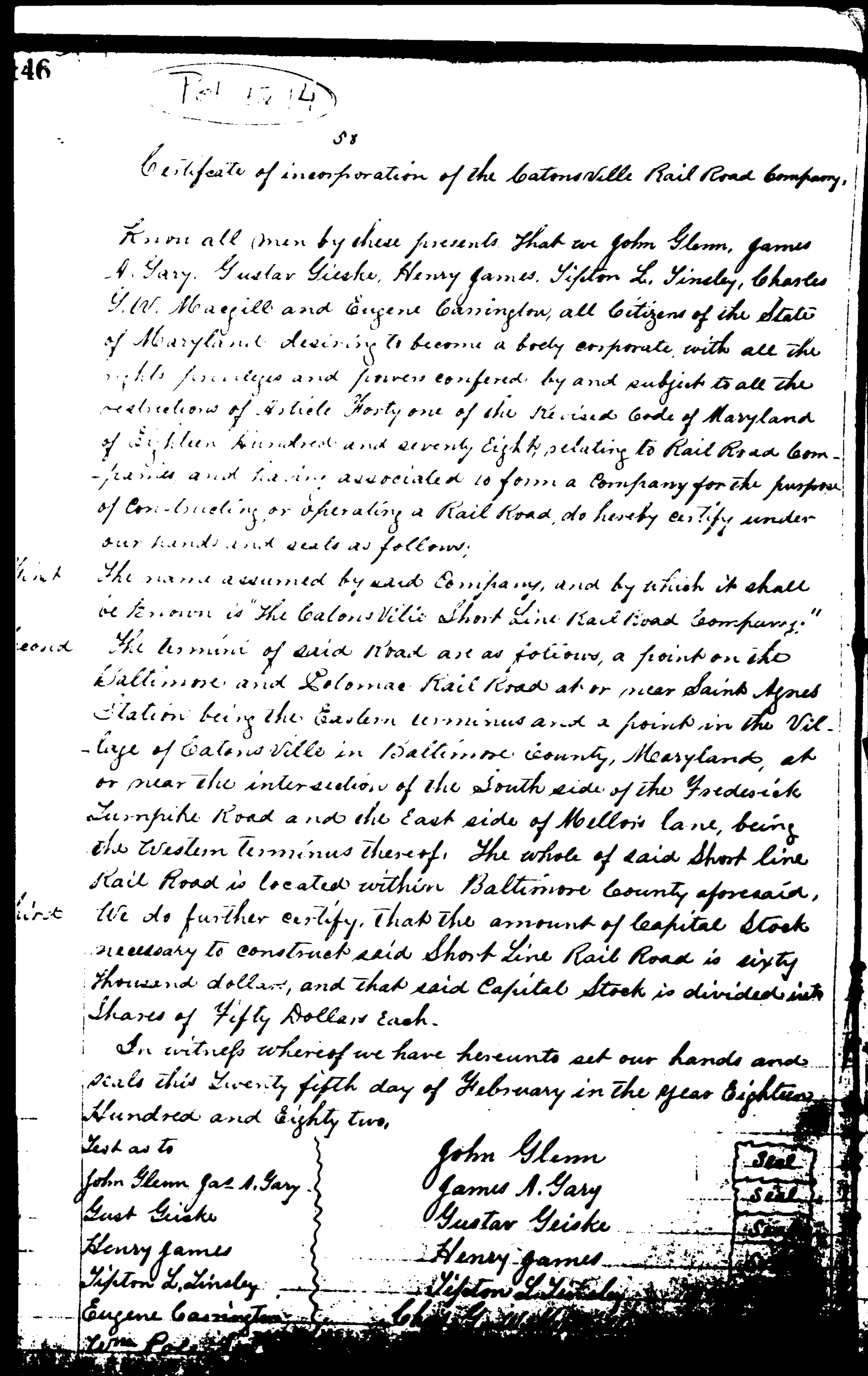
Together with all the right whatsoever of ingress and egress between the through highway and the remaining property of the Defendant across the constructed roadway to the end that there never will be any vehicular, pedestrian and/or animal access to or from the through highway to the remaining property of Defendant except by means of such public road connections as the Plaintiff may construct or permit to be constructed.

AGRICULTURAL TRANSFER TAX
NOT APPLICABLE
DATE 10/18/90

RECEIVED FOR TRANSFER
State Department of
Assessments & Taxation
for Baltimore County
10/18/90

TRANSFER TAX NOT REQUIRED
BALTIMORE COUNTY, MARYLAND
Per Joy Burgoon
Date 10-17-90

PETITIONER'S EXHIBIT No 9



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Pet 1714

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Certificate of incorporation of the Catonsville Rail Road Company.

Know all Men by these presents That we John Glenn, James A. Gary, Gustav Gieske, Henry James, Tipton L. Tinsley, Charles G. W. Macgill and Eugene Carrington, all Citizens of the State of Maryland desiring to become a body corporate with all the rights privileges and powers confered by and subject to all the restrictions of Article Forty one of the Revised Code of Maryland of Eighteen hundred and seventy Eight, relating to Rail Road Companies and having associated to form a Company for the purpose of Constructing or Operating a Rail Road, do hereby certify under our hands and seals as follows;

irst The name assumed by said Company, and by which it shall be known is "The Catonsville Short Line Rail Road Company."

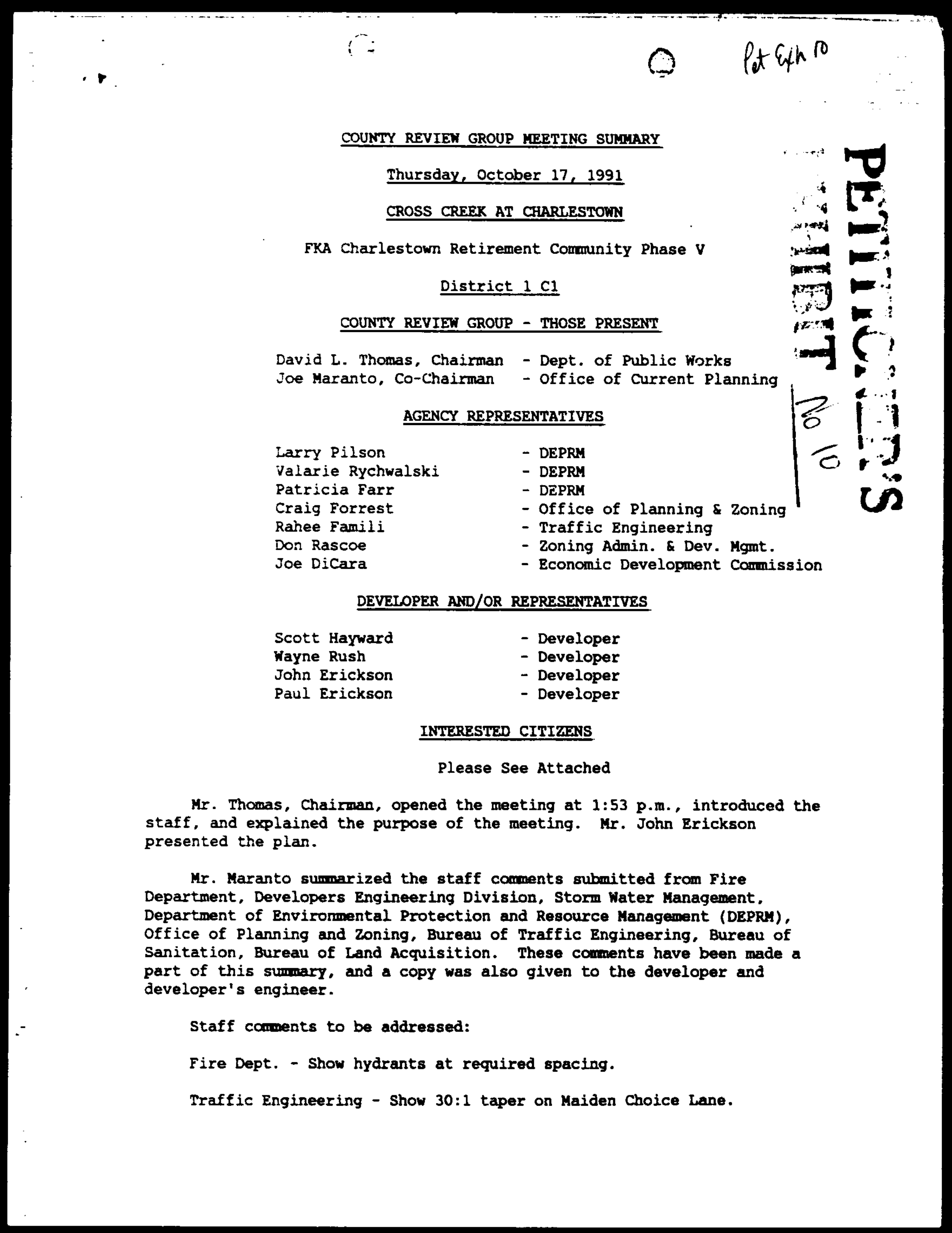
econd The termini of said Road are as follows, a point on the Baltimore and Potomac Rail Road at or near Saint Agnes Station being the Eastern terminus and a point in the Village of Catonsville in Baltimore County, Maryland, at or near the intersection of the South side of the Frederick Turnpike Road and the East side of Mellor's lane, being the Western terminus thereof. The whole of said Short line Rail Road is located within Baltimore County aforesaid.

hird We do further certify, that the amount of Capital Stock necessary to construct said Short Line Rail Road is sixty thousand dollars, and that said Capital Stock is divided into Shares of Fifty Dollars Each.

In witness whereof we have hereunto set our hands and seals this Twenty fifth day of February in the year Eighteen Hundred and Eighty two.

Test as to
John Glenn Jas. A. Gary
Gust Gieske
Henry James
Tipton L. Tinsley
Eugene Carrington
Wm Pol

John Glenn Seal
James A. Gary Seal
Gustav Gieske Seal
Henry James
Tipton L. Tinsley
Chas. G. W. Macgill



Pet Exh 10

PETITIONER'S EXHIBIT No 10

COUNTY REVIEW GROUP MEETING SUMMARY

Thursday, October 17, 1991

CROSS CREEK AT CHARLESTOWN

FKA Charlestown Retirement Community Phase V

District 1 C1

COUNTY REVIEW GROUP - THOSE PRESENT

David L. Thomas, Chairman - Dept. of Public Works
Joe Maranto, Co-Chairman - Office of Current Planning

AGENCY REPRESENTATIVES

Larry Pilson - DEPRM
Valarie Rychwalski - DEPRM
Patricia Farr - DEPRM
Craig Forrest - Office of Planning & Zoning
Rahee Famili - Traffic Engineering
Don Rascoe - Zoning Admin. & Dev. Mgmt.
Joe DiCara - Economic Development Commission

DEVELOPER AND/OR REPRESENTATIVES

Scott Hayward - Developer
Wayne Rush - Developer
John Erickson - Developer
Paul Erickson - Developer

INTERESTED CITIZENS

Please See Attached

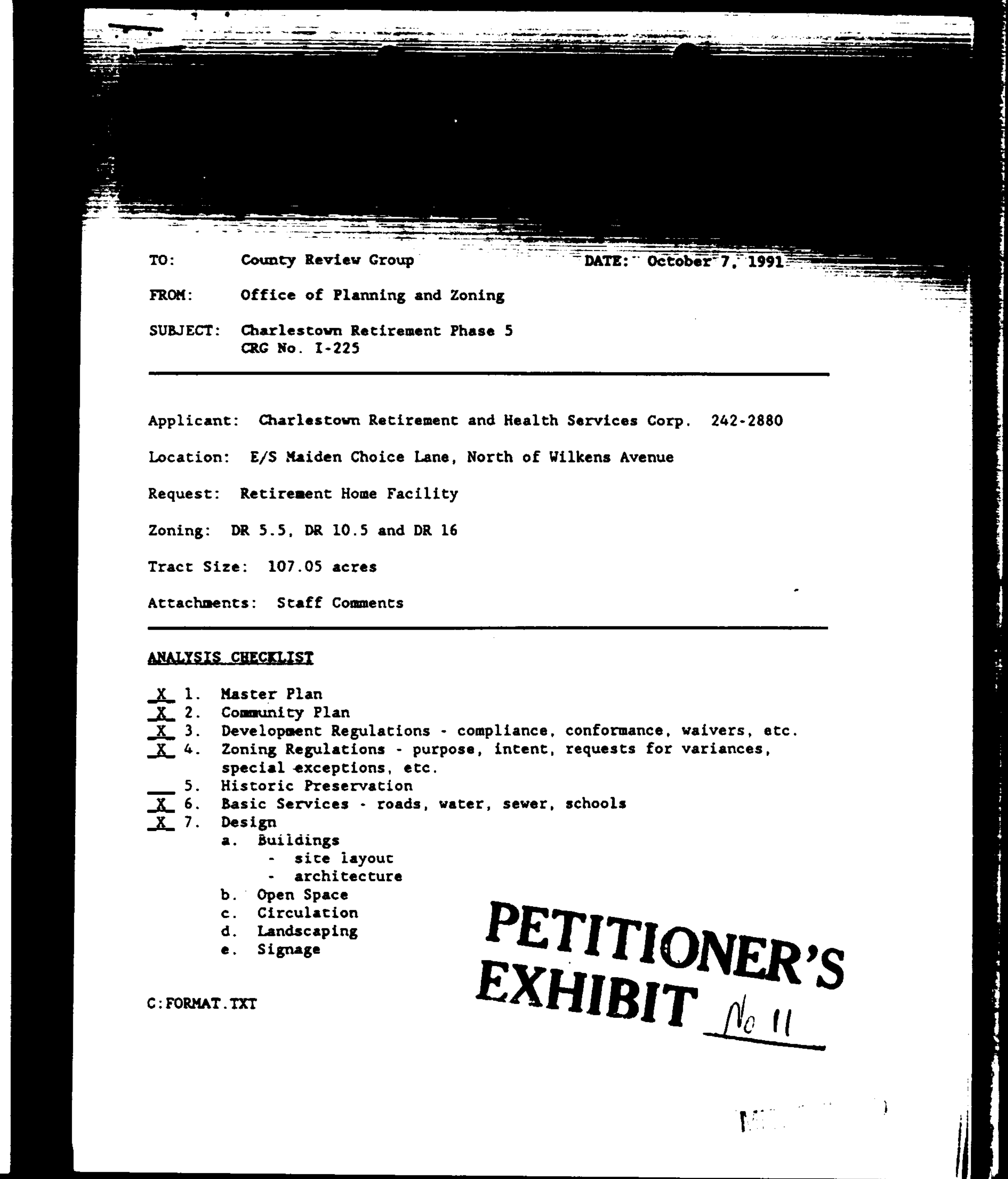
Mr. Thomas, Chairman, opened the meeting at 1:53 p.m., introduced the staff, and explained the purpose of the meeting. Mr. John Erickson presented the plan.

Mr. Maranto summarized the staff comments submitted from Fire Department, Developers Engineering Division, Storm Water Management, Department of Environmental Protection and Resource Management (DEPRM), Office of Planning and Zoning, Bureau of Traffic Engineering, Bureau of Sanitation, Bureau of Land Acquisition. These comments have been made a part of this summary, and a copy was also given to the developer and developer's engineer.

Staff comments to be addressed:

Fire Dept. - Show hydrants at required spacing.

Traffic Engineering - Show 30:1 taper on Maiden Choice Lane.



TO: County Review Group DATE: October 7, 1991

FROM: Office of Planning and Zoning

SUBJECT: Charlestown Retirement Phase 5
CRG No. I-225

Applicant: Charlestown Retirement and Health Services Corp. 242-2880

Location: E/S Maiden Choice Lane, North of Wilkens Avenue

Request: Retirement Home Facility

Zoning: DR 5.5, DR 10.5 and DR 16

Tract Size: 107.05 acres

Attachments: Staff Comments

ANALYSIS CHECKLIST

- X 1. Master Plan
- X 2. Community Plan
- X 3. Development Regulations - compliance, conformance, waivers, etc.
- X 4. Zoning Regulations - purpose, intent, requests for variances, special exceptions, etc.
- __ 5. Historic Preservation
- X 6. Basic Services - roads, water, sewer, schools
- X 7. Design
  - a. Buildings
    - site layout
    - architecture
  - b. Open Space
  - c. Circulation
  - d. Landscaping
  - e. Signage

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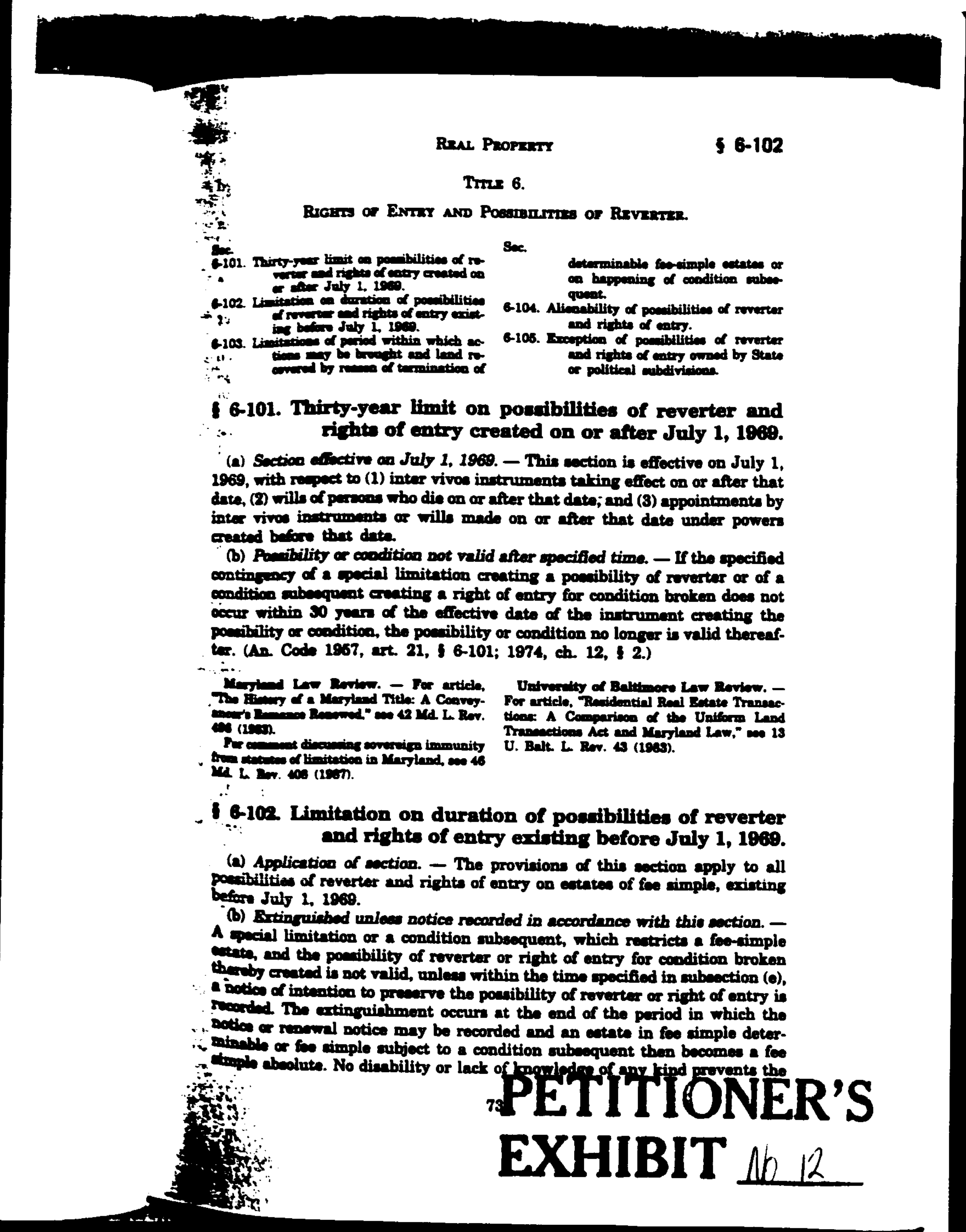
PETITIONER'S EXHIBIT No 11



REAL PROPERTY § 6-102

TITLE 6.

RIGHTS OF ENTRY AND POSSIBILITIES OF REVERTER.

Sec.
6-101. Thirty-year limit on possibilities of reverter and rights of entry created on or after July 1, 1969.
6-102. Limitation on duration of possibilities of reverter and rights of entry existing before July 1, 1969.
6-103. Limitations of period within which actions may be brought and land recovered by reason of termination of determinable fee-simple estates or on happening of condition subsequent.
6-104. Alienability of possibilities of reverter and rights of entry.
6-105. Exception of possibilities of reverter and rights of entry owned by State or political subdivisions.

§ 6-101. Thirty-year limit on possibilities of reverter and rights of entry created on or after July 1, 1969.

(a) *Section effective on July 1, 1969.* — This section is effective on July 1, 1969, with respect to (1) inter vivos instruments taking effect on or after that date, (2) wills of persons who die on or after that date; and (3) appointments by inter vivos instruments or wills made on or after that date under powers created before that date.

(b) *Possibility or condition not valid after specified time.* — If the specified contingency of a special limitation creating a possibility of reverter or of a condition subsequent creating a right of entry for condition broken does not occur within 30 years of the effective date of the instrument creating the possibility or condition, the possibility or condition no longer is valid thereafter. (An. Code 1957, art. 21, § 6-101; 1974, ch. 12, § 2.)

Maryland Law Review. — For article, "The History of a Maryland Title: A Conveyancer's Romance Renewed," see 42 Md. L. Rev. 496 (1983).

For comment discussing sovereign immunity from statutes of limitation in Maryland, see 46 Md. L. Rev. 408 (1987).

University of Baltimore Law Review. — For article, "Residential Real Estate Transactions: A Comparison of the Uniform Land Transactions Act and Maryland Law," see 13 U. Balt. L. Rev. 43 (1983).

§ 6-102. Limitation on duration of possibilities of reverter and rights of entry existing before July 1, 1969.

(a) *Application of section.* — The provisions of this section apply to all possibilities of reverter and rights of entry on estates of fee simple, existing before July 1, 1969.

(b) *Extinguished unless notice recorded in accordance with this section.* — A special limitation or a condition subsequent, which restricts a fee-simple estate, and the possibility of reverter or right of entry for condition broken thereby created is not valid, unless within the time specified in subsection (e), a notice of intention to preserve the possibility of reverter or right of entry is recorded. The extinguishment occurs at the end of the period in which the notice or renewal notice may be recorded and an estate in fee simple determinable or fee simple subject to a condition subsequent then becomes a fee simple absolute. No disability or lack of knowledge of any kind prevents the

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PETITIONER'S EXHIBIT No 12

The proposed construction of units on Parcel A will ensure that Parcel B remains as valuable and much needed open space.

In support of the relief requested, Chertkof presented the expert testimony of a professional site designer/engineer and of a professional planner. Richard H. Cassell, a registered Professional Engineer in the State of Maryland, was accepted as an expert without objection from Protestants. Mr. Cassell testified that he was familiar with the subject property and that the Plat (Chertkof's Exhibit No. 2) was prepared under his direction. The development proposed consists of six single family detached homes and seventy-eight apartment units. Mr. Cassell stated affirmatively that existing buffering vegetation will be maintained and that landscaping requirements would be met or exceeded.

Mr. Cassell opined that the transfer clustering proposed was in full compliance with BCZR §1B01.2.A.2. On cross-examination, Mr. Cassell was questioned as to why the portion of Parcel B zoned 0-2 was included in the calculation of total density available for the subject property. Mr. Cassell's response was that BCZR §205.3.A.2 states that 0-2 zones carry with them the density and uses permitted in DR 10.5 zones. Since you can build residential housing on land zoned as 0-2, with a density of 10.5 units/acre, that same density is permitted to be utilized in adjoining DR zones.

As noted at the outset of the hearing before this Board, Chertkof amended the relief that it was seeking. Chertkof requested approval by this Board for construction of 84 dwelling units in lieu of the 96 requested previously. Mr. Cassell's testimony was that even if the 0-2 zoned portions of Parcel B were to be excluded,there would be more than ample density available to permit the 84 units proposed.

Chertkof presented the testimony of Norman E. Gerber, AICP and former Director of Planning and Zoning for Baltimore County, as an expert in the areas of planning and zoning. Mr. Gerber was accepted without objection as an expert witness. On direct examination, Mr. Gerber testified that he was familiar with the subject property, Chertkof's Exhibit No. 2, the Baltimore County Master Plan and the Catonsville Community Plan. Mr. Gerber opined that the instant development proposal was a classic example of the purposes of DR zones, including greater variety of housing types, promotion and preservation of open space and permitting a developer to respond to changing housing market demands without resorting to a change in the zoning classification of the property. Moreover, based on his familiarity with the BCZR, Mr. Gerber opined that there are no size, shape or distance requirements in the BCZR that prohibit the density transfer/clustering of residential units proposed by Chertkof. The Protestants presented no contrary evidence, expert or lay; therefore, Mr. Gerber's testimony remains uncontradicted.

With respect to planning concepts and principles, Mr. Gerber gave his uncontradicted, expert opinion that the proposed clustering of development would, inter alia, provide an increased population base crucial to the viability of the Catonsville

commercial core and that the housing permitted would meet needs associated with the Spring Grove Economic Development area. Mr. Gerber noted that the economic development/redevelopment of Catonsville is an express goal of the Catonsville Community Plan.

Regarding compatibility, Mr. Gerber testified that Residential Transition Area requirements have been met and that the proposed housing types are consistent with the housing mix in the Catonsville Community. The preservation of Parcel B in its natural state will help meet the Master Plan identified need for additional open space.

Perhaps the most telling, yet uncontradicted portion of Mr. Gerber's testimony is that the proposed clustering is within the spirit and intent of the BCZR. In Mr. Gerber's opinion, the proposed cluster development would have only a positive effect on property values. Although limited by the County Charter as advisory documents, the Master Plan and Catonsville Community Plan goals seek to alleviate the stress on the existing community due to the deterioration of the commercial core and aging housing stock; these goals, according to Mr. Gerber, would be addressed by the cluster development of Chertkof. The testimony of Mr. William Hughey of the Office of Planning and Zoning was consistent with and supported Mr. Gerber's testimony and expert opinions.

The Protestants attempted to have Mr. Gerber calculate and then opine on the per acre density of Parcel A if the clustering proposed was built. Mr. Gerber correctly resisted this veiled attempt to, presumably, prove a point; his testimony was that the

density is calculated over the entire tract acreage - - a standard provided by the County Council in creating the DR classifications.

Based upon Mr. Gerber's analysis, there would be no negative impact on basic services of the community when the proposed development is constructed. Mr. Gerber noted the prohibition against recording of plats or issuing building permits if schools in the area are overcrowded. There is no such problem in this area of Catonsville. The units on Chertkof's approved CRG plan generate fewer children per unit than other unit types already in existence.

Finally, Mr. Gerber addressed the fact that the Baltimore Beltway crosses through a portion of Parcel B. In Mr. Gerber's expert opinion, because of numerous crossings in the area, the Baltimore Beltway is not a community barrier. The density of Parcel B, in its entirety, is eligible for transfer/clustering on Parcel A.

II. VAGUE AND UNSUBSTANTIATED FEARS ARE NOT EVIDENCE.

In a failed attempt to contradict the expert opinion of Mr. Gerber, Protestants proffered testimony of a representative of the South Rolling Road Community Association. The sum and substance of that testimony was that the board of the Association was opposed to the clustering imposed and that the Association did not feel that it was within the spirit and intent of the BCZR. This is not the first time (nor the last) that this Board has been presented with the unsubstantiated feelings of a community association about a proposed development project. Their message is clear that they do not wish others to use their property to allow others to reside

where the Protestants reside.

The appellate courts in this state have had to review decisions of this Board, and others like it, including references to community fears and feelings. In defining the "evidence" which must support a Board's decision, the Maryland Court of Special Appeals has held that:

> While zoning agency bodies then are not bound by strict rules of evidence, their decisions must be supported by substantial evidence on the record. Rockville Fuel, supra. "Zoning is not a plebiscite and therefore testimony in opposition restricted solely to lay witnesses, petitions of objection to the proposal by residents, and testimony amounting to unsupported dislike and fear of (a) project, "...amounted to no evidence at all." Entzian v. P.G. Co., 32 Md. App. 256, 262-63 (1976), quoting Rockville Fuel v. Board of Appeals, 257 Md. 183 (1970). (Emphasis added)

Thus, although the voting members of the association may feel strongly one way or the other about the proposed development, the proffered testimony amounts "to no evidence at all." The only expert witness called by the Protestants testified exclusively on matters relating to legal/title ownership - an issue not properly before this Board.

The only "evidence" before this Board is the substantial, uncontradicted evidence of Chertkof in support of their requested relief, as amended.

III. ORIGINAL AND EXCLUSIVE JURISDICTION TO DETERMINE OWNERSHIP OF REAL PROPERTY OR OF AN INTEREST IN REAL PROPERTY IS VESTED IN THE CIRCUIT COURT.

This Board has no authority to determine legal title to real

property or any interest therein. Article 25A §5, Annotated Code of Maryland, is the enabling statute for Charter Counties in the State of Maryland. Included within that statute is the express power to the legislative branch of a Charter County to create a Board of Appeals. Article 25A §5(U) defines and limits the authority to be exercised by any such Board of Appeals.

Pursuant to the State enabling authority, Baltimore County adopted by Charter the home rule form of government. Sections 601 to 604 of the Baltimore County Charter define and limit the authority of this Board and any appeals therefrom and Section 500.7 of the BCZR cannot enlarge the authority and jurisdiction of the Board that is not specifically granted by Article 25A Section 5 of the Annotated Code of Maryland and which authority is expressly reserved to the Circuit Courts of this State pursuant to the Courts and Judicial Proceedings Article and the Real Property Article. This Board has no authority in areas not identified by the enabling statute or County Charter. In the instant case, this Board is without jurisdiction and authority to decide the claims of the Protestants questioning ownership or the interest of the Caton and Loudon Railway Company in the subject property.

The Maryland Legislature has codified the authority of the District and Circuit Courts in this State. Section 1-501 of the Courts and Judicial Proceedings Article confers upon the Circuit Courts original jurisdiction over all matters not expressly granted to the District Court. The exclusive jurisdiction of the District Court is outlined in Section 4-401 of the Courts and Judicial

Proceedings Article. Exceptions to the exclusive jurisdiction of the District Court are identified in Courts and Judicial Proceedings Article §4-402, including sub-section (b) which provides that "[t]he District Court does not have jurisdiction to decide the ownership of real property or of an interest in real property." Rather, all issues of 'quieting title' are properly within the original jurisdiction of the Circuit Court, to be decided in accordance with Section 14-108 of the Real Property Article.

IV. PURSUANT TO APPLICABLE FEDERAL, STATE AND COMMON LAW PRINCIPLES, OWNERSHIP OF PARCEL B IS WITH THE CATON AND LOUDON RAILWAY COMPANY.

Without prejudice to Chertkof's objection to this Board's allowing testimony on the ownership "issue" raised by the Protestants and Chertkof's urging that this Board has no authority or jurisdiction to entertain or decide ownership, the Board is hereby provided with the authority for Chertkof's ownership of the subject property.

Ownership of property includes the traditional "bundle of property rights." Among the "sticks" which form the overall bundle are the right to exercise dominion and control over the property and the right to exclude all others from the use of the property. The Protestants have attempted to cloud the real issue before this Board by denying Chertkof's ownership of Parcel B.

Chertkof has submitted conclusive evidence of its ownership of, at a minimum, portions of Parcel B. When the Maryland State Highway Administration 'took' land for construction of the

Baltimore Beltway, the Caton and Loudon Railway Company was the named defendant and to whom the proceeds were paid.[3] Likewise, when Baltimore County, Maryland 'took' land for improvements along Bloomsbury and Holmes Avenues, the Caton and Loudon Railway Company was again the named defendant which received the value of the fee interest taken.[4]

David Fishman, Esquire, a widely recognized legal expert in real estate title matters and who possesses extensive experience and knowledge of ownership and title issues related to railroad property, appeared and testified on behalf of Chertkof. Mr. Fishman had examined a variety of recorded documents, historical evidence and public laws and records in forming his opinion before this Board. Mr. Fishman opined that certain portions of Parcel B are clearly owned in fee simple by the Caton and Loudon Railway Company. Mr. Fishman's opinion was based, in part, on the Case of Catonsville Short Line Railroad v. Metz, Circuit Court Baltimore County, Condemnation Docket W.M.I. 64, folio 220-225 (1883) and Chapter 123 of the 1882 Laws of Maryland, as well as other, significant, contemporary evidence that showed that the Catonsville Short Line Railroad received grants from most property owners along the line, including many of the railroad's own incorporators, thereby explaining why there were so few condemnation cases that

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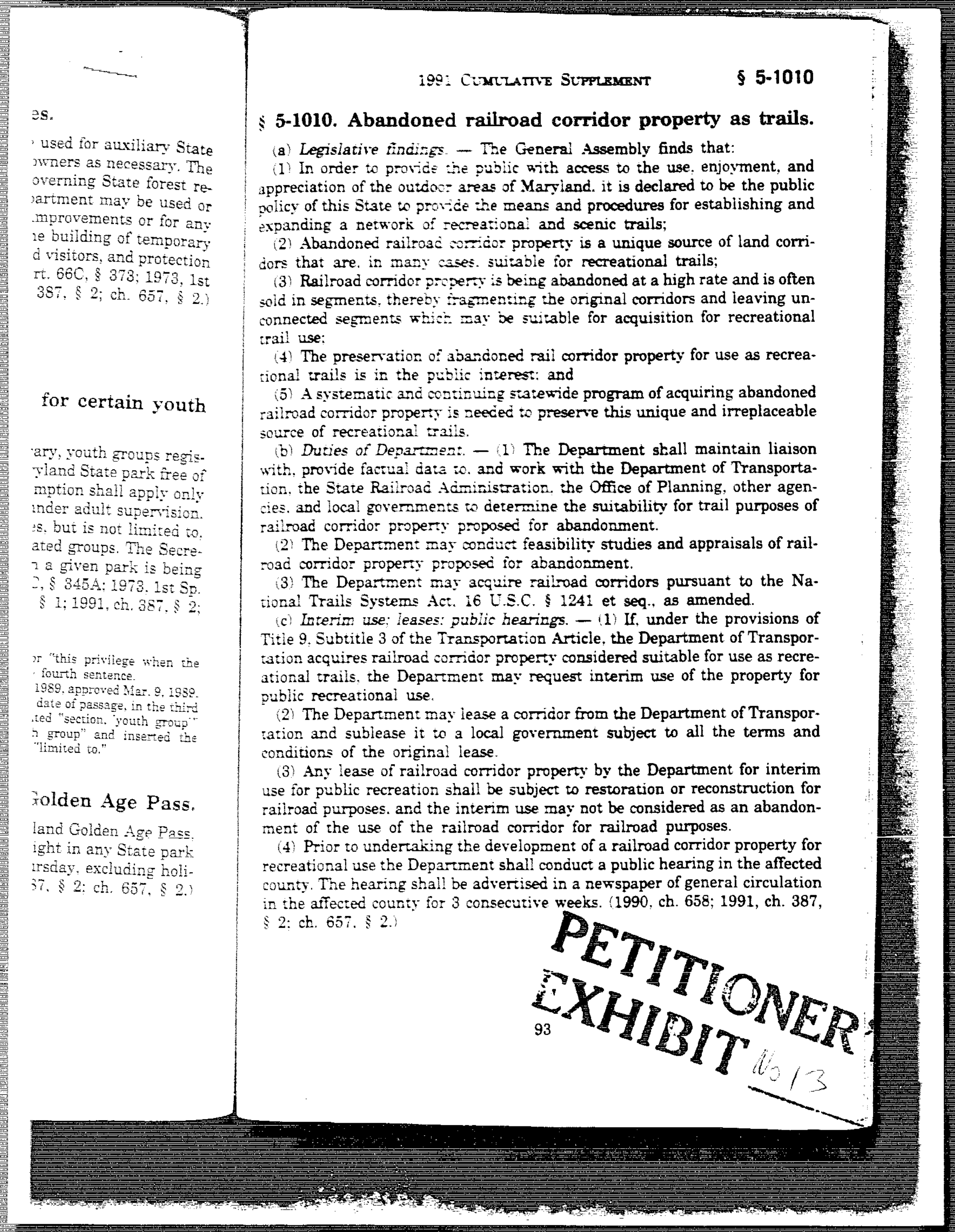
[3] See Appellee's Exhibit No. 9, Inquisition recorded in the Land Records of Baltimore County at Liber 7310, folio 582.

[4] See Appellee's Exhibit No. 10, as recorded among the Land Records of Baltimore County in Liber 8625, folio 271.



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387, § 2; ch. 657, § 2.)

for certain youth

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§ 1; 1991, ch. 387, § 2;

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57, § 2; ch. 657, § 2.)

§ 5-1010. Abandoned railroad corridor property as trails.

(a) *Legislative findings.* — The General Assembly finds that:

(1) In order to provide the public with access to the use, enjoyment, and appreciation of the outdoor areas of Maryland, it is declared to be the public policy of this State to provide the means and procedures for establishing and expanding a network of recreational and scenic trails;

(2) Abandoned railroad corridor property is a unique source of land corridors that are, in many cases, suitable for recreational trails;

(3) Railroad corridor property is being abandoned at a high rate and is often sold in segments, thereby fragmenting the original corridors and leaving unconnected segments which may be suitable for acquisition for recreational trail use;

(4) The preservation of abandoned rail corridor property for use as recreational trails is in the public interest; and

(5) A systematic and continuing statewide program of acquiring abandoned railroad corridor property is needed to preserve this unique and irreplaceable source of recreational trails.

(b) *Duties of Department.* — (1) The Department shall maintain liaison with, provide factual data to, and work with the Department of Transportation, the State Railroad Administration, the Office of Planning, other agencies, and local governments to determine the suitability for trail purposes of railroad corridor property proposed for abandonment.

(2) The Department may conduct feasibility studies and appraisals of railroad corridor property proposed for abandonment.

(3) The Department may acquire railroad corridors pursuant to the National Trails Systems Act, 16 U.S.C. § 1241 et seq., as amended.

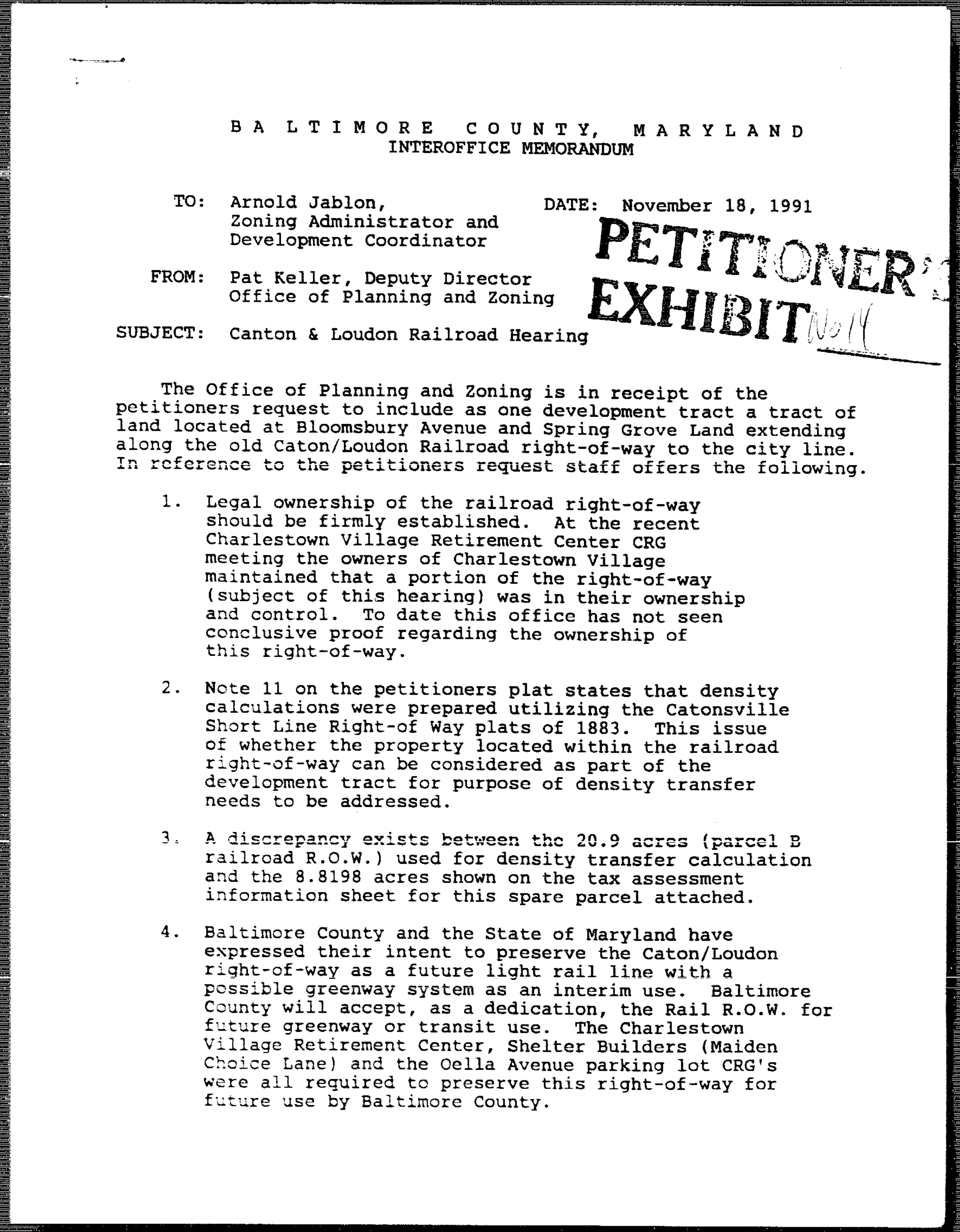
(c) *Interim use; leases; public hearings.* — (1) If, under the provisions of Title 9, Subtitle 3 of the Transportation Article, the Department of Transportation acquires railroad corridor property considered suitable for use as recreational trails, the Department may request interim use of the property for public recreational use.

(2) The Department may lease a corridor from the Department of Transportation and sublease it to a local government subject to all the terms and conditions of the original lease.

(3) Any lease of railroad corridor property by the Department for interim use for public recreation shall be subject to restoration or reconstruction for railroad purposes, and the interim use may not be considered as an abandonment of the use of the railroad corridor for railroad purposes.

(4) Prior to undertaking the development of a railroad corridor property for recreational use the Department shall conduct a public hearing in the affected county. The hearing shall be advertised in a newspaper of general circulation in the affected county for 3 consecutive weeks. (1990, ch. 658; 1991, ch. 387, § 2; ch. 657, § 2.)

PETITIONER'S EXHIBIT No 13



B A L T I M O R E   C O U N T Y ,   M A R Y L A N D
INTEROFFICE MEMORANDUM

TO: Arnold Jablon,
Zoning Administrator and
Development Coordinator

DATE: November 18, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Canton & Loudon Railroad Hearing

PETITIONER'S EXHIBIT No 14

The Office of Planning and Zoning is in receipt of the petitioners request to include as one development tract a tract of land located at Bloomsbury Avenue and Spring Grove Land extending along the old Caton/Loudon Railroad right-of-way to the city line. In reference to the petitioners request staff offers the following.

1. Legal ownership of the railroad right-of-way should be firmly established. At the recent Charlestown Village Retirement Center CRG meeting the owners of Charlestown Village maintained that a portion of the right-of-way (subject of this hearing) was in their ownership and control. To date this office has not seen conclusive proof regarding the ownership of this right-of-way.

2. Note 11 on the petitioners plat states that density calculations were prepared utilizing the Catonsville Short Line Right-of Way plats of 1883. This issue of whether the property located within the railroad right-of-way can be considered as part of the development tract for purpose of density transfer needs to be addressed.

3. A discrepancy exists between the 20.9 acres (parcel B railroad R.O.W.) used for density transfer calculation and the 8.8198 acres shown on the tax assessment information sheet for this spare parcel attached.

4. Baltimore County and the State of Maryland have expressed their intent to preserve the Caton/Loudon right-of-way as a future light rail line with a possible greenway system as an interim use. Baltimore County will accept, as a dedication, the Rail R.O.W. for future greenway or transit use. The Charlestown Village Retirement Center, Shelter Builders (Maiden Choice Lane) and the Oella Avenue parking lot CRG's were all required to preserve this right-of-way for future use by Baltimore County.

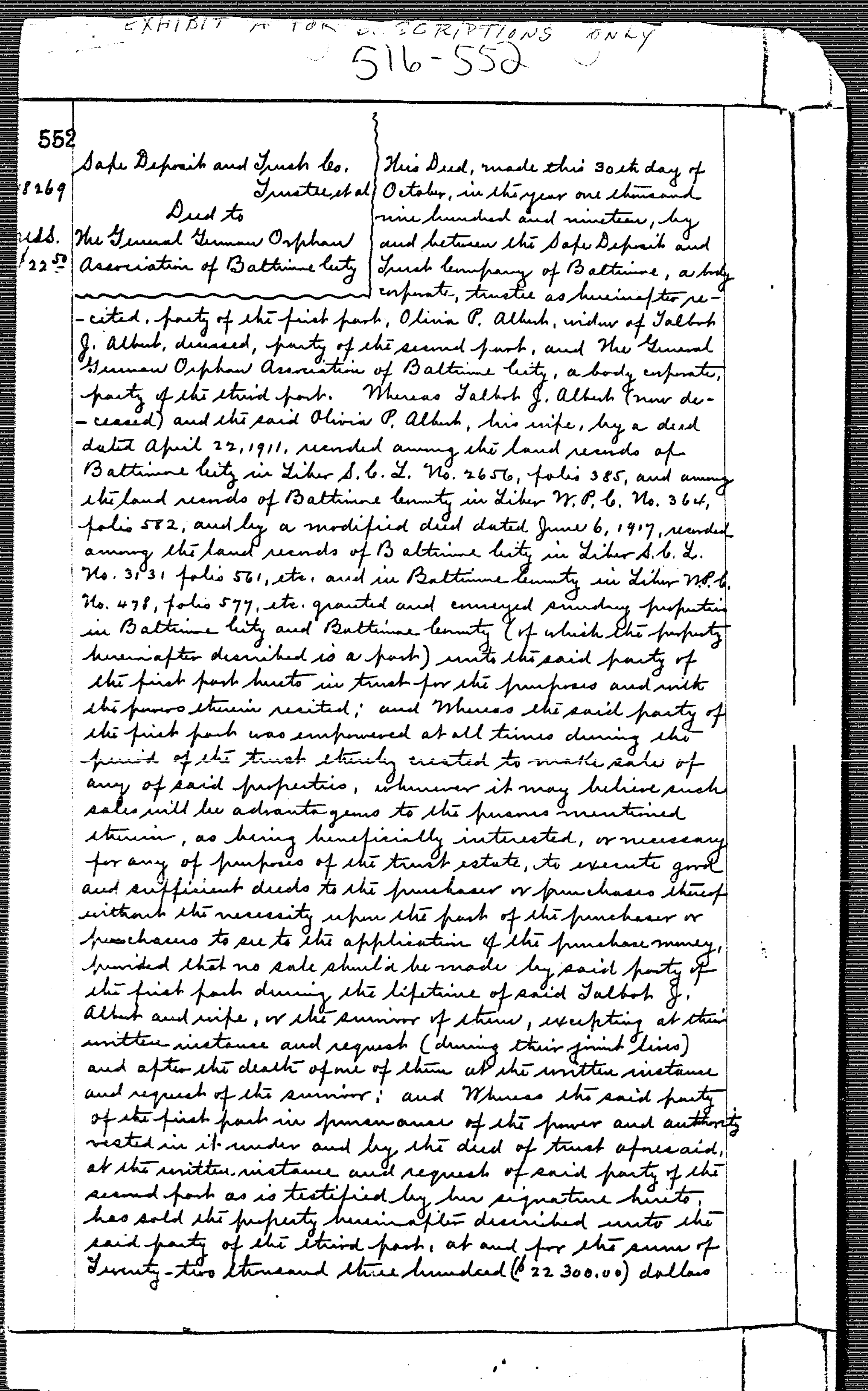


EXHIBIT A FOR DESCRIPTIONS ONLY
516-552

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8269

Rec'd.
22.50

Safe Deposit and Trust Co.
Trustee, et al.
Deed to
The General German Orphan
Association of Baltimore City

This Deed, made this 30th day of October, in the year one thousand nine hundred and nineteen, by and between the Safe Deposit and Trust Company of Baltimore, a body corporate, trustee as hereinafter recited, party of the first part, Olivia P. Albert, widow of Talbot J. Albert, deceased, party of the second part, and The General German Orphan Association of Baltimore City, a body corporate, party of the third part. Whereas Talbot J. Albert (now deceased) and the said Olivia P. Albert, his wife, by a deed dated April 22, 1911, recorded among the land records of Baltimore City in Liber S.C.L. No. 2656, folio 385, and among the land records of Baltimore County in Liber W.P.C. No. 364, folio 582, and by a modified deed dated June 6, 1917, recorded among the land records of Baltimore City in Liber S.C.L. No. 3131 folio 561, etc. and in Baltimore County in Liber W.P.C. No. 478, folio 577, etc. granted and conveyed sundry properties in Baltimore City and Baltimore County (of which the property hereinafter described is a part) unto the said party of the first part hereto in trust for the purposes and with the powers therein recited; and Whereas the said party of the first part was empowered at all times during the period of the trust thereby created to make sale of any of said properties, whenever it may believe such sales will be advantageous to the persons mentioned therein, as being beneficially interested, or necessary for any of purposes of the trust estate, to execute good and sufficient deeds to the purchaser or purchasers thereof without the necessity upon the part of the purchaser or purchasers to see to the application of the purchase money, provided that no sale should be made by said party of the first part during the lifetime of said Talbot J. Albert and wife, or the survivor of them, excepting at their written instance and request (during their joint lives) and after the death of one of them at the written instance and request of the survivor; and Whereas the said party of the first part in pursuance of the power and authority vested in it under and by the deed of trust aforesaid, at the written instance and request of said party of the second part as is testified by her signature hereto, has sold the property hereinafter described unto the said party of the third part, at and for the sum of Twenty-two thousand three hundred ($22300.00) dollars

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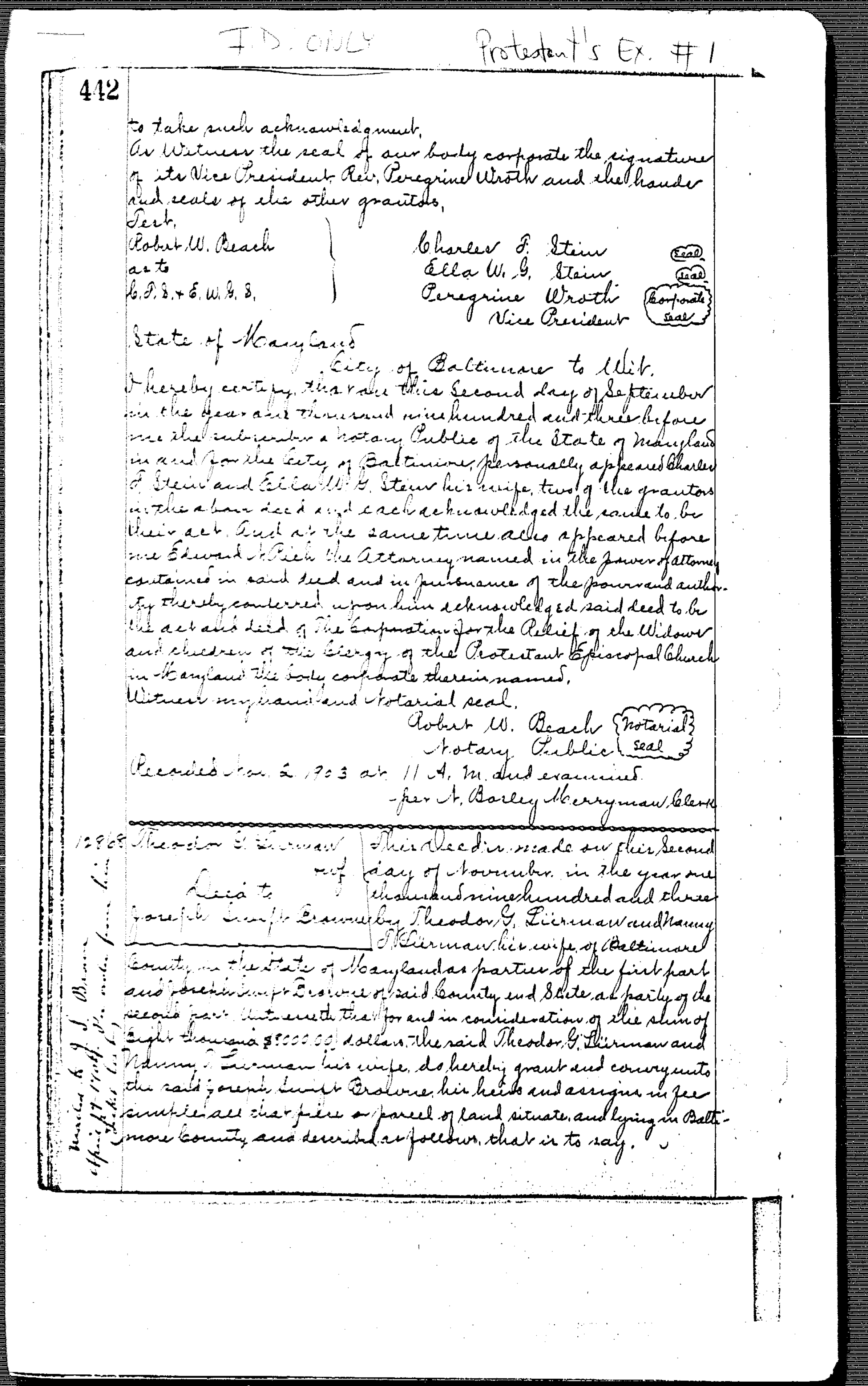

I.D. ONLY   Protestant's Ex. #1

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to take such acknowledgment.
As Witness the seal of our body corporate the signature of its Vice President Rev. Peregrine Wroth and the hands and seals of the other grantors.

Test.
Robert W. Beach
as to
C.F.S. & E.W.G.S.

Charles F. Stein (Seal)
Ella W. G. Stein (Seal)
Peregrine Wroth (Corporate Seal)
Vice President

State of Maryland
City of Baltimore to Wit.
I hereby certify that on this Second day of September in the year one thousand nine hundred and three before me the subscriber a Notary Public of the State of Maryland in and for the City of Baltimore, personally appeared Charles F. Stein and Ella W. G. Stein his wife, two of the grantors in the above deed and each acknowledged the same to be their act. And at the same time also appeared before me Edward N. Rich the Attorney named in the power of attorney contained in said deed and in pursuance of the power and authority thereby conferred upon him acknowledged said deed to be the act and deed of The Corporation for the Relief of the Widows and Children of the Clergy of the Protestant Episcopal Church in Maryland the body corporate therein named.
Witness my hand and Notarial seal.

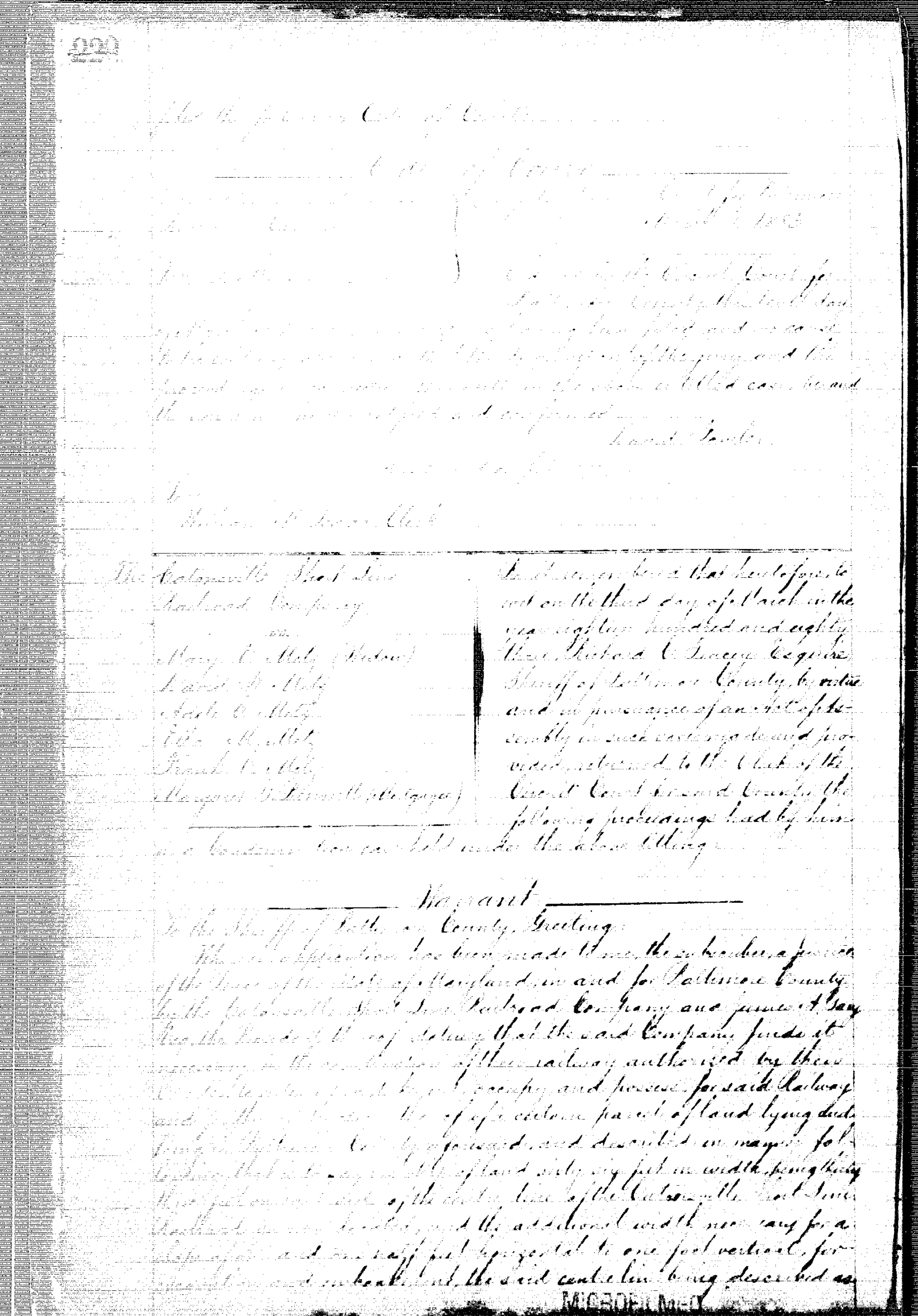
Robert W. Beach (Notarial Seal)
Notary Public

Recorded Nov. 2, 1903 at 11 A. M. and examined.
per N. Bosley Merryman, Clerk

12868 Theodor G. Lierman et ux
Deed to
Joseph [illegible] Bromwell

This Deed is made on this Second day of November in the year one thousand nine hundred and three by Theodor G. Lierman and Nanny M. Lierman his wife, of Baltimore County in the State of Maryland as parties of the first part and Joseph [illegible] Bromwell of said County and State as party of the second part Witnesseth that for and in consideration of the sum of Eight thousand $8000.00 dollars, the said Theodor G. Lierman and Nanny M. Lierman his wife, do hereby grant and convey unto the said Joseph [illegible] Bromwell his heirs and assigns in fee simple all that piece or parcel of land situate and lying in Baltimore County and described as follows, that is to say.

Mailed to J. J. Bromwell April 17 1905 [illegible]



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[illegible] Clerk

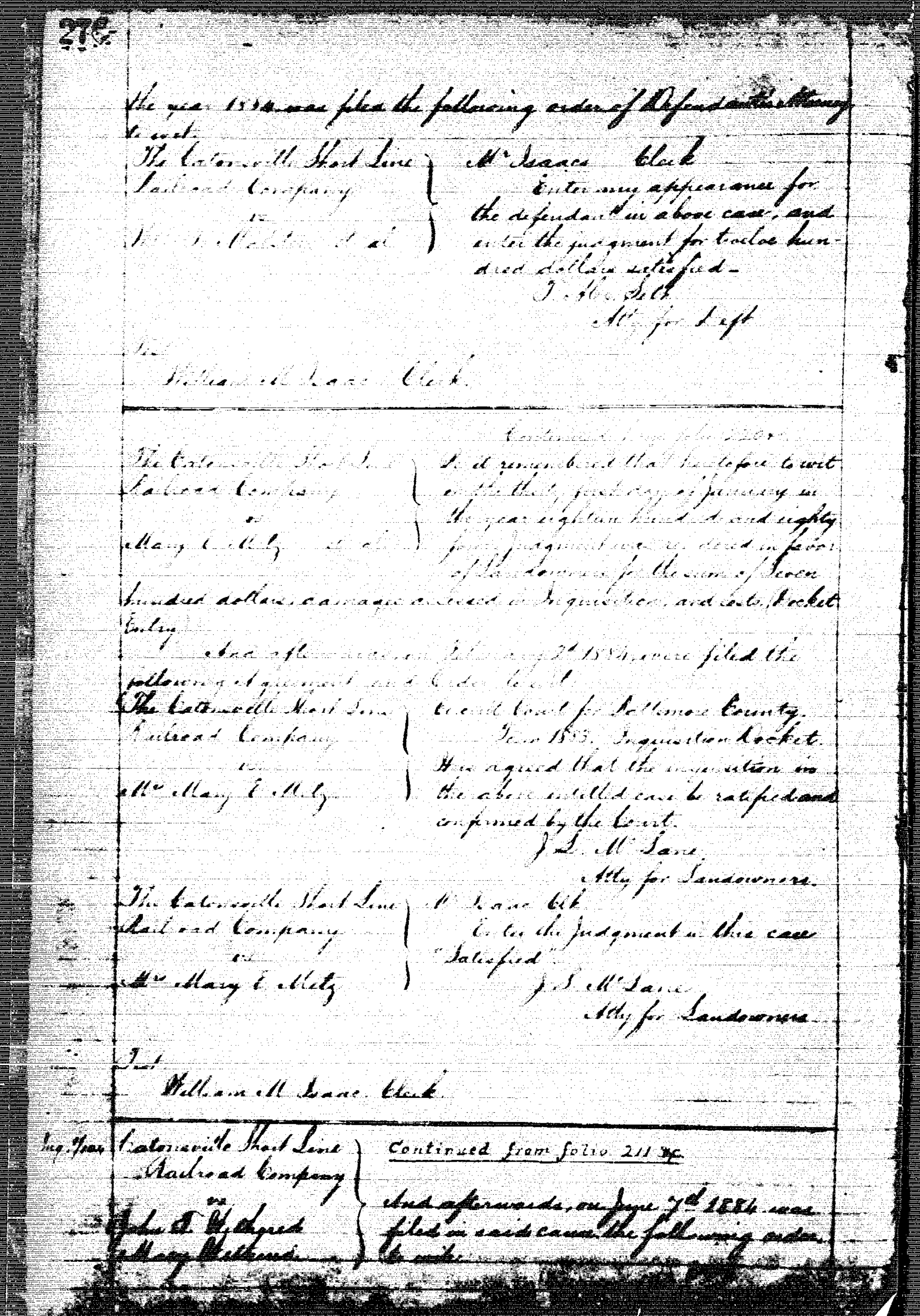
The Catonsville Short Line Railroad Company
vs.
Mary E. Metz (Widow)
[illegible] Metz
[illegible] Metz
[illegible] Metz
Frank [illegible] Metz
Margaret [illegible] (Mortgagee)

Be it remembered that heretofore to wit on the third day of March in the year eighteen hundred and eighty three, Richard C. [illegible] Esquire Sheriff of Baltimore County, by virtue and in pursuance of an Act of Assembly in such case made and provided, returned to the Clerk of the Circuit Court for said County the following proceedings had by him in a condemnation [illegible] under the above [illegible]

Warrant

To the Sheriff of Baltimore County, Greeting:
Whereas application has been made to me, the subscriber, a justice of the Peace of the State of Maryland, in and for Baltimore County, by the Catonsville Short Line Railroad Company [illegible] that the said Company finds it necessary in the construction of the railway authorized by their [illegible] to [illegible] occupy and possess for said Railway [illegible] a certain parcel of land lying [illegible] Baltimore County aforesaid, and described in manner following, that is to say, a strip of land sixty six feet in width, being thirty three feet on each side of the center line of the Catonsville Short Line Railroad [illegible] with the additional width necessary for a slope of [illegible] and one half feet horizontal to one foot vertical, for [illegible] and embankment, the said center line being described as

MICROFILMED



278

the year 1884 was filed the following order of Defendant's Attorney to wit:

The Catonsville Short Line Railroad Company
vs.
[illegible] et al

Mr Isaacs Clerk
Enter my appearance for the defendant in above case, and enter the judgment for twelve hundred dollars satisfied.
J. H. [illegible]
Atty for Deft

Test:
William M. Isaac Clerk

Continued from folio 220 [illegible]

The Catonsville Short Line Railroad Company
vs.
Mary E. Metz et al

Be it remembered that heretofore to wit on the thirty first day of January in the year eighteen hundred and eighty four judgment was rendered in favor of the Landowners for the sum of Seven hundred dollars, damages assessed in Inquisition, and costs. Docket Entry.

And afterwards on February 7th 1884 were filed the following Agreement and Order to wit:

The Catonsville Short Line Railroad Company
vs.
Mrs Mary E. Metz

Circuit Court for Baltimore County.
Term 1883. Inquisition Docket.
It is agreed that the inquisition in the above entitled case be ratified and confirmed by the Court.
J. L. McLane
Atty for Landowners.

The Catonsville Short Line Railroad Company
vs.
Mrs Mary E. Metz

Mr Isaac Clk.
Enter the judgment in this case "Satisfied".
J. L. McLane
Atty for Landowners

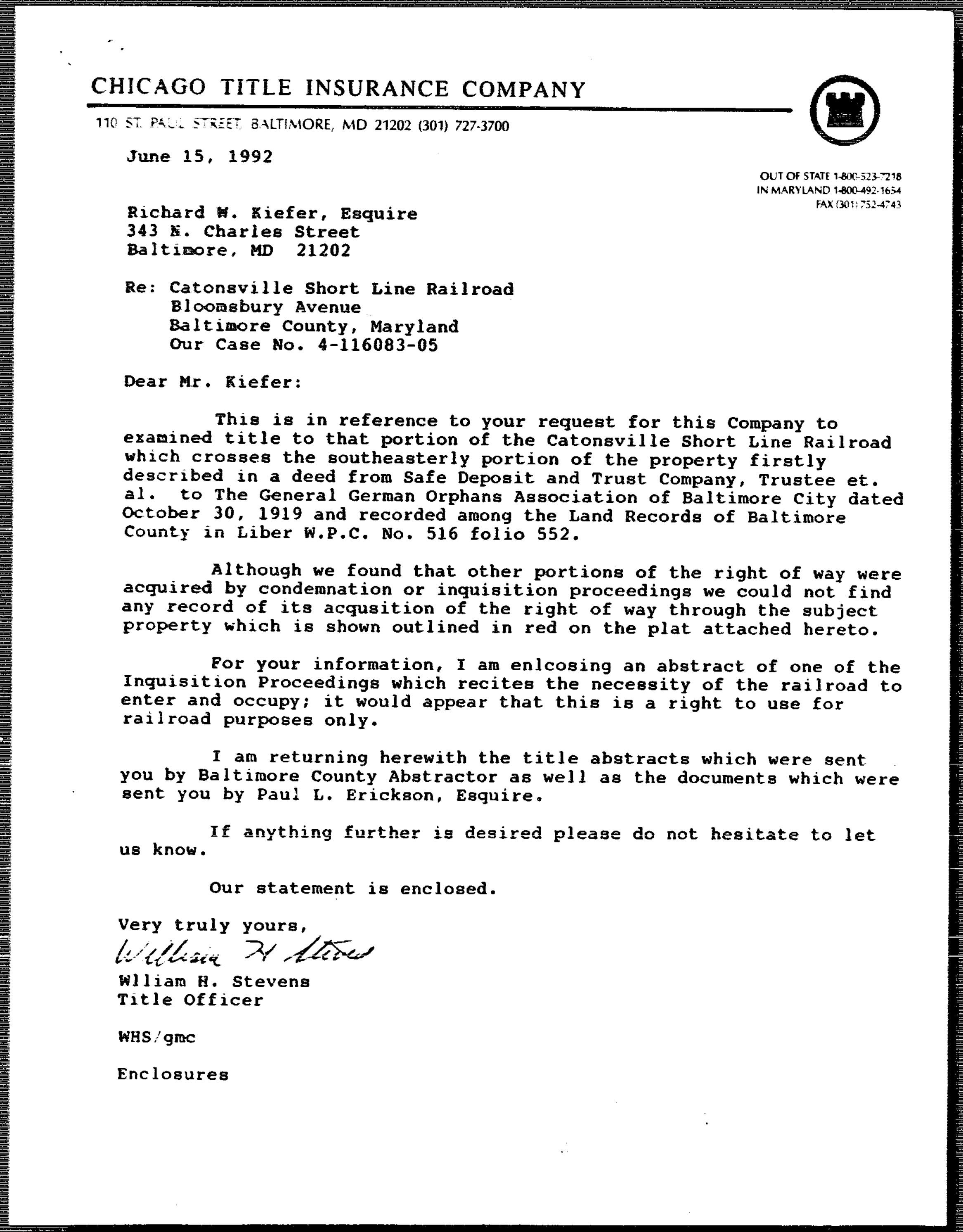
Test:
William M. Isaac Clerk

Inq. Year

Catonsville Short Line Railroad Company
vs.
John T. [illegible]
Mary [illegible]

Continued from folio 211 &c.

And afterwards, on June 7th 1884 was filed in said cause the following order to wit:



CHICAGO TITLE INSURANCE COMPANY
110 ST. PAUL STREET, BALTIMORE, MD 21202 (301) 727-3700
OUT OF STATE 1-800-523-7218
IN MARYLAND 1-800-492-1654
FAX (301) 752-4743

June 15, 1992

Richard W. Kiefer, Esquire
343 N. Charles Street
Baltimore, MD 21202

Re: Catonsville Short Line Railroad
Bloomsbury Avenue
Baltimore County, Maryland
Our Case No. 4-116083-05

Dear Mr. Kiefer:

This is in reference to your request for this Company to examined title to that portion of the Catonsville Short Line Railroad which crosses the southeasterly portion of the property firstly described in a deed from Safe Deposit and Trust Company, Trustee et. al. to The General German Orphans Association of Baltimore City dated October 30, 1919 and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 516 folio 552.

Although we found that other portions of the right of way were acquired by condemnation or inquisition proceedings we could not find any record of its acqusition of the right of way through the subject property which is shown outlined in red on the plat attached hereto.

For your information, I am enlcosing an abstract of one of the Inquisition Proceedings which recites the necessity of the railroad to enter and occupy; it would appear that this is a right to use for railroad purposes only.

I am returning herewith the title abstracts which were sent you by Baltimore County Abstractor as well as the documents which were sent you by Paul L. Erickson, Esquire.

If anything further is desired please do not hesitate to let us know.

Our statement is enclosed.

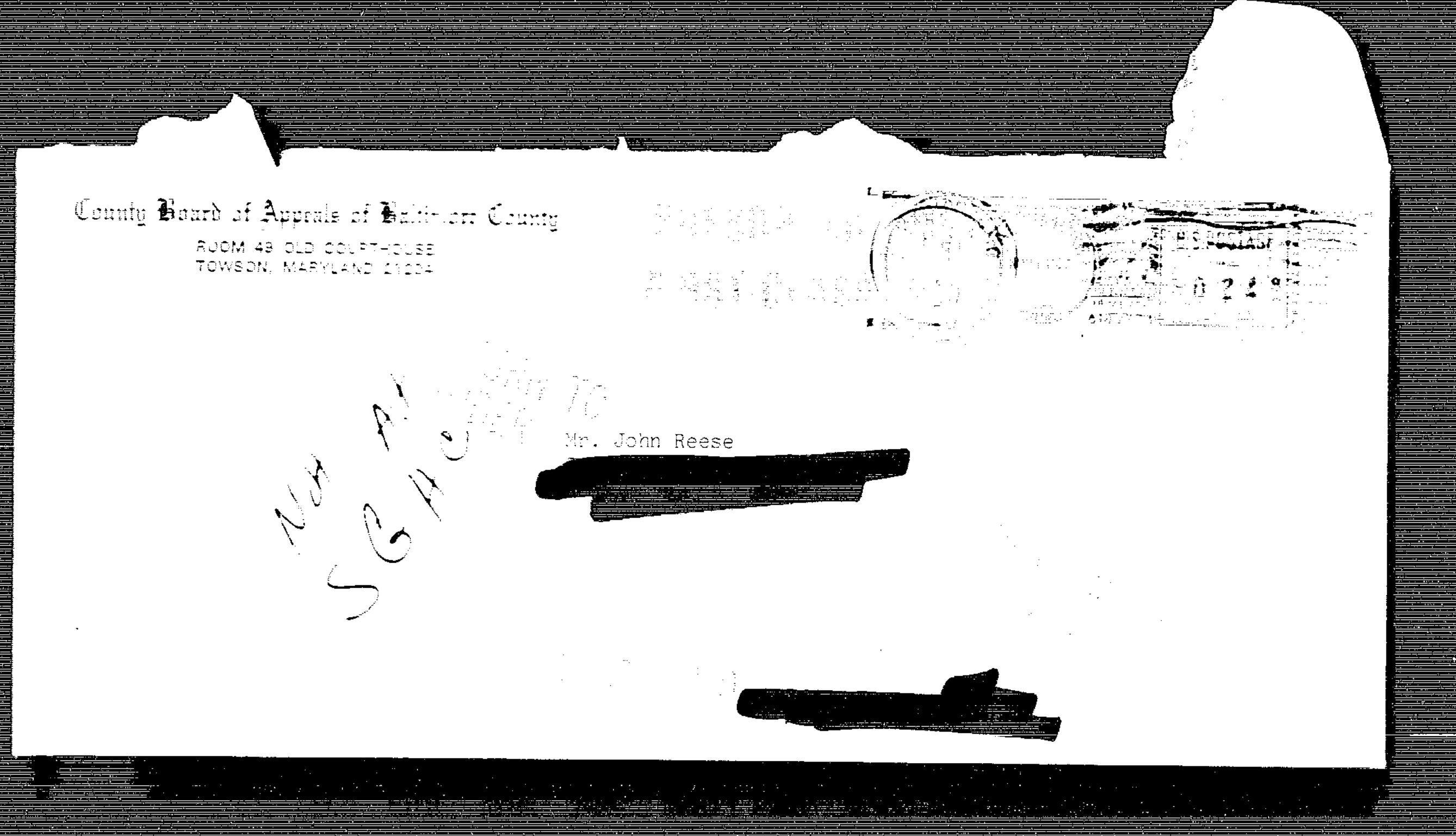
Very truly yours,

William H. Stevens

Wlliam H. Stevens
Title Officer

WHS/gmc

Enclosures

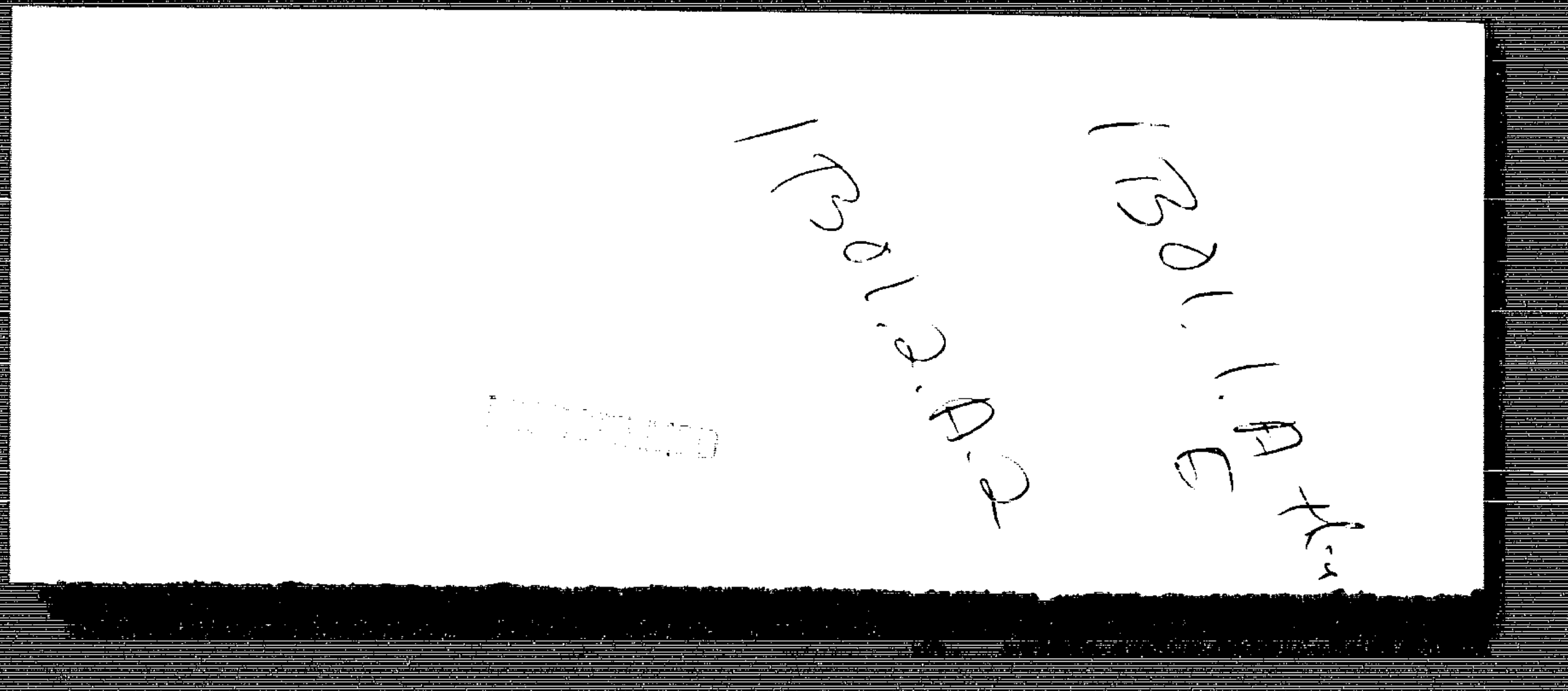


County Board of Appeals of Baltimore County
ROOM 49 OLD COURTHOUSE
TOWSON, MARYLAND 21204

U.S. POSTAGE

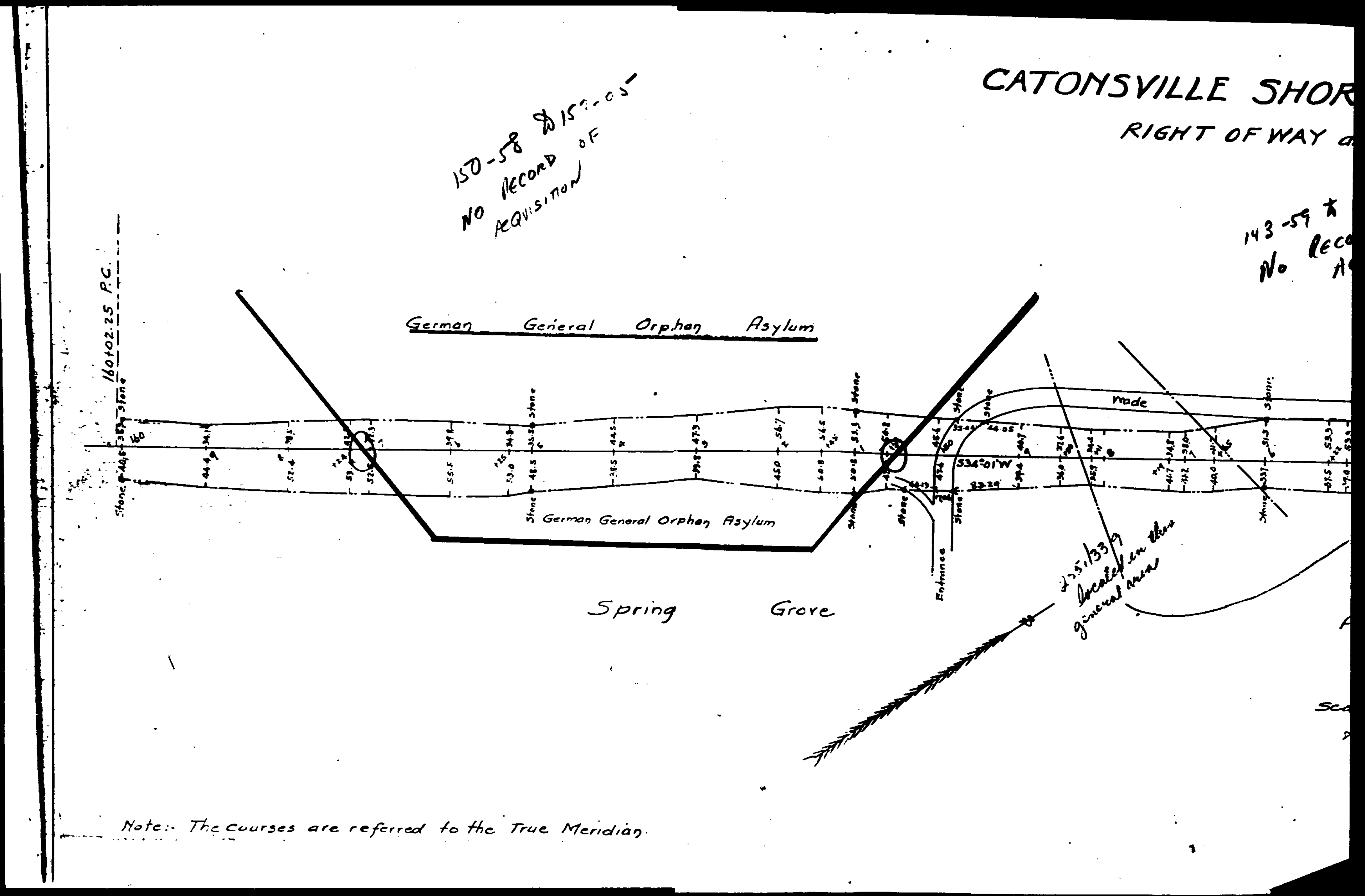
Mr. John Reese
[redacted]

[redacted]



1B01.1.A.4

1B01.2.A.2


CATONSVILLE SHOR
RIGHT OF WAY a
150-58 D157-05'
NO RECORD OF ACQUISITION
143-59
No Reco
160+02.25 P.C.
German General Orphan Asylum
Stone
S34°01'W
Wade
Entrance
German General Orphan Asylum
Spring Grove
235/339 located in the general area
Sca
Note:- The courses are referred to the True Meridian.

NOV-19-'91 TUE 16:59 ID:OFFICE OF LAW BALTCO TEL NO:301/296-0931 #241 P02/02

BALTIMORE COUNTY, MARYLAND
Inter-Office Correspondence

TO: Pat Keller, Deputy Director
Office of Planning and Zoning

November 19, 1991

FROM: Stanley J. Schapiro SJS.
Deputy County Attorney

RE: Caton & Loudon Railroad

I am advised that your group has submitted comments concerning the transfer of density from the railroad property to the adjacent Parcel "A" as shown on the attached location map.

One of the comments relates to the ownership of the railroad property, and I am satisfied that the Caton & Loudon Railroad owns the railroad right of way in the area of condemnations filed by Baltimore County (Bloomsbury Road) and the State (I-95). Until there is a dispute as to ownership of the rest of the right of way, I do not see that as an issue.

Another concern appears to be whether the railroad company owns the right of way east of Maiden Choice Lane. As I explained to you that does not present a real issue, as they have sufficient density west of Maiden Choice Lane to satisfy their requirements.

The third issue was how the county could obtain the use of the right of way east of Maiden Choice Lane and I have already suggested you contact Natural Resources to get their help under the National Trails Systems Act.

SJS:ss

PETITIONER EXHIBIT No 16

Petitioner's Ex. #12

John C. Erickson
President

Retirement & Health Services Corporation
703 Maiden Choice Lane • Baltimore, Maryland 21228 • (301) 242-2880

John C. Erickson
President

Retirement & Health Services Corporation
703 Maiden Choice Lane • Baltimore, Maryland 21228 • (301) 242-2880

November 19, 1991

Baltimore County Zoning Commissioner
Old Court House
400 Washington Avenue
1st Floor
Towson. Maryland 21204

Dear Commissioner:

I am writing to you as the owner of the Charlestown Retirement Community. It is my understanding that you have been petitioned by the representatives of the Catonsville Loudon Railroad to transfer some of the zoning density related to this railroad to a site in Catonsville.

In planning the final seventy-five million dollar expansion phase of our community, we have been working with the Baltimore Planning Office to accommodate their request to preserve a future possible light rail link in conjunction with this Catonsville Loudon Railroad. We fully support and encourage your consideration of the density transfer and our joint cooperative efforts would virtually assure the Department of Transportation a permanent access to Ellicott City for a light rail link if future demands should justify this. We submit that the public value is commensurate with the request for a density transfer. Thank you for your consideration.

Sincerely,

John C. Erickson
General Partner/Owner
Charlestown Retirement Community

JCE/amm

PETITIONER EXHIBIT No 15

FAX 301-247-7881

Children's Home #1

6/19/92

Mr. H:

RE: E. Robert Chertkof, et al Case No. 92-173-SPH

Telephone call from Richard W. Kiefer, Counsel for the Children's Home in Catonsville / 727-4700

He represents the Children's Home, which is a nonprofit home which used to be known as General German Orphan Asylum. It was started after the Civil War to take care of orphans and moved to Catonsville from Baltimore City in 1922; acquired 42 +/- acres in 1919 and in that description was a statement that it was subject to a right of way by Catonsville Short Line Railroad for operation of railroad through the property.

Purely by chance, a few months ago, he had a call from one of the adjoining property owners on Holmehurst Avenue /had survey done /found that the fence of Children's Home was on his property. Mr. Kiefer stated that there had never been any reason to have a survey done or title search made --first thing he did was to contact McKee & Associates /showed that based upon the old deed /showed outline of property and that there was a right of way for the railroad.

Not long thereafter, they were advised by the South Rolling Road Improvement Association that the Caton Short Line Railroad (now Caton/Park Loudon Railroad) had filed a Petition with Zoning to increase density of residential property, which petition was granted and appealed to this Board, to be heard on Friday, June 26th.

Based upon plat that shows right of way, had Chicago Title Company do title search re Railroad and Children's Home. They can find no conveyance by the Children's Home to the Railroad or anyone connected with the Railroad. Therefore, the Railroad has no interest in the right of way because they are no longer operating the railroad for which the right of way was granted (the railroad actually has not run for years).

Mr. Kiefer will be here on the 26th but wanted to advise the Board that this matter has come up. He will be sending letter entering his appearance and enclosing copies of the documents he plans to enter before the Board as exhibits on the 26th. Apologized for the lateness of this information, but the final letter from the title company just arrived this week and he wanted to have all information needed before he contacted the Board.

kathi

Protestant's ~~Pet.~~ Ex. #2

Maryland State Archives
350 Rowe Boulevard
Annapolis, MD 21401
(410) 974-3914 FAX (410) 974-3895

Certified Photo Duplication Request

Tracking No. 00316 Circno: 22

Patron: Florence

I, Edward C. Papenfuse, Archivist of the State of Maryland do hereby certify that the attached reproduction is a true and accurate copy of the following record which is preserved in the custody of the Maryland State Archives.

MSA No: T258
BALTIMORE COUNTY
CIRCUIT COURT
(Judicial Record)
64, pp. 220-225 and 276 Catonsville Short Line vs Mary E. Metz, 1880
[2-35-7-39]

As witness my hand and the seal of the Hall of Records Commission of the State of Maryland as authorized by Section 9-1009, State Government Article, Annotated Code of Maryland, 1984 edition, as amended to date.

Edward C. Papenfuse

State Archivist
07/14/92

Prot. Ex 3

8 to with 4 pl

BALTIMORE COUNTY, MARYLAND
INTEROFFICE MEMORANDUM

TO: Arnold Jablon,
Zoning Administrator and
Development Coordinator

DATE: November 18, 1991

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: Canton & Loudon Railroad Hearing

The Office of Planning and Zoning is in receipt of the petitioners request to include as one development tract a tract of land located at Bloomsbury Avenue and Spring Grove Land extending along the old Caton/Loudon Railroad right-of-way to the city line. In reference to the petitioners request staff offers the following.

1. Legal ownership of the railroad right-of-way should be firmly established. At the recent Charlestown Village Retirement Center CRG meeting the owners of Charlestown Village maintained that a portion of the right-of-way (subject of this hearing) was in their ownership and control. To date this office has not seen conclusive proof regarding the ownership of this right-of-way.
2. Note 11 on the petitioners plat states that density calculations were prepared utilizing the Catonsville Short Line Right-of Way plats of 1883. This issue of whether the property located within the railroad right-of-way can be considered as part of the development tract for purpose of density transfer needs to be addressed.
3. A discrepancy exists between the 20.9 acres (parcel B railroad R.O.W.) used for density transfer calculation and the 8.8198 acres shown on the tax assessment information sheet for this spare parcel attached.
4. Baltimore County and the State of Maryland have expressed their intent to preserve the Caton/Loudon right-of-way as a future light rail line with a possible greenway system as an interim use. Baltimore County will accept, as a dedication, the Rail R.O.W. for future greenway or transit use. The Charlestown Village Retirement Center, Shelter Builders (Maiden Choice Lane) and the Oella Avenue parking lot CRG's were all required to preserve this right-of-way for future use by Baltimore County.

RETIREMENT & HEALTH SERVICES CORPORATION
703 Maiden Choice Lane * Baltimore, Maryland 21228 * (410) 242-2880 /FAX (410) 247-7881

FAX TRANSMITTAL SHEET

Date: June 25. 1992

To: Howard Alderman, Esquire

Fax No.: 296-2801

RE: Dismissal of Blumsbury appeal

Message: Transmitted herewith is withdrawal of appeal

No. of sheets (including this page): 2

From: Paul L. Erickson PLE

In case of transmission problems, please call Retirement & Health Services Corporation at (410) 242-2880 Ext. 314.

Q:USERS\PLE\WP\ALDERMAN.FAX/June 25, 1992

92 JUN 25 10:55

PCF; ___
PMZ; ___

IN THE MATTER OF
THE APPLICATION OF
E. ROBERT CHERTKOF, ET AL.
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE OF BLOOMSBURY AVENUE,
NORTH OF HOLMES AVENUE
AT CATON/LOUDON RAILROAD
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

E. ROBERT CHERTKOF, ET AL.,
PLAINTIFFS/APPELLANTS AND
SOUTH ROLLING ROAD IMPROVEMENT
ASSOCIATION, CROSS-APPELLANTS;
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ADDITIONAL CROSS-APPELLANT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO. 92-CV-10254

COUNTY BOARD OF APPEALS RECEIVED 93 MAY -7 PM 2:53

MAY 07 1993

* * * * * * * * * * * * *

MOTION TO ALTER OR AMEND JUDGMENT

Howard L. Chertkof and E. Robert Chertkof, and Caton and Loudon Railroad, Inc., (collectively, "Chertkofs"), appellants, move, pursuant to Md. Rule 2-534, for reconsideration of the Order herein dated April 26, 1993, and entry of a new judgment on the following grounds.

I. The Court Lacked Authority to Enter the Remand Order.

The Court remanded to the Board of Appeals with instructions to consider and determine four specific issues. Its action was taken pursuant to Md. Rule B-13, and §604 of the Baltimore County Charter. Section 604 of the Charter provides in relevant part:

> Within 30 days after any decision by the County Board of Appeals is rendered, any party to the proceedings who is aggrieved thereby may appeal such decision to the circuit court of Baltimore County, which shall have power to affirm the decision of the board, or, if such decision is not in accordance with law, to modify or reverse such decision, with or without remanding the case for hearing as justice may require. [Emphasis added.]

Mr. H— 5/07/93
See attached
motion filed
by Nancy Paige
re Chertkof
remand. K.

Virtually identical language was construed by the Court of Appeals in Cohen v. Willett, 269 Md. 194, 196 (1973). There, appellant sought and received a special exception from the Board of Appeals. That decision was appealed and the Circuit Court remanded for reconsideration without determining whether or not the Board of Appeals had acted in accordance with law. The Court of Appeals reversed and remanded to the Circuit Court for reconsideration holding that "we have not the slightest doubt" that the lower court lacked the power to pass the remand order.

Here, the Board of Appeals has held (a) that there is no restriction in the Baltimore County Zoning Regulations upon the Chertkofs' right to transfer density units from Parcel B to Parcel A, and (b) that notwithstanding that right, no final development plan may be recorded and no building permits may be issued until Chertkofs secure an order from the Circuit Court that they have sufficient ownership to transfer the density in question.

Without determining whether the Board acted in accordance with law, this Court has remanded for reconsideration. Under Cohen, supra, the Court is without authority to enter such an order.

II. The Court Should Affirm in Part and Reverse in Part the Decision of the Board.

A. Ownership Issues.

The Court recognized that "it is true that issues of the quality and validity of the title to a particular property cannot be addressed by CBA." It nonetheless remanded for consideration by the Board of whether petitioners "have development rights of sufficient character to permit them to transfer density units." That issue clearly requires the Board to consider the quality and validity of the petitioners' title.[1] It is undisputed that Caton & Loudon Railroad is the owner of Parcel B shown on the relevant tax map and has been the owner and taxpayer for roughly 100 years. That prima facia showing of ownership is all that is required to process a development plan. Baltimore County Code §26-203(b)(6). (Development plan must show the owner as reflected on the most recent tax maps.) Any further inquiry into the quality and validity of that ownership, and whether that ownership is such as to encompass development rights, presents complex issues of real estate law which the Board itself recognized are beyond its expertise, and which this Court appears to recognize are beyond the Board's jurisdiction.

---

[1] While recognizing that the issue of fee simple ownership is not presented "in a proper posture," the Court nevertheless has assumed lack of fee simple interest. Since these issues were expressly not reached by the Board, it is submitted that any finding in this regard is inappropriate and deprives the petitioners of the opportunity to develop a full record in a proper forum.

Any party who wishes to challenge the validity of the tax records or the quality and scope of the ownership reflected on the tax records, may do so by a proceeding in Circuit Court. Remand for consideration of the implications of the particular quality of ownership claimed by the Railroad is thus inappropriate and to no useful end. Further, in the absence of any authority whatever therefor, the Court should reverse the Board's order that the Chertkofs secure an order from the Circuit Court respecting title as a condition for proceeding with development.

B. Clustering Issues.

The Board of Appeals has implicitly decided that Parcel A and B constitute a single tract, by its decision to affirm in part and modify in part the decision of the Zoning Commissioner. The Board of Appeals has correctly found that there is no provision in the zoning regulations that restricts the size or shape of a development parcel and therefore restricts the right to cluster density within such a parcel. The Zoning Commissioner's decision that a parcel must be within a particular community is without any support in the language of the regulations and was properly rejected by the Board of Appeals. The further suggestion that the Baltimore Beltway should constitute a boundary limit for clustering of density is contrary to the holding of the Court of Appeals in Gruver-Cooley Jade Corp. v. Perlis, 252 Md. 684 (1969), that subdivision parcels separated by a roadway may be considered "adjoining" for purposes

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securing of an order of the Circuit Court respecting title, and (c) that costs should be paid by protestants.

Respectfully submitted,

Nancy E. Paige
Nancy E. Paige

Nancy M. Juda/nep
Nancy M. Juda

Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
233 East Redwood Street
Baltimore, Maryland 21202
410/576-4294

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of May, 1993, a copy of the foregoing MOTION TO ALTER OR AMEND JUDGMENT was mailed, first-class, postage prepaid, to Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Attorney for Cross-Appellants, Phyllis Cole Friedman, People's Counsel for Baltimore County and Peter Max Zimmerman, Deputy People's Counsel, Room 47, Courthouse, 400 Washington Avenue, Towson, Maryland 21204, and Marvin I. Singer, Esquire, Hooper,

Kiefer & Cornell, 343 North Charles Street, Baltimore, Maryland 21201-4361, Attorney for Children's Home, Inc.

Nancy E. Paige
Nancy E. Paige

L32311.124 S:4

4/26/93 -REMANDED to CBA pursuant to
CCt instructions (Christian Kahl, J.)

IN THE MATTER OF THE
APPLICATION OF
E. ROBERT CHERTKOF, ET AL.
FOR A SPECIAL HEARING

IN THE CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO. 92CV10254

93 APR 27 AM 10:35

* *

MEMORANDUM OPINION AND ORDER

This appeal is filed by E. Robert Chertkof, Howard L. Chertkof and Caton and Louden Railroad, Inc., from an order of the Baltimore County Board of Appeals (CBA) dated October 6, 1992, permitting the requested transfer of density units from "Parcel B", the bed of the former Catonsville Short Line Railroad, to "Parcel A", owned by the Chertkofs and contiguous to a small portion of Parcel B, but with the transfer "subject to" an order of this Court declaring the status of the ownership of Parcel B, or portions thereof.

Appellants assert that no proof of ownership is required for the purposes of the narrow issue of the right to clustering of density units and that the CBA should not have ordered that the transfer be "subject to" any court declaration of title or ownership interests.

Protestants and People's Counsel argue that title is a necessary precursor of the right to transfer of density units, as there are no development rights to property to which less than a fee-simple title is established and hence, no density units to transfer.

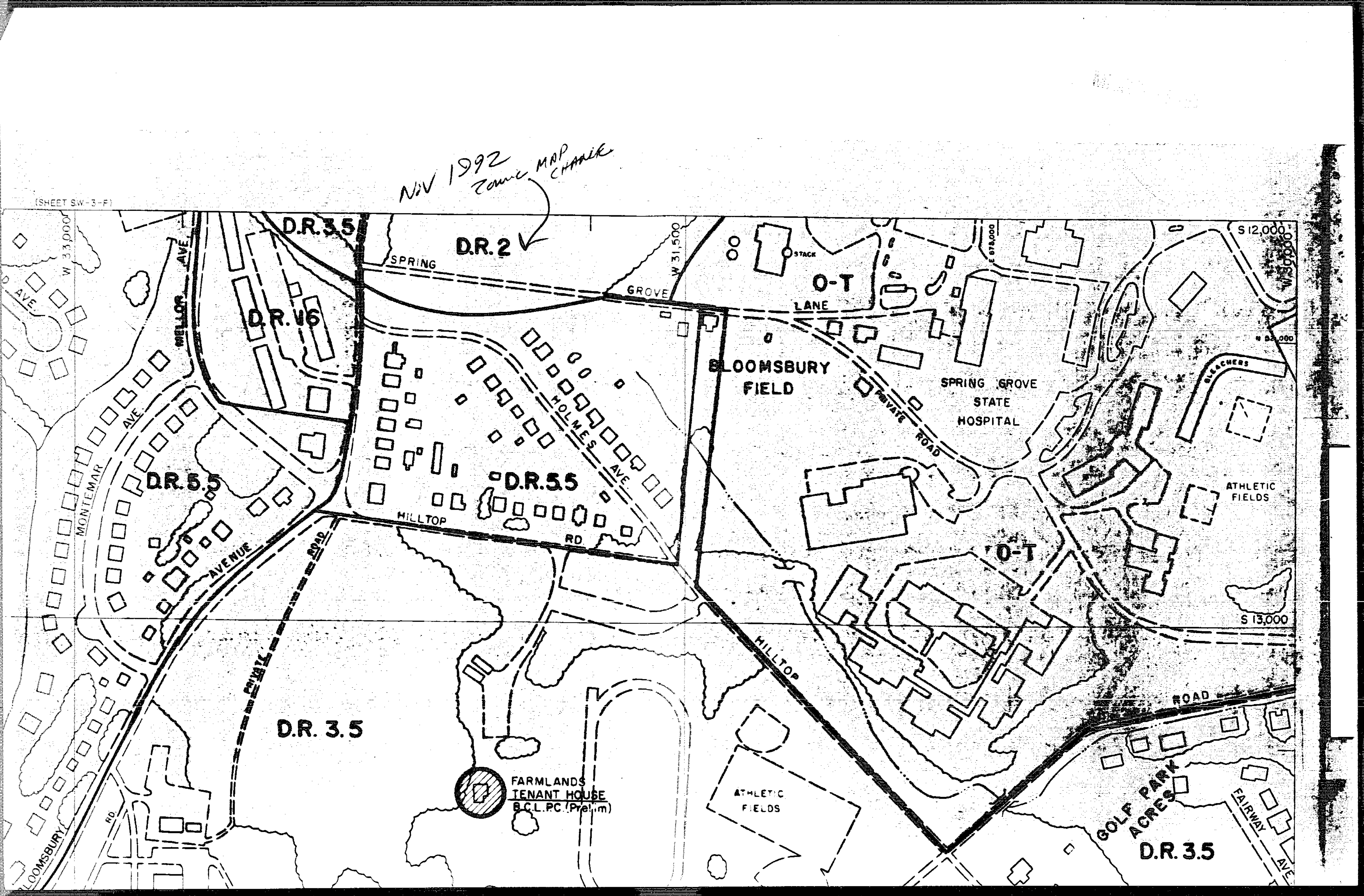
The Court has heard and considered arguments of counsel, reviewed appeal Memoranda, the thorough and well-reasoned

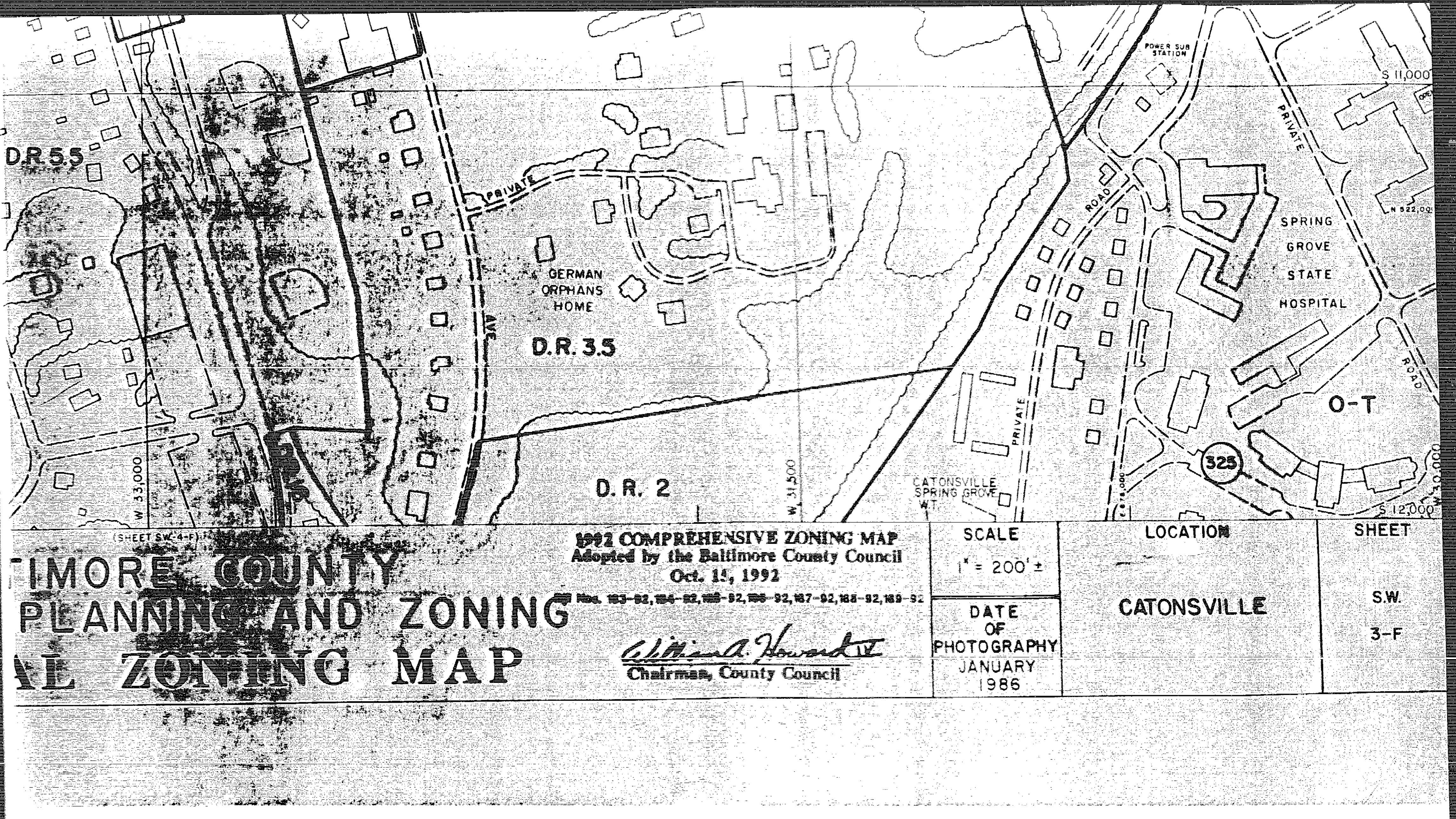
opinion of the Zoning Commissioner, the transcript of the testimony before the CBA, and the Memoranda submitted to the CBA by counsel.

Without regard to the issue of whether the CBA has the authority to order transfer of density units "subject to" a declaratory order of this Court, it appears to the Court after careful consideration, that the CBA has skirted the issues presented to it in this case by labeling them "property ownership" questions which it is not empowered to decide.

This characterization is overly broad. While it is true that issues of the quality and validity of the title to a particular property cannot be addressed by the CBA, its members are deemed to have expertise in the related questions surrounding the standing of an applicant in the zoning process, to seek relief. Is "ownership" a prerequisite to the right to transfer density units? If so, what quality or degree of "ownership" is required? The CBA suggests, without apparent foundation for doing so, that the mere "right to exclude ingress does not . . . provide the holder of the right of way the right to transfer density for property he does not own." This conclusion, although somewhat ambiguous, might well be valid but does not appear to be based on the record made before the Board.

Additionally, the CBA ignored the question of whether these parcels together constitute a "tract" within the meaning of Section 1B01.2.A.2 of the Baltimore County Zoning Regulations. This issue was considered at length by the Zoning Commissioner and the Court agrees with him that it is a significant one.


NOV 1992 Zone Map Change
(SHEET SW-3-F)
D.R.3.5
D.R.2
SPRING GROVE LANE
O-T
D.R.16
BLOOMSBURY FIELD
SPRING GROVE STATE HOSPITAL
D.R.5.5
HOLMES AVE
HILLTOP RD
ATHLETIC FIELDS
O-T
D.R. 3.5
FARMLANDS TENANT HOUSE B.C.L.P.C.(Prelim)
ATHLETIC FIELDS
HILLTOP
ROAD
GOLF PARK ACRES
D.R.3.5
BLOOMSBURY
PRIVATE ROAD
AVENUE
S 12,000
S 13,000
W 31,500


D.R.5.5
GERMAN ORPHANS HOME
D.R.3.5
SPRING GROVE STATE HOSPITAL
O-T
D.R. 2
CATONSVILLE SPRING GROVE W.T.
325
(SHEET SW-4-F)
TIMORE COUNTY
PLANNING AND ZONING
AL ZONING MAP
1992 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 15, 1992
Nos. 183-92, 184-92, 185-92, 186-92, 187-92, 188-92, 189-92
William A. Howard IV
Chairman, County Council
SCALE
1" = 200' ±
DATE OF PHOTOGRAPHY
JANUARY 1986
LOCATION
CATONSVILLE
SHEET
S.W.
3-F

Petitioner's Ex. #13

PICTURES TAKEN MAY 9, 1991 BY JERRY BOLYARD

1) Asylum Lane off of Bloomsbury Avenue, then 100 yards east. Stumps, dirt and brush. Cover tracks.

2) 100 yards west of Wade Ave. Pile of dirt 15' off tracks.

3) Wade Avenue.

4) Birch Drive. Tracks looking east at Beltway.

5) Shady Nook Avenue looking west at tracks and sound barrier along Beltway.

6) 100 yards east. Brush all over tracks and pile of concrete. Picture is looking west 100 yards, east of tracks and Shady Nook Avenue.

7) 50 yards west of Maiden Choice and Garden Ridge intersection, picture of wash out. Then along tracks behind Western Vocational Tech to Paradise Avenue, good tracks.

8) 100 feet off Maiden Choice and Gardenview going east, a lot of brush dumped. Along Cemetery fence, tree cut and laying on tracks, picture (14) shows.

9 &
10) End of Cemetery fence, then St. charles fence starts. Ties are dug up, moved to one side, one rail removed, one rail along fence and road over top rail bed for about 1/2 mile. Met with St. Charles security guard. Said they put up fence to keep out people trespassing and dumping. Also, they took rails to B & O Museum.

11) Rails along rear of Melbourne Road and Vancouver Road.

12) Rails along South College Road and Warwick Road.

13) Rails stock piled along dirt road, rear of St. Charles.

14) Trees cut down and laying over track along Cemetery fence.

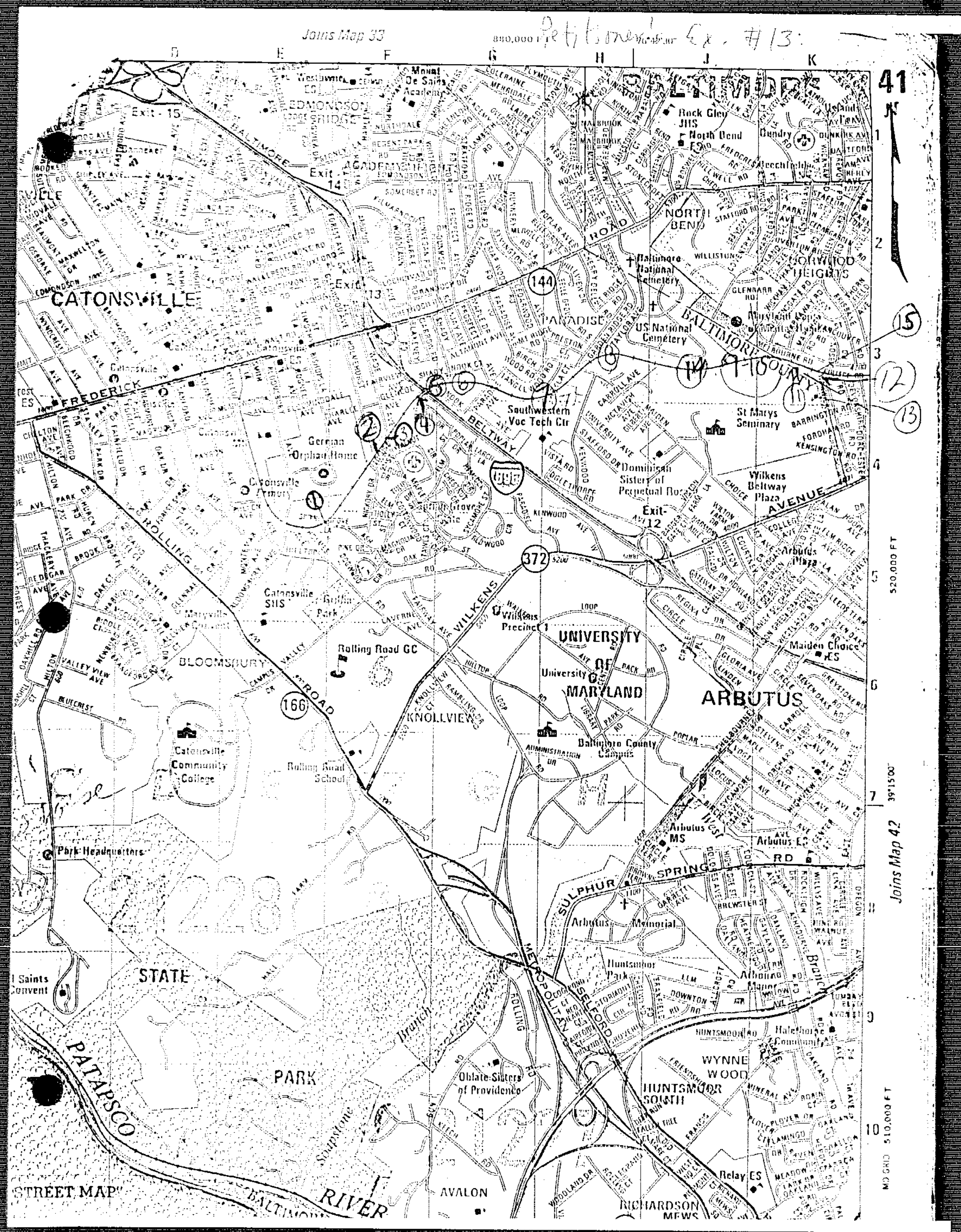
15) Where St. Charles fence crosses tracks near South College Road.

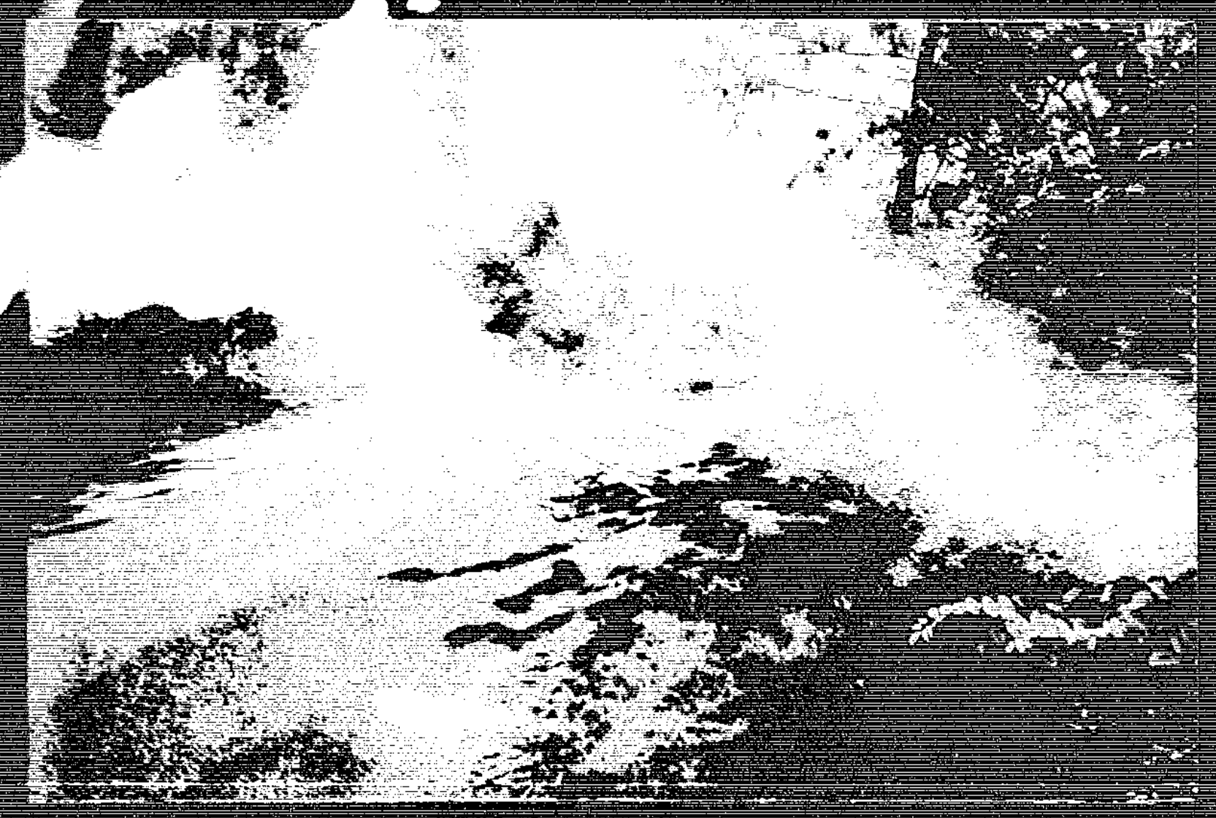
16) Fence along tracks that St. Charles put up.

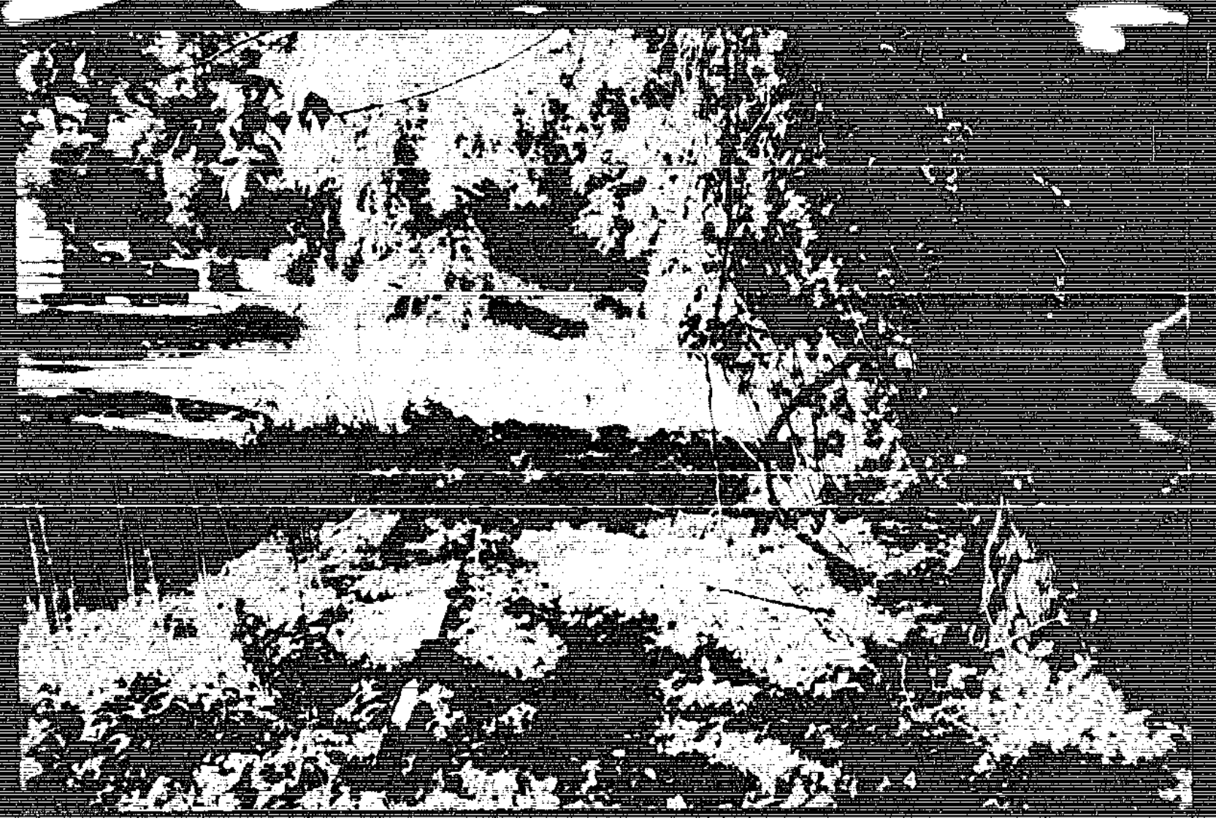
17) Ties along side of the road way that St. Charles put in.

18,19,
20) Stock pile of rails on St. Charles property.

Petitioner's Ex. #13


Joins Map 33
41
BALTIMORE
CATONSVILLE
NORTH BEND
144
372
UNIVERSITY OF MARYLAND
ARBUTUS
BLOOMSBURY
166
KNOLLVIEW
STATE
PARK
PATAPSCO
RIVER
AVALON
HUNTSMOOR
WYNNE WOOD
RELAY
Joins Map 42
STREET MAP
1
2
12
13
14
15





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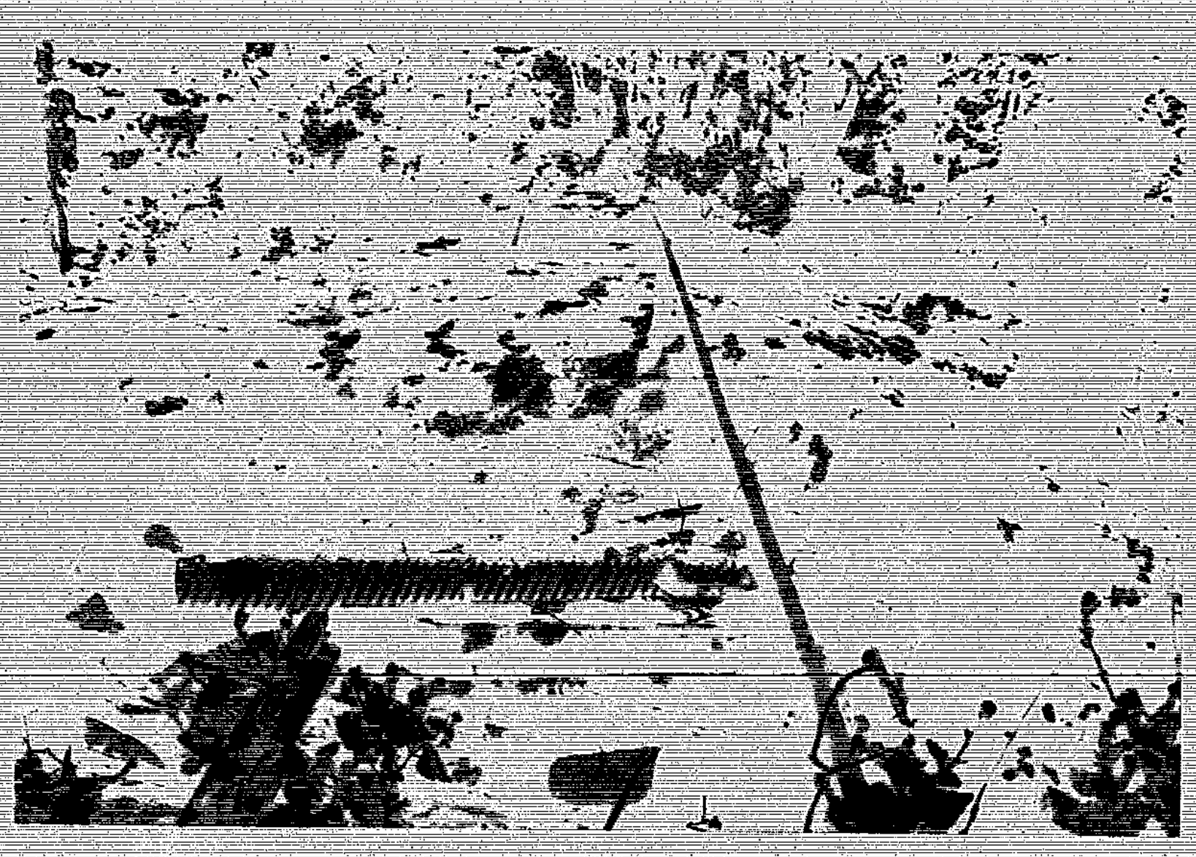
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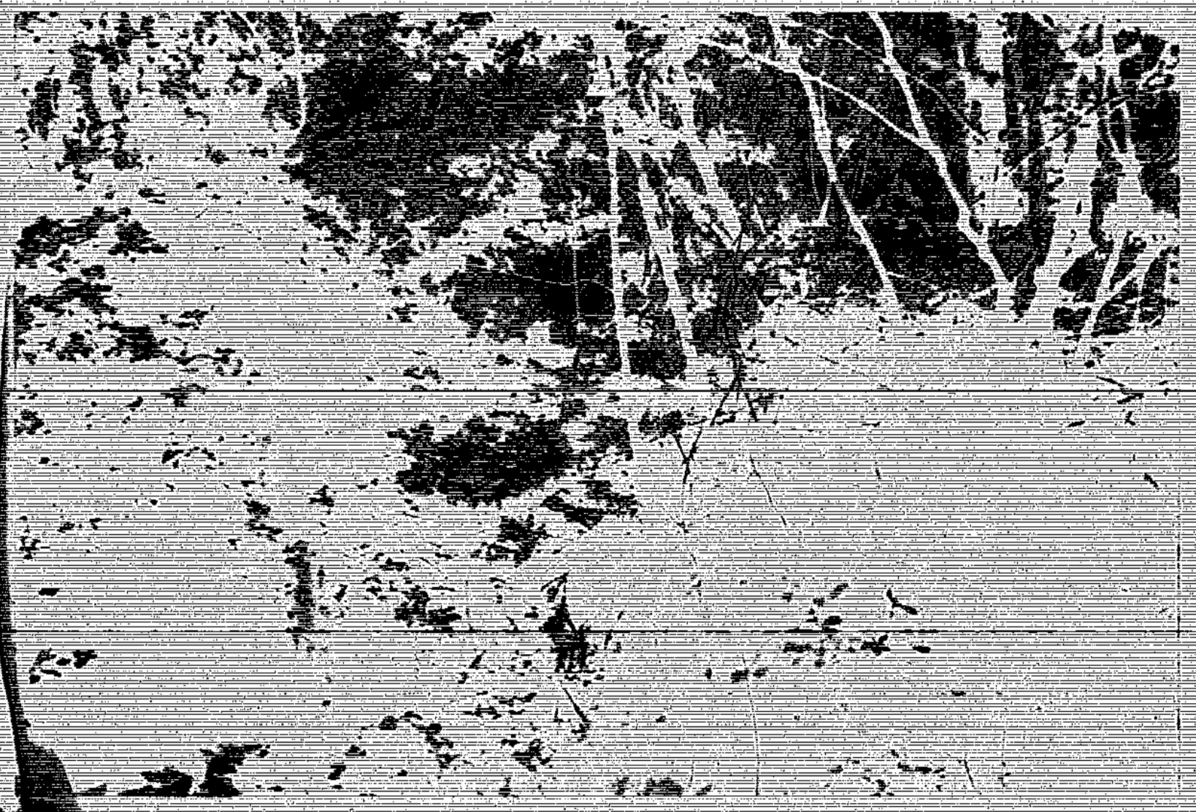
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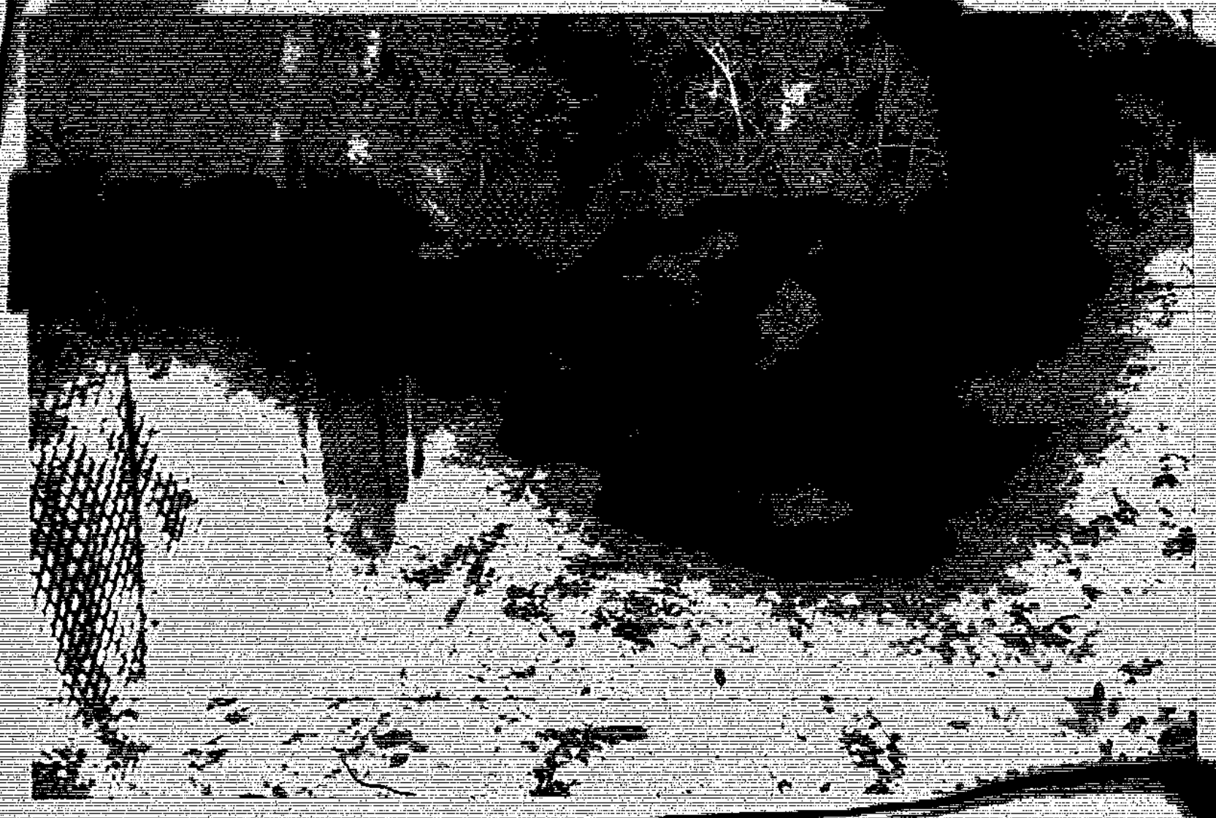

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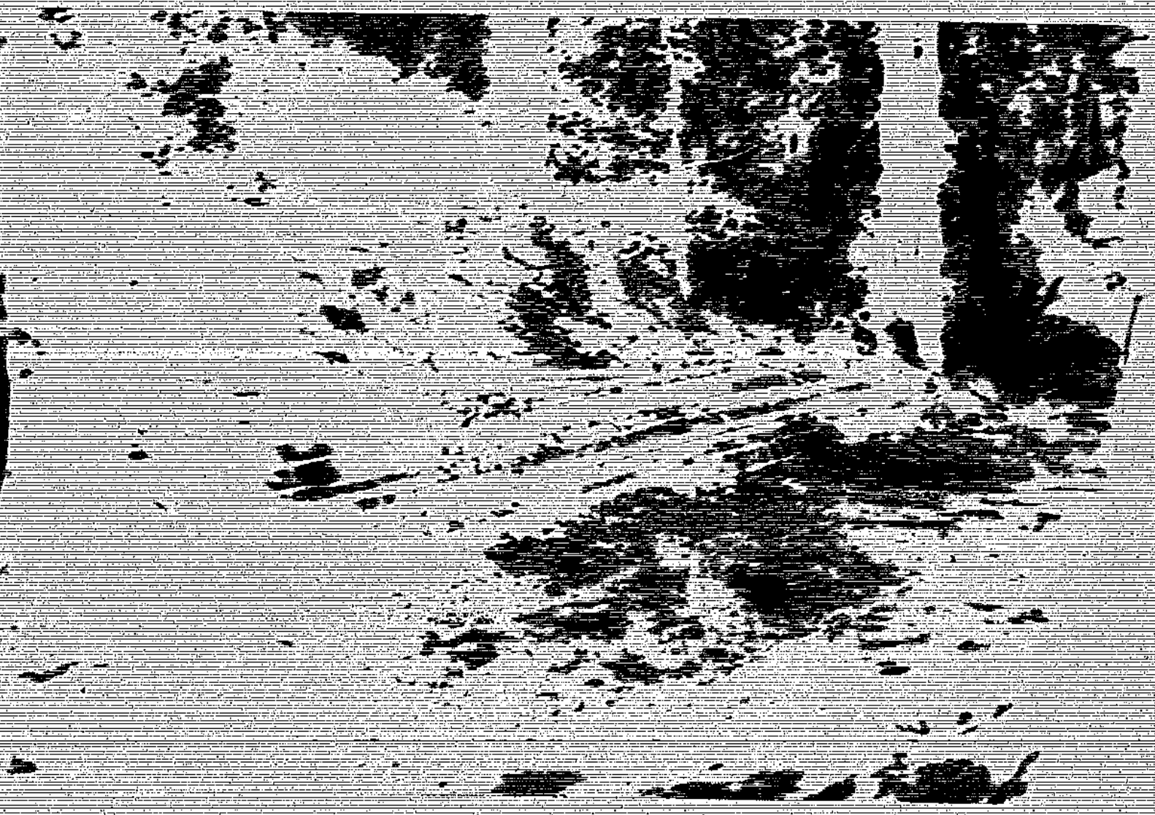
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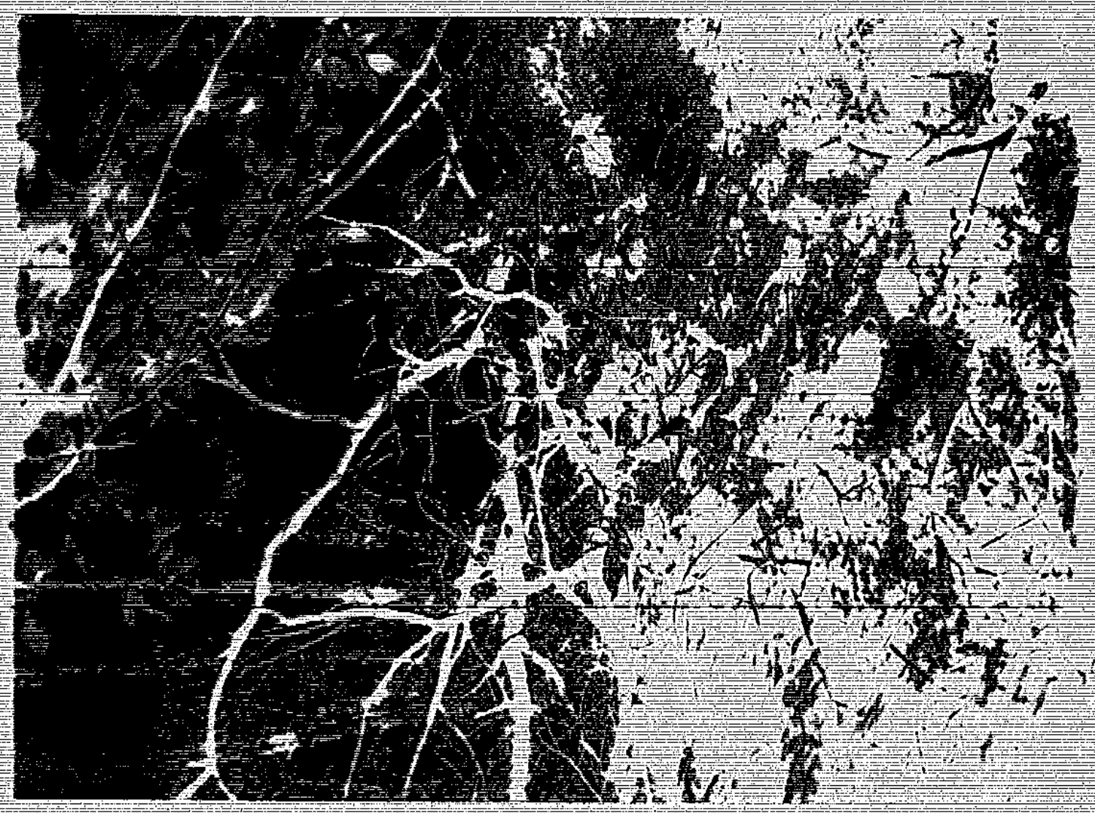
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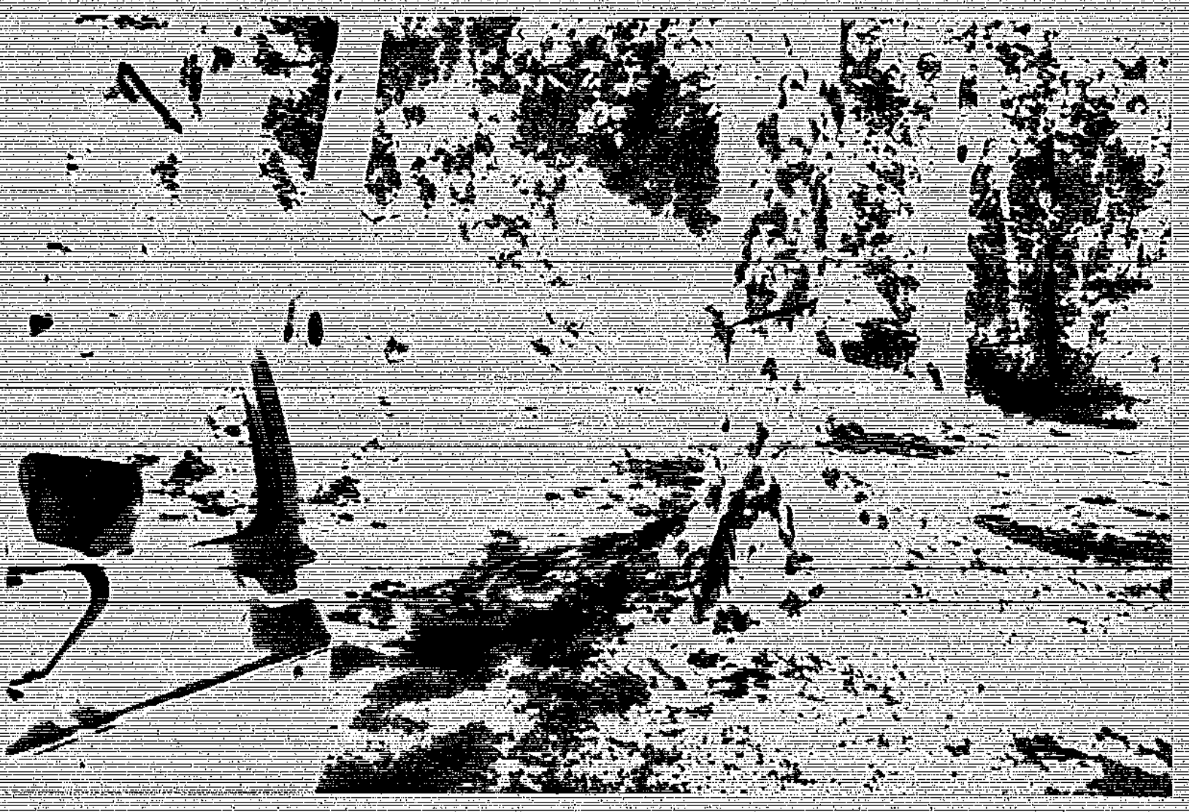
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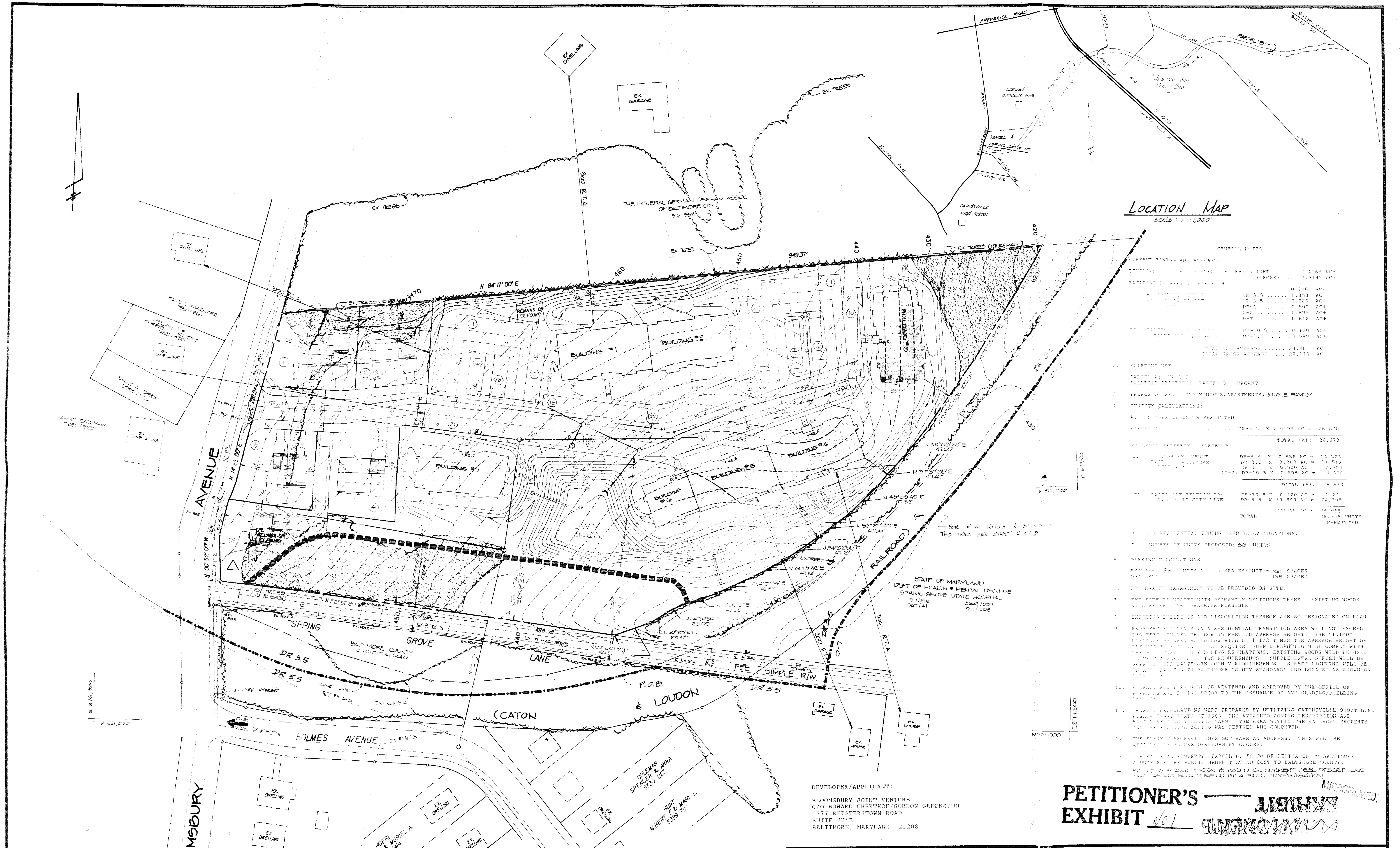

LOCATION MAP
SCALE: 1"=1,000'
FREDERICK ROAD
BALTO. CITY
PARCEL 'B'
PARCEL A
CATONSVILLE HIGH SCHOOL
HILLTOP AVE
EX. DWELLING
EX. GARAGE
EX. TREES
300' R.T.A.
THE GENERAL GERMAN ORPHAN ASSOC. OF BALTIMORE CITY
N 84°17'00"E
949.37'
460
450
440
430
420
BUILDING #1
BUILDING #2
BUILDING #3
BUILDING #4
BUILDING #5
BUILDING #6
BUILDING #7
S.W.M. AREA
REMAINS OF EX. FOUND.
BLOOMSBURY AVENUE
SPRING GROVE LANE
BALTIMORE COUNTY
CATON & LOUDON RAILROAD
FEE SIMPLE R/W
P.O.B.
DR 3.5
DR 5.5
STATE OF MARYLAND DEPT OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
HOLMES AVENUE
EX. HOUSE
EX. FIRE HYDRANT
COLEMAN SPENCER & ANNA
HUNT ALBERT F. & MARY L. 5399/711
HOERL MELVIN E. & MURIEL A.
HOERL RUTH E.
N 521,000
N 521,500
E 877,500
FOR R/W NOTES & BOUNDS THIS AREA SEE SHEET 2 OF 3

LOCATION MAP
SCALE: 1"=1,000'

GENERAL NOTES

1. CURRENT ZONING AND ACREAGE:

DEVELOPMENT SITE: PARCEL A – DR-3.5 (NET) ...... 7.4269 AC+
(GROSS) .... 7.6199 AC+

RAILROAD PROPERTY: PARCEL B

		0.736 AC+
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY	DR-5.5	1.850 AC+
	DR-3.5	3.289 AC+
	DR-1	0.500 AC+
	O-2	0.895 AC+
	O-T	0.618 AC+
II. BALTIMORE BELTWAY TO BALTIMORE CITY LINE	DR-10.5	0.120 AC+
	DR-5.5	13.599 AC+
	TOTAL NET ACREAGE	28.98 AC+
	TOTAL GROSS ACREAGE	29.173 AC+

2. EXISTING USE:

PARCEL A: VACANT
RAILROAD PROPERTY: PARCEL B – VACANT

3. PROPOSED USE: CONDOMINIUMS/APARTMENTS/SINGLE FAMILY

4. DENSITY CALCULATIONS:

A. NUMBER OF UNITS PERMITTED:

PARCEL A .... DR-3.5 X 7.6199 AC = 26.670

TOTAL (A): 26.670

RAILROAD PROPERTY: PARCEL B

I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY*	DR-5.5 X 2.586 AC =	14.223
	DR-3.5 X 3.289 AC =	11.512
	DR-1 X 0.500 AC =	0.500
	(O-2) DR-10.5 X 0.895 AC =	9.398
	TOTAL (B):	35.633
II. BALTIMORE BELTWAY TO* BALTIMORE CITY LINE	DR-10.5 X 0.120 AC =	1.26
	DR-5.5 X 13.599 AC =	74.795
	TOTAL (C):	76.055
	TOTAL	= 138.358 UNITS PERMITTED

* ONLY RESIDENTIAL ZONING USED IN CALCULATIONS.

B. NUMBER OF UNITS PROPOSED: 83 UNITS

5. PARKING CALCULATIONS:

REQUIRED: 83 UNITS AT 2.0 SPACES/UNIT = 166 SPACES
PROVIDED: = 168 SPACES

6. STORMWATER MANAGEMENT TO BE PROVIDED ON-SITE.

7. THE SITE IS WOODED WITH PRIMARILY DECIDUOUS TREES. EXISTING WOODS WILL BE RETAINED WHEREVER FEASIBLE.

8. EXISTING BUILDINGS AND DISPOSITION THEREOF ARE SO DESIGNATED ON PLAN.

9. PROPOSED BUILDINGS IN A RESIDENTIAL TRANSITION AREA WILL NOT EXCEED 160 FEET IN LENGTH, NOR 35 FEET IN AVERAGE HEIGHT. THE MINIMUM DISTANCE BETWEEN BUILDINGS WILL BE 1-1/2 TIMES THE AVERAGE HEIGHT OF THE HIGHER BUILDING. ALL REQUIRED BUFFER PLANTING WILL COMPLY WITH THE BALTIMORE COUNTY ZONING REGULATIONS. EXISTING WOODS WILL BE USED TO MEET A PORTION OF THE REQUIREMENTS. SUPPLEMENTAL SCREEN WILL BE PROVIDED PER BALTIMORE COUNTY REQUIREMENTS. STREET LIGHTING WILL BE IN ACCORDANCE WITH BALTIMORE COUNTY STANDARDS AND LOCATED AS SHOWN ON PLAN THUSLY.

10. A LANDSCAPE PLAN WILL BE REVIEWED AND APPROVED BY THE OFFICE OF PLANNING AND ZONING PRIOR TO THE ISSUANCE OF ANY GRADING/BUILDING PERMITS.

11. DENSITY CALCULATIONS WERE PREPARED BY UTILIZING CATONSVILLE SHORT LINE RIGHT-OF-WAY PLATS OF 1883, THE ATTACHED ZONING DESCRIPTION AND BALTIMORE COUNTY ZONING MAPS. THE AREA WITHIN THE RAILROAD PROPERTY AND THE RELATIVE ZONING WAS DEFINED AND COMPUTED.

12. THE SUBJECT PROPERTY DOES NOT HAVE AN ADDRESS. THIS WILL BE ASSIGNED AS FUTURE DEVELOPMENT OCCURS.

13. THE RAILROAD PROPERTY, PARCEL B, IS TO BE DEDICATED TO BALTIMORE COUNTY FOR THE PUBLIC BENEFIT AT NO COST TO BALTIMORE COUNTY.

14. BOUNDARY SHOWN HEREON IS BASED ON CURRENT DEED DESCRIPTIONS AND HAS NOT BEEN VERIFIED BY A FIELD INVESTIGATION.

DEVELOPER/APPLICANT:

BLOOMSBURY JOINT VENTURE
C/O HOWARD CHERTKOF/GORDON GREENSPUN
1777 REISTERSTOWN ROAD
SUITE 275E
BALTIMORE, MARYLAND 21208

PETITIONER'S EXHIBIT No 1

MICROFILMED

CURRENT OWNERSHIP:

PARCEL A:

HOWARD L. & E. ROBERT CHERTKOP
TAX ACCOUNT NO.: 01-0106571210

PARCEL B:

CATON AND LOUDON RAILWAY COMPANY
TAX ACCOUNT NO.: 01-0103000810

RICHARD H. CASSELL #12427

Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301)486-1511

REVISIONS:
JULY 23 '91 REV. UNIT COUNT TO 84 FROM 86. ADDED ... HOUSE 4 (EXISTING) CORRECTED PARCEL 'A' OWNERSHIP

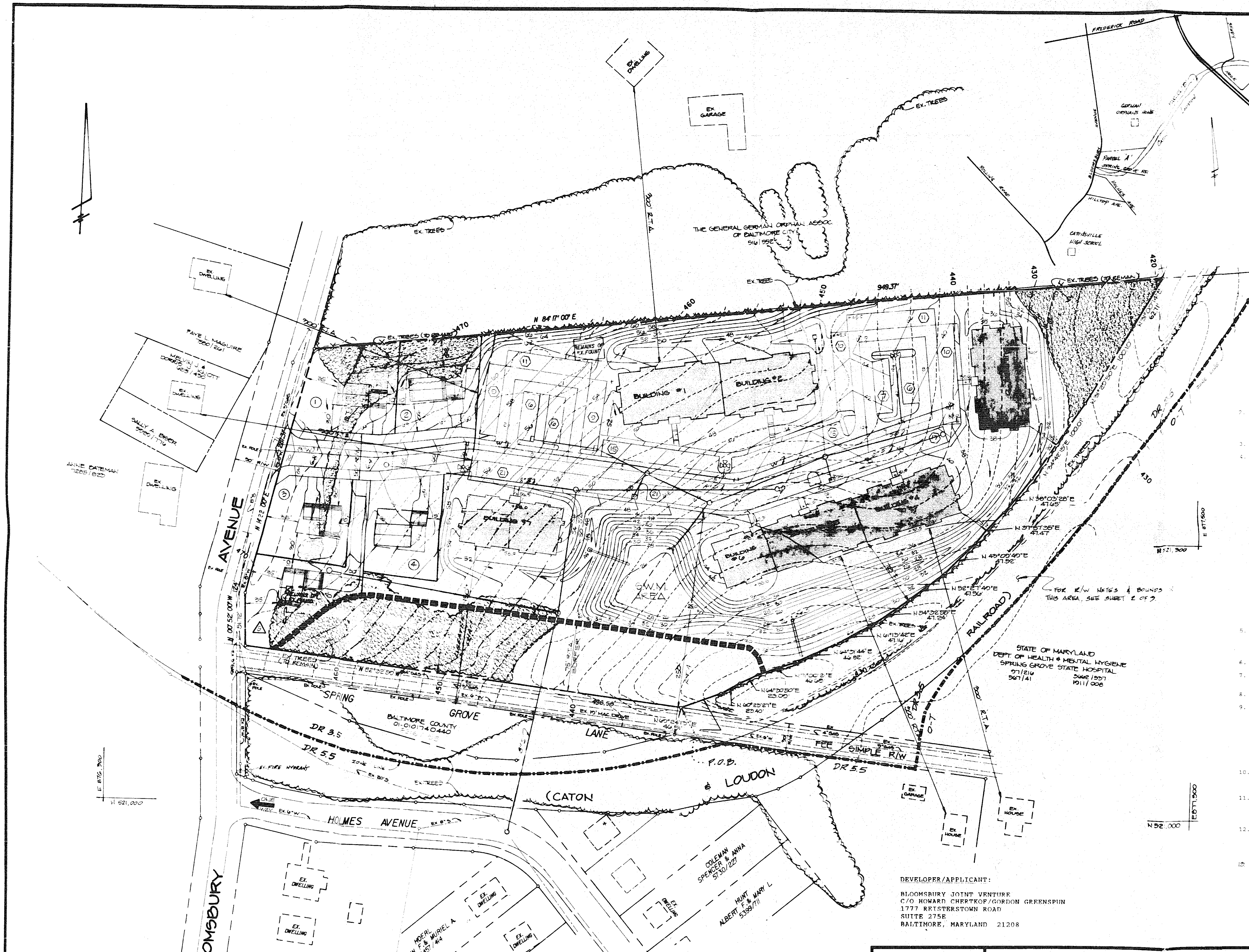
PLAT TO
ACCOMPANY PETITION
FOR
SPECIAL HEARING

PARCEL 365, TAX MAP 101

COUNCILMANIC DISTRICT No. 1
ELECTION DISTRICT No 1 BALTIMORE COUNTY, MARYLAND

SCALE: 1"=50'
DRAWN BY: KAS
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 1 OF: 3
PROJECT NO. 40367

Petitioner's Ex. #2 (3 pgs.)



FREDERICK ROAD
PARCEL 'B'
BALTO. CITY
BALTO. CO.
WESTERN VOC. TECH. CTR.
PARCEL 'A'
SPRING GROVE RD.
HILLTOP AVE.
CATONSVILLE HIGH SCHOOL
GERMAN ORPHANS HOME
EX. DWELLING
EX. GARAGE
THE GENERAL GERMAN ORPHAN ASSOC. OF BALTIMORE CITY 5161/552
EX. TREES
N 84°17'00" E
949.31'
BUILDING #1
BUILDING #2
BUILDING #6
S.W.M. AREA
STATE OF MARYLAND DEPT OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
FOR R/W METES & BOUNDS THIS AREA, SEE SHEET 2 OF 3
RAILROAD
SPRING GROVE LANE
BALTIMORE COUNTY 01-0174 0440
DR 3.5
DR 5.5
O-T
FEE SIMPLE R/W
P.O.B.
(CATON & LOUDON
HOLMES AVENUE
BLOOMSBURY AVENUE
FAYE L. MAGUIRE
SALLY A. BAKER
ANNE BATEMAN
COLEMAN SPENCER & ANNA 5730/227
HUNT ALBERT F. & MARY L 5399/711
HOERL MELVIN F. & MURIEL A.
HOERL RUTH E.
EX. HOUSE
EX. GARAGE
N 521,000
N 52,000
E 87,500
E 876,500

LOCATION MAP
SCALE: 1" = 1,000'

GENERAL NOTES

1. CURRENT ZONING AND ACREAGE:

DEVELOPMENT SITE: PARCEL A - DR-3.5 (NET) ...... 7.4269 AC±
(GROSS) .... 7.6199 AC±

RAILROAD PROPERTY: PARCEL B

		0.736 AC±
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY	DR-5.5	1.850 AC±
	DR-3.5	3.289 AC±
	DR-1	0.500 AC±
	O-2	0.895 AC±
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II. BALTIMORE BELTWAY TO BALTIMORE CITY LINE	DR-10.5	0.120 AC±
	DR-5.5	13.599 AC±
	TOTAL NET ACREAGE	28.98 AC±
	TOTAL GROSS ACREAGE	29.173 AC±

2. EXISTING USE:

PARCEL A: VACANT
RAILROAD PROPERTY: PARCEL B - VACANT

3. PROPOSED USE: CONDOMINIUMS/APARTMENTS/SINGLE FAMILY

4. DENSITY CALCULATIONS:

A. NUMBER OF UNITS PERMITTED:

PARCEL A .... DR-3.5 X 7.6199 AC = 26.670

TOTAL (A): 26.670

RAILROAD PROPERTY: PARCEL B

I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY*	DR-5.5 X 2.586 AC =	14.223
	DR-3.5 X 3.289 AC =	11.512
	DR-1 X 0.500 AC =	0.500
	(O-2) DR-10.5 X 0.895 AC =	9.398
	TOTAL (B):	35.633
II. BALTIMORE BELTWAY TO* BALTIMORE CITY LINE	DR-10.5 X 0.120 AC =	1.26
	DR-5.5 X 13.599 AC =	74.795
	TOTAL (C):	76.055
	TOTAL	= 138.358 UNITS PERMITTED

* ONLY RESIDENTIAL ZONING USED IN CALCULATIONS.

B. NUMBER OF UNITS PROPOSED: 83 UNITS

5. PARKING CALCULATIONS:

REQUIRED: 83 UNITS AT 2.0 SPACES/UNIT = 166 SPACES
PROPOSED: = 168 SPACES

6. STORMWATER MANAGEMENT TO BE PROVIDED ON-SITE.

7. THE SITE IS WOODED WITH PRIMARILY DECIDUOUS TREES. EXISTING WOODS WILL BE RETAINED WHEREVER FEASIBLE.

8. EXISTING BUILDINGS AND DISPOSITION THEREOF ARE SO DESIGNATED ON PLAN.

9. PROPOSED BUILDINGS IN A RESIDENTIAL TRANSITION AREA WILL NOT EXCEED 130 FEET IN LENGTH, NOR 35 FEET IN AVERAGE HEIGHT. THE MINIMUM DISTANCE BETWEEN BUILDINGS WILL BE 1-1/2 TIMES THE AVERAGE HEIGHT OF THE HIGHER BUILDING. ALL REQUIRED BUFFER PLANTING WILL COMPLY WITH THE BALTIMORE COUNTY ZONING REGULATIONS, EXISTING WOODS WILL BE USED TO MEET A PORTION OF THE REQUIREMENTS. SUPPLEMENTAL SCREEN WILL BE SUPPLIED PER BALTIMORE COUNTY REQUIREMENTS. STREET LIGHTING WILL BE IN ACCORDANCE WITH BALTIMORE COUNTY STANDARDS AND LOCATED AS SHOWN ON PLAN THUSLY.

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12. THE SUBJECT PROPERTY DOES NOT HAVE AN ADDRESS. THIS WILL BE ASSIGNED AS FUTURE DEVELOPMENT OCCURS.

13. BOUNDARY SHOWN HEREON IS BASED ON CURRENT DEED DESCRIPTIONS AND HAS NOT BEEN VERIFIED BY A FIELD INVESTIGATION.

PRINTS MADE
JUN 25 1992
HARRIS, SMARIGA, MATZ, INC.

MICROFILMED

DEVELOPER/APPLICANT:

BLOOMSBURY JOINT VENTURE
C/O HOWARD CHERTKOF/GORDON GREENSPUN
1777 REISTERSTOWN ROAD
SUITE 275E
BALTIMORE, MARYLAND 21208

CURRENT OWNERSHIP:

PARCEL A:

HOWARD L. & E. ROBERT CHERTKOP
TAX ACCOUNT NO.: 01-0106571210

PARCEL B:

CATON AND LOUDON RAILWAY COMPANY
TAX ACCOUNT NO.: 01-0103000810

RICHARD H. CASSELL #12427

Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301)486-1511

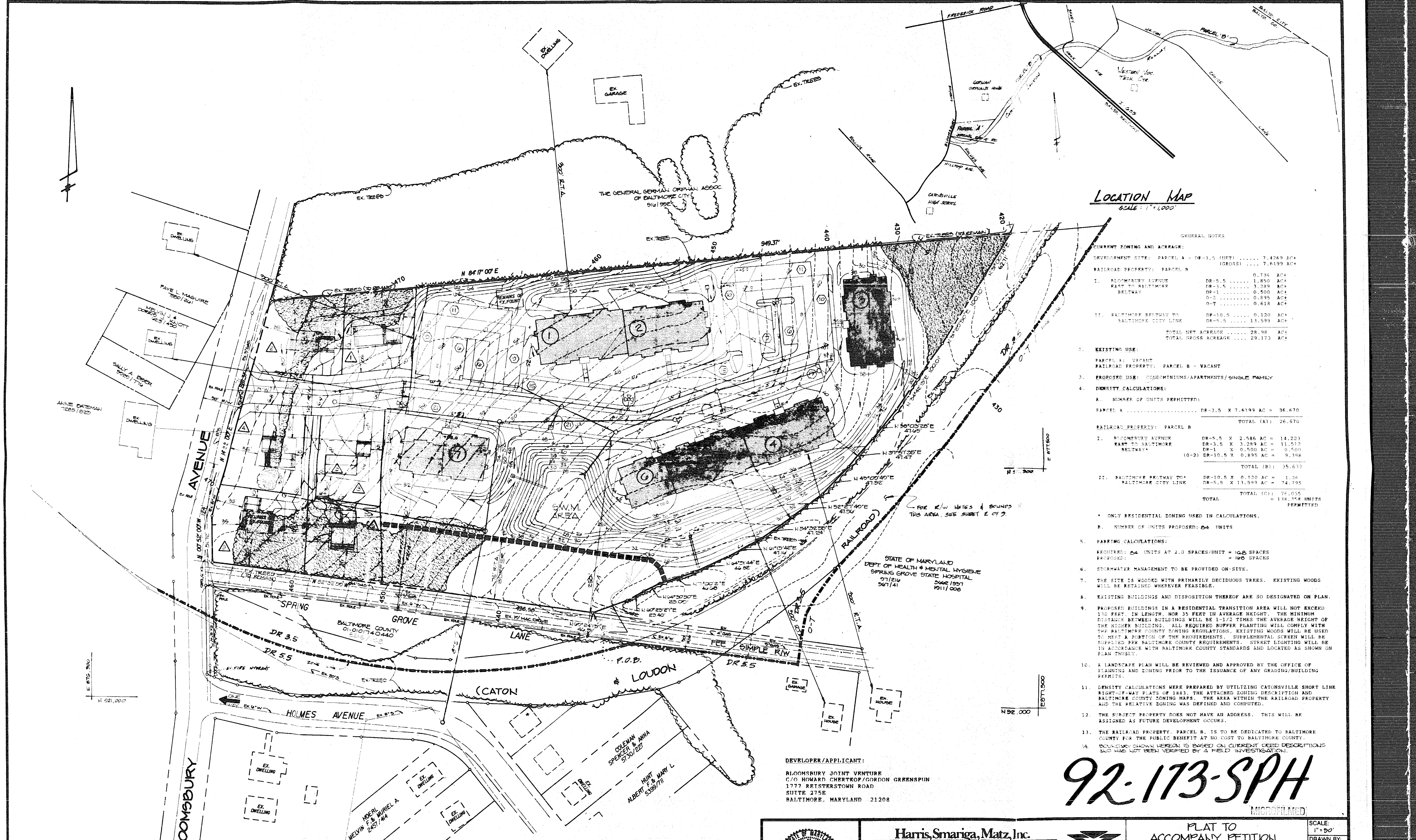
REVISIONS:
JULY 23, '91 REV. UNIT COUNT TO 84 FROM 86, ADDED OFF SITE HOUSE *(EXISTING) CORRECTED PARCEL 'A' OWNERSHIP.
9/2/91 - ELIMINATE [illegible] ETA
9-?-? SHIFT BLDGS #6 & 7, RELOCATE SWM, ADD 150' R/W [illegible] SOUTH OF SPRING GROVE LANE.

PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING

PARCEL 365, TAX MAP 101

COUNCILMANIC DISTRICT No. 1
ELECTION DISTRICT Nº 1 BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'
DRAWN BY: KAS
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 1 OF: 3
PROJECT NO. 40367


LOCATION MAP
SCALE: 1" = 1,000'
FREDERICK ROAD
PARCEL 'B'
BALTO. CITY
PARCEL 'A'
CATONSVILLE HIGH SCHOOL
THE GENERAL GERMAN ORPHAN ASSOC. OF BALTIMORE CITY
EX. DWELLING
EX. GARAGE
EX. TREES
300' R.T.A.
N 84°17'00"E
949.37'
FAYE L. MAGUIRE
SALLY A. BAKER
ANNE BATEMAN
BLOOMSBURY AVENUE
S.W.M. AREA
STATE OF MARYLAND DEPT. OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
FOR R/W NOTES & BOUNDS THIS AREA, SEE SHEET 2 OF 3.
RAILROAD
SPRING GROVE LANE
BALTIMORE COUNTY 01-0101740440
FEE SIMPLE R/W
DR 3.5
DR 5.5
P.O.B.
(CATON & LOUDON)
HOLMES AVENUE
EX. FIRE HYDRANT
EX. HOUSE
COLEMAN SPENCER & ANNA 5730/227
HUNT ALBERT F. & MARY L 5399/711
HOERL MELVIN F. & MURIEL A. 2457/414
HOERL RUTH E. 5582/414
N 521,000
N 52,000
E 876,500

GENERAL NOTES

1. **CURRENT ZONING AND ACREAGE:**

DEVELOPMENT SITE: PARCEL A - DR-3.5 (NET) ...... 7.4269 AC+
(GROSS) .... 7.6199 AC+

RAILROAD PROPERTY: PARCEL B

		0.736 AC+
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY	DR-5.5	1.850 AC+
	DR-3.5	3.289 AC+
	DR-1	0.500 AC+
	O-2	0.895 AC+
	O-T	0.618 AC+
II. BALTIMORE BELTWAY TO BALTIMORE CITY LINE	DR-10.5	0.120 AC+
	DR-5.5	13.599 AC+

TOTAL NET ACREAGE ...... 28.98 AC+
TOTAL GROSS ACREAGE .... 29.173 AC+

2. **EXISTING USE:**

PARCEL A: VACANT
RAILROAD PROPERTY: PARCEL B - VACANT

3. **PROPOSED USE:** CONDOMINIUMS/APARTMENTS/SINGLE FAMILY

4. **DENSITY CALCULATIONS:**

A. NUMBER OF UNITS PERMITTED:

PARCEL A .... DR-3.5 X 7.6199 AC = 26.670

TOTAL (A): 26.670

RAILROAD PROPERTY: PARCEL B

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	DR-1 X 0.500 AC =	0.500
	(O-2) DR-10.5 X 0.895 AC =	9.398
	TOTAL (B):	35.633
II. BALTIMORE BELTWAY TO* BALTIMORE CITY LINE	DR-10.5 X 0.120 AC =	1.26
	DR-5.5 X 13.599 AC =	74.795
	TOTAL (C):	76.055
	TOTAL	= 138.358 UNITS PERMITTED

* ONLY RESIDENTIAL ZONING USED IN CALCULATIONS.

B. NUMBER OF UNITS PROPOSED: 84 UNITS

5. **PARKING CALCULATIONS:**

REQUIRED: 84 UNITS AT 2.0 SPACES/UNIT = 168 SPACES
PROPOSED: = 168 SPACES

6. STORMWATER MANAGEMENT TO BE PROVIDED ON-SITE.

7. THE SITE IS WOODED WITH PRIMARILY DECIDUOUS TREES. EXISTING WOODS WILL BE RETAINED WHEREVER FEASIBLE.

8. EXISTING BUILDINGS AND DISPOSITION THEREOF ARE SO DESIGNATED ON PLAN.

9. PROPOSED BUILDINGS IN A RESIDENTIAL TRANSITION AREA WILL NOT EXCEED 130 FEET. IN LENGTH, NOR 35 FEET IN AVERAGE HEIGHT. THE MINIMUM DISTANCE BETWEEN BUILDINGS WILL BE 1-1/2 TIMES THE AVERAGE HEIGHT OF THE HIGHER BUILDING. ALL REQUIRED BUFFER PLANTING WILL COMPLY WITH THE BALTIMORE COUNTY ZONING REGULATIONS, EXISTING WOODS WILL BE USED TO MEET A PORTION OF THE REQUIREMENTS. SUPPLEMENTAL SCREEN WILL BE SUPPLIED PER BALTIMORE COUNTY REQUIREMENTS. STREET LIGHTING WILL BE IN ACCORDANCE WITH BALTIMORE COUNTY STANDARDS AND LOCATED AS SHOWN ON PLAN THUSLY.

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13. THE RAILROAD PROPERTY, PARCEL B, IS TO BE DEDICATED TO BALTIMORE COUNTY FOR THE PUBLIC BENEFIT AT NO COST TO BALTIMORE COUNTY.

14. BOUNDARY SHOWN HEREON IS BASED ON CURRENT DEED DESCRIPTIONS AND HAS NOT BEEN VERIFIED BY A FIELD INVESTIGATION.

92-173-SPH

MICROFILMED

DEVELOPER/APPLICANT:

BLOOMSBURY JOINT VENTURE
C/O HOWARD CHERTKOF/GORDON GREENSPUN
1777 REISTERSTOWN ROAD
SUITE 275E
BALTIMORE, MARYLAND 21208

CURRENT OWNERSHIP:

PARCEL A:

HOWARD L. & E. ROBERT CHERTKOF
TAX ACCOUNT NO.: 01-0106571210

PARCEL B:

CATON AND LOUDON RAILWAY COMPANY
TAX ACCOUNT NO.: 01-0103000810

RICHARD H. CASSELL #12427

Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301)486-1511

REVISIONS:
JULY 23, '91 REV. UNIT COUNT TO 84 FROM 96. ADDED OFF-SITE HOUSE #(EXISTING) CORRECTED PARCEL 'A' OWNERSHIP.
2/3/91 - ELIMINATE FRONT RTA
5-2-91 SHIFT BLDGS #6 & 7, RE-[illegible] SWM, ADD 250' R.T.A. FROM PARCEL SOUTH OF SPRING GROVE LANE

PLAT TO
ACCOMPANY PETITION
FOR
SPECIAL HEARING

PARCEL 365, TAX MAP 101
COUNCILMANIC DISTRICT No. 1
ELECTION DISTRICT Nº1 BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'
DRAWN BY: KAS
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 1 OF: 3
PROJECT NO. 40367

BLOOMSBURY AVENUE
SPRING GROVE LANE
BALTIMORE COUNTY 01-0101740440
FEE SIMPLE R/W
(CATON & LOUDON RAILROAD)
HOLMES AVENUE
ONE WAY
BUILDING #1
BUILDING #2
BUILDING #3
BUILDING #4
BUILDING #5
BUILDING #6
BUILDING #7
S.W.M. AREA
EX. DWELLING
EX. GARAGE
EX. HOUSE
EX. TREES
THE GENERAL GERMAN ORPHAN ASSOC. OF BALTIMORE CITY 5161/552
STATE OF MARYLAND DEPT OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
FOR R/W NOTES & BOUNDS IN THIS AREA, SEE SHEET 2 OF 3.
N 84°17'00" E
949.37'
DR 3.5
DR 5.5
O-T
P.O.B.
FAYE L. MAGUIRE
MELVIN J. & ... ALLCOTT
SALLY A. EYLER
ANNE BATEMAN
COLEMAN SPENCER & ANNA 5730/227
HUNT ALBERT F. & MARY L 5399/711
HOERL MELVIN F. & MURIEL A 2457/414
HOERL RUTH E. 6582/414
N 521,000
N 521,500
FREDERICK ROAD
PARCEL 'A'
PARCEL 'B'
CATONSVILLE HIGH SCHOOL
HILLTOP AVE.
WESTERN VOC. TECH. CTR.
I-695
BALTIMORE BELTWAY
BALTO. CITY
BALTO. CO.

LOCATION MAP

SCALE: 1" = 1,000'

GENERAL NOTES

1. CURRENT ZONING AND ACREAGE:

DEVELOPMENT SITE: PARCEL A - DR-3.5 (NET) ...... 7.4269 AC+
(GROSS) .... 7.6199 AC+

RAILROAD PROPERTY: PARCEL B

		0.736 AC+
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY	DR-5.5	1.850 AC±
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II. BALTIMORE BELTWAY TO BALTIMORE CITY LINE	DR-10.5	0.120 AC+
	DR-5.5	13.599 AC+

TOTAL NET ACREAGE ...... 28.98 AC±
TOTAL GROSS ACREAGE .... 29.173 AC±

2. EXISTING USE:

PARCEL A: VACANT
RAILROAD PROPERTY: PARCEL B - VACANT

3. PROPOSED USE: CONDOMINIUMS/APARTMENTS/1SINGLE FAMILY

4. DENSITY CALCULATIONS:

A. NUMBER OF UNITS PERMITTED:

PARCEL A .... DR-3.5 X 7.6199 AC = 26.670

TOTAL (A): 26.670

RAILROAD PROPERTY: PARCEL B

I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY*	DR-5.5 X 2.586 AC =	14.223
	DR-3.5 X 3.289 AC =	11.512
	DR-1 X 0.500 AC =	0.500
	(O-2) DR-10.5 X 0.895 AC =	9.398
	TOTAL (B):	35.633
II. BALTIMORE BELTWAY TO* BALTIMORE CITY LINE	DR-10.5 X 0.120 AC =	1.26
	DR-5.5 X 13.599 AC =	74.795
	TOTAL (C):	76.055
	TOTAL	= 138.358 UNITS PERMITTED

* ONLY RESIDENTIAL ZONING USED IN CALCULATIONS.

B. NUMBER OF UNITS PROPOSED: ~~84~~ 83 UNITS

5. PARKING CALCULATIONS:

REQUIRED: ~~82~~ 83 UNITS AT 2.0 SPACES/UNIT = ~~168~~ 166 SPACES
PROPOSED: = 168 SPACES

6. STORMWATER MANAGEMENT TO BE PROVIDED ON-SITE.

7. THE SITE IS WOODED WITH PRIMARILY DECIDUOUS TREES. EXISTING WOODS WILL BE RETAINED WHEREVER FEASIBLE.

8. EXISTING BUILDINGS AND DISPOSITION THEREOF ARE SO DESIGNATED ON PLAN.

9. PROPOSED BUILDINGS IN A RESIDENTIAL TRANSITION AREA WILL NOT EXCEED 130 FEET IN LENGTH, NOR 35 FEET IN AVERAGE HEIGHT. THE MINIMUM DISTANCE BETWEEN BUILDINGS WILL BE 1-1/2 TIMES THE AVERAGE HEIGHT OF THE HIGHER BUILDING. ALL REQUIRED BUFFER PLANTING WILL COMPLY WITH THE BALTIMORE COUNTY ZONING REGULATIONS, EXISTING WOODS WILL BE USED TO MEET A PORTION OF THE REQUIREMENTS. SUPPLEMENTAL SCREEN WILL BE SUPPLIED PER BALTIMORE COUNTY REQUIREMENTS. STREET LIGHTING WILL BE IN ACCORDANCE WITH BALTIMORE COUNTY STANDARDS AND LOCATED AS SHOWN ON PLAN THUSLY.

10. A LANDSCAPE PLAN WILL BE REVIEWED AND APPROVED BY THE OFFICE OF PLANNING AND ZONING PRIOR TO THE ISSUANCE OF ANY GRADING/BUILDING PERMITS.

11. DENSITY CALCULATIONS WERE PREPARED BY UTILIZING CATONSVILLE SHORT LINE RIGHT-OF-WAY PLATS OF 1883, THE ATTACHED ZONING DESCRIPTION AND BALTIMORE COUNTY ZONING MAPS. THE AREA WITHIN THE RAILROAD PROPERTY AND THE RELATIVE ZONING WAS DEFINED AND COMPUTED.

12. THE SUBJECT PROPERTY DOES NOT HAVE AN ADDRESS. THIS WILL BE ASSIGNED AS FUTURE DEVELOPMENT OCCURS.

13. THE RAILROAD PROPERTY, PARCEL B, IS TO BE DEDICATED TO BALTIMORE COUNTY FOR THE PUBLIC BENEFIT AT NO COST TO BALTIMORE COUNTY.

14. BOUNDARY SHOWN HEREON IS BASED ON CURRENT DEED DESCRIPTIONS AND HAS NOT BEEN VERIFIED BY A FIELD INVESTIGATION.

DEVELOPER/APPLICANT:

BLOOMSBURY JOINT VENTURE
C/O HOWARD CHERTKOF/GORDON GREENSPUN
1777 REISTERSTOWN ROAD
SUITE 275E
BALTIMORE, MARYLAND 21208

MICROFILMED

PRINTS MADE
NOV 12 1991
HARRIS, SMARIGA, MATZ, INC.

CURRENT OWNERSHIP:

PARCEL A:

HOWARD L. & E. ROBERT CHERTKOP
TAX ACCOUNT NO.: 01-0106571210

PARCEL B:

CATON AND LOUDON RAILWAY COMPANY
TAX ACCOUNT NO.: 01-0103000810

RICHARD H. CASSELL #12427

Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301)486-1511

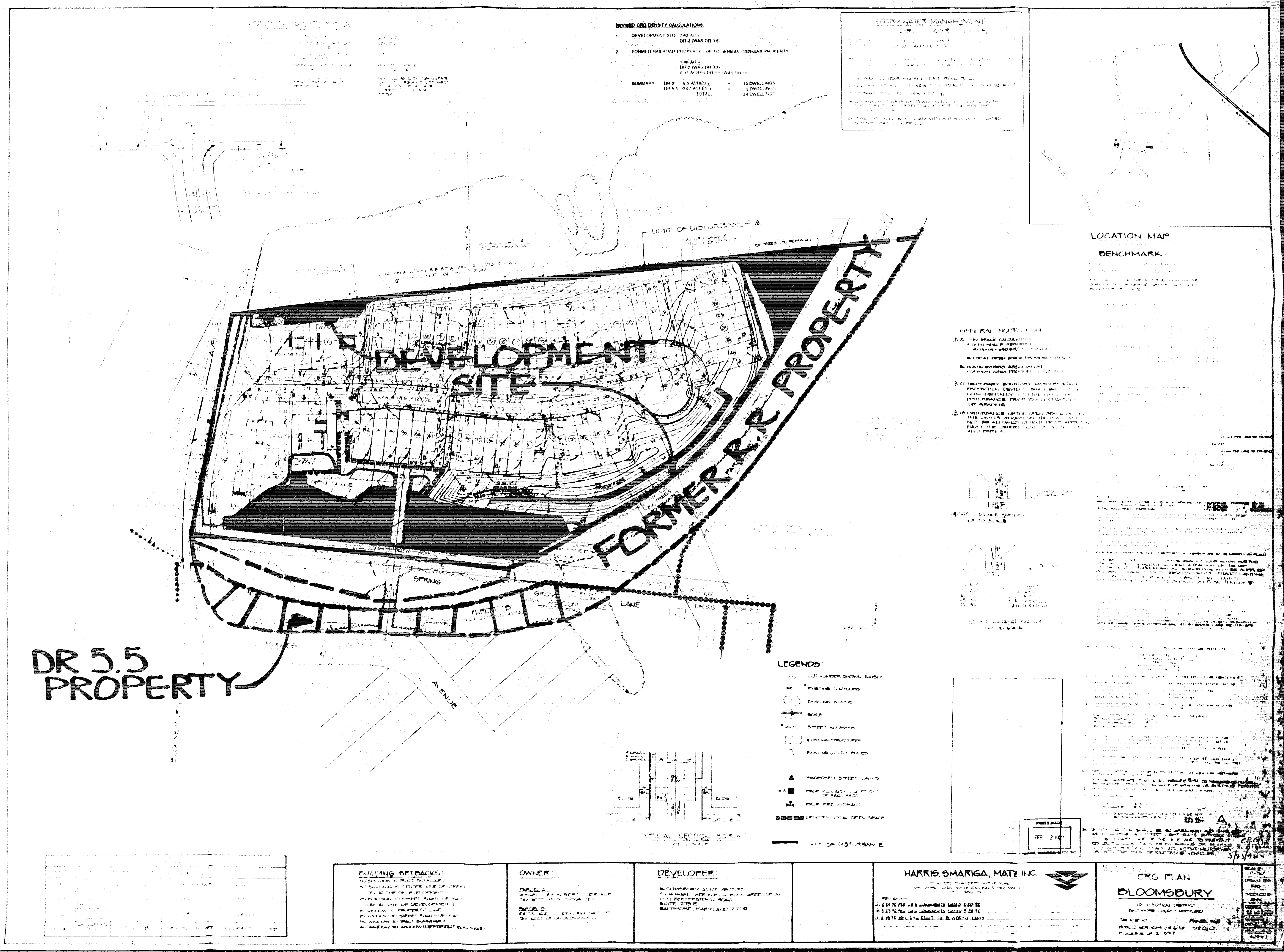
REVISIONS:
JULY 29 '91 REV. UNIT COUNT TO 84 FROM 96. ADDED OFF SITE HOUSE *(EXISTING) CORRECTED PARCEL 'A' OWNERSHIP.
8-26-91 SHIFT BLDGS #6 & 7 RELOCATE SWM, A... [illegible] FROM PARCEL SOUTH OF SPRING GROVE LANE
2/31 [illegible]

PLAT TO
ACCOMPANY PETITION
FOR
SPECIAL HEARING

PARCEL 365, TAX MAP 101

COUNCILMANIC DISTRICT No. 1
ELECTION DISTRICT Nº 1 BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 50'
DRAWN BY: KAS
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 1 OF: 3
PROJECT NO. 40367


DEVELOPMENT SITE
FORMER R.R. PROPERTY
DR 5.5 PROPERTY
SPRING
LANE
AVENUE
PARCEL D
UNIT OF DISTURBANCE
STORMWATER MANAGEMENT
LOCATION MAP
BENCHMARK
GENERAL NOTES CONT.
LEGENDS
TYPICAL SECTION
PRINTS MADE
FEB 2
CRG
5/23/98

REVISED CRG DENSITY CALCULATIONS

1. DEVELOPMENT SITE: 7.62 AC ±
DR-2 (WAS DR 3.5)

2. FORMER RAILROAD PROPERTY - UP TO GERMAN ORPHANS PROPERTY:
1.88 AC ±
DR-2 (WAS DR 3.5)
0.97 ACRES DR 5.5 (WAS DR 16)

SUMMARY:	DR-2:	9.5 ACRES ±	=	19 DWELLINGS
	DR 5.5:	0.97 ACRES ±	=	5 DWELLINGS
		TOTAL		24 DWELLINGS

BUILDING SETBACKS:

OWNER:

DEVELOPER:
BLOOMSBURY JOINT VENTURE
BALTIMORE, MARYLAND

HARRIS, SMARIGA, MATZ, INC.

CRG PLAN
BLOOMSBURY
BALTIMORE COUNTY, MARYLAND

had to be instituted.[5] Although the condemnation cases brought by the railroad in 1882-83 do not expressly characterize the "quality or duration" of the interests taken thereby, the testimony presented by both Chertkof and Protestants suggests that the jury awards in those cases are characteristic with in fee acquisitions.[6]

Protestants attempt to argue that without recorded in fee conveyances, the railroad lacks ownership of Parcel B. However, the railroad is entitled to make use of the presumption of lost grants and condemnation decrees for the quality of its ownership interests. The mere non-use, however long continued, does not constitute abandonment of an interest acquired by grant or condemnation.[7]

The United States Supreme Court has held repeatedly that the right to exclude others is "one of the most essential sticks in the bundle of rights that are commonly characterized as property." Nollan v. California Coastal Commission, 483 U.S. 825, 831 (1987); Loretto v. Teleprompter Manhattan CATV Corp., 458 U.S. 419, 433 (1982); Kaiser Aetna v. U.S., 444 U.S. 164, 176 (1979). The ongoing and existing rights of Chertkof in the subject property, include the right to exclude others from coming on it. Korngold, Private Land Use Arrangements §4.06 (1990).

---

[5] See The Sun, September 23, 1881, at page 4, introduced as Appellee's Exhibit No. 15.

[6] See Article 41 §10, Revised Code of Maryland (1878); and State Roads Commission v. Johnson, 22 Md. 493 (1960).

[7] See Note, "Railroad Rights of Way - Types of Interests Acquired", 22 Md. L. Rev. 57 at 58, footnote 3 (1962).

The Caton and Loudon Railway Company is empowered[8] to invoke the federal "Rails to Trails Act" as amended in 1983 (16 U.S.C. §1241 et seq.) to obtain a Certificate of Interim Use and to enter into an agreement to further preserve its rights in Parcel B with the State, the County, or any private group that is prepared to assume financial and managerial responsibility for the subject property. 16 U.S.C. §1247 (d); Preseault v. ICC, 494 U.S. 1, 6-7 (1990). The issuance of a Certificate of Interim Trail Use postpones indefinitely abandonment [or reverter] under any applicable State law. Preseault at 8.

The credible testimony of Mr. William Hughey, a planner with the Baltimore County Office of Planning and Zoning, was that the County did not have the authority or capability to rule upon or determine legal title or ownership. He also expressed the desire of Baltimore County to accept, if offered, the corporate stock of the Caton and Loudon Railway Company, when and if made.

Chertkof maintains that the issue of ownership is not properly before, nor can it be decided by this Board. Chertkof further maintains that, under applicable federal, state, and common law principles, it owns Parcel B and can transfer density therefrom as permitted by the BCZR. No other party may claim density from property that they cannot enter. The record is clear that the Application rights and ownership of the subject property have not been abandoned and remain with the railroad. Protestants' assertions of non-ownership are but veiled attempts to prohibit what the County Council has otherwise expressly permitted.

---

[8] This Board is referred to the testimony offered regarding the intent of the Caton and Loudon Railway Company representatives with respect to the offering of the corporate stock to an appropriate entity.

The issues of ownership, title, etc. are not properly before this Board. This Board should resist the urging of the Protestants to involve itself in matters which are clearly, and exclusively, within the purview of the Circuit Courts of this State.

All evidence before this Board supports the relief requested by Chertkof. The BCZR expressly authorize the transfer/clustering proposed by Chertkof without the necessity of obtaining approval from the Zoning Commissioner or this Board.

For all of the above reasons, the appeal filed by Protestants should be denied and the amended relief for 84 density units requested by Chertkof should be approved.

Respectfully submitted,

Julius W. Lichter, Esquire

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
Suite 113
305 West Chesapeake Avenue
Towson, Maryland 21204
(410) 321-0600

Attorneys for Chertkof

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of August, 1992, a copy of the aforegoing Appellee/Cross-Appellant's Post-Hearing Memorandum was mailed, postage prepaid to Michael P. Tanczyn,

Esquire, Suite 106, 606 Baltimore Avenue, Towson, Maryland 21204, Attorney for Appellant and Phyllis C. Friedman, Esquire, Peoples Counsel for Baltimore county, Lower Level, Court House, Towson, Maryland 21204.

Julius W. Lichter, Esquire

IN THE MATTER OF * BEFORE THE

F. ROBERT CHERTKOF, ET AL * COUNTY BOARD OF APPEALS
E/S Bloomsbury Avenue
N of Holmes Avenue at * FOR BALTIMORE COUNTY
Caton/Loudon Railroad
*
1st Election District
1st Councilmanic District * Case No. 92-173-SPH

* * * * * * * * * * * * * *

PROTESTANTS' MEMORANDUM

NOW COMES the Protestants, by their undersigned attorney, and submit this Memorandum to the County Board of Appeals for Baltimore County and say:

ISSUE ONE

What ownership interest in land is required to allow residential construction and development for purposes of transferring density?

The Petitioners, who have requested the density transfer, are a combination of individual persons and an entity known as the Caton and Loudon Railway Company. The individuals claim an ownership interest in a parcel by virtue of a deed admitted as Petitioners' Exhibit No. 3, dated October 22, 1990 and recorded in the Land Records of Baltimore County in Liber 8631, folio 232. In Exhibit C, found at folio 243, of that deed which generally describes the condemnation proceedings of The Catonsville Short Line Railroad vs Mary Metz et al, dated March 3, 1883 and recorded in the Judicial Records of Baltimore County in

Liber WMI 64, folio 220, with stated courses and distances. Also mentioned is a deed from Lurman to Brown, dated November 2, 1903 and recorded in the Land Records of Baltimore County in Liber NDM 271, folio 442.

The title claimed by the Caton and Loudon Railroad Company is alleged to lie derived from a deed from Michael Paul Smith, Receiver dated October 31, 1945 and recorded among the Land Records of Baltimore County in Liber RJS No. 1410, folio 107. This deed contains two granting clauses. The first conveys certain fee simple properties occupied by stations, etc. to The Hudson Realty Company. The second grant conveys "all that right of way and the land adjacent thereto" to the Caton and Loudon Railroad Company. The words "fee simple" appear in neither the grant nor the habendum. The property is described by reference to "the centerline of said right of way".

Petitioners' Exhibit No. 4 was the Certificate of Incorporation of The Caton and Loudon Railway Company issued by the State of Maryland Executive Department on October 11, 1945. Paragraph 2 of the Certificate of Incorporation states that the railroad corporation is formed for the purpose of owning and operating the railroad formerly belonging to The Catonsville Short Line Railroad Company with the description of the four mile track.

On page 3 of the corporate resolution in the final paragraph the president and officers were authorized to enter into a lease agreement with Hudson Realty under which the corporation would lease certain railroad tracks, ties and trackage located on its property on the side of Mellor Avenue, Catonsville, and which connect with the railroad tracks, ties and trackage at a point approximately 1200 feet south of Frederick Road.

The other evidence before the Board in the record included an outline survey plat for property of The General German Orphan Association of the State of Maryland, copy of deed dated October 30, 1919 and recorded in the Land Records of Baltimore County in Liber 516, folio 552 et seq, said deed on page 3 conveying a fee simple interest to the General German Orphan's Association of Baltimore City in the 42.74 acres thereinafter described at the top of page 554. On page 554 the first full paragraph states that the fee simple grant is subject to whatever right-of-way the Catonsville Short Line Railroad Company may be entitled to through said land, and at the bottom of that page the habendum clause states that the grantee will hold it in fee simple. Also included in that exhibit was an opinion letter by the Chicago Title Company to The Children's Home that Chicago Title found no evidence of a fee simple interest in The Caton and Loudon Railroad Company to a railroad right-of-way shown on the plat of McKee & Associates, Inc. referred to earlier.

The deed from Lurman to Joseph Swift Brown made November 2, 1903 for what is part of Parcel B land does grant a fee simple interest to Mr. Brown in said land and on page 443 subjects that grant to "the use and occupation of part of said land for a

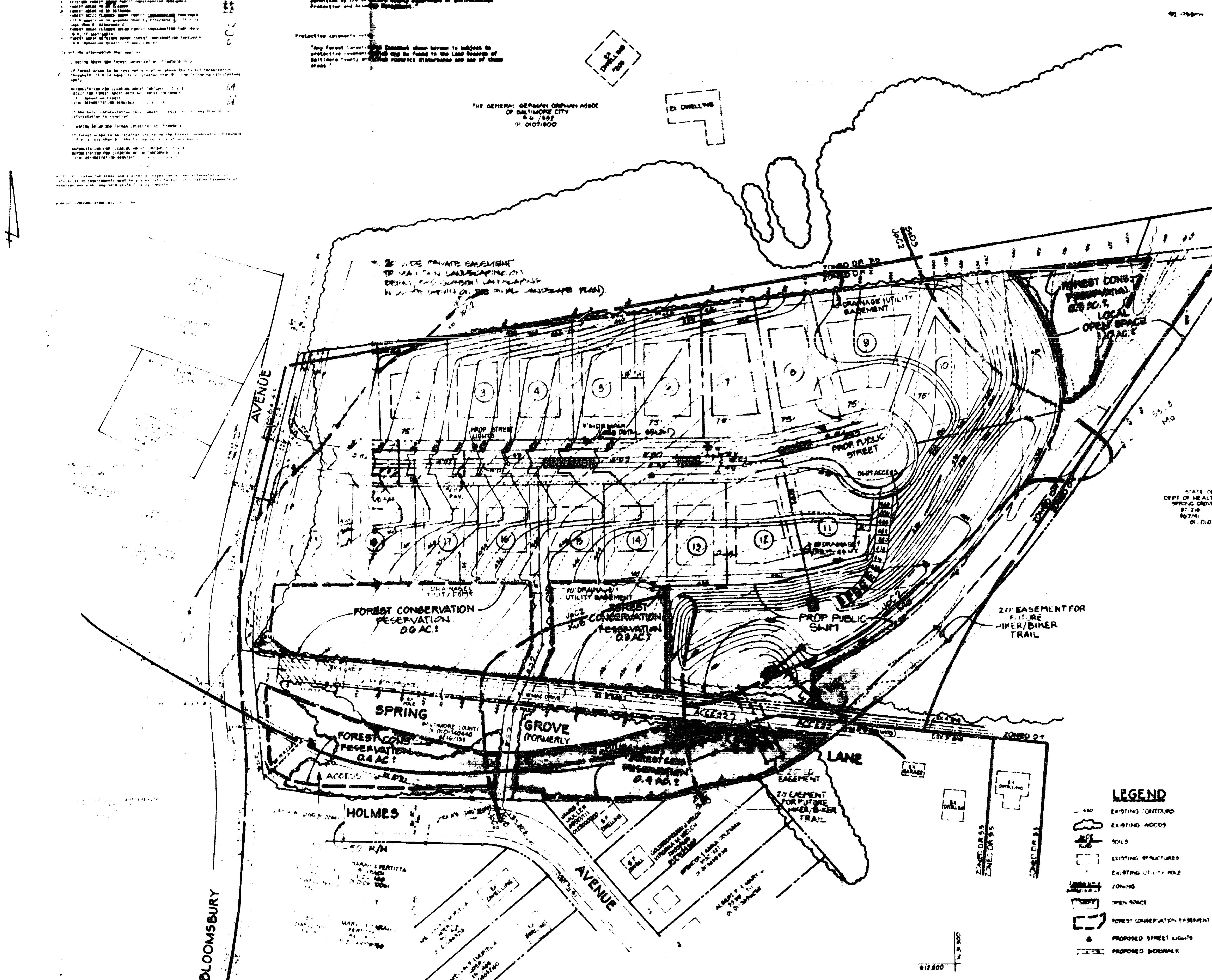
railway described in proceedings in The Case of the Catonsville Short Line Railroad Company vs Mary E. Metz and others recorded in the Judicial Records of the Circuit Court for Baltimore County Circuit Court in Liber JWS No. 64, folio 220".

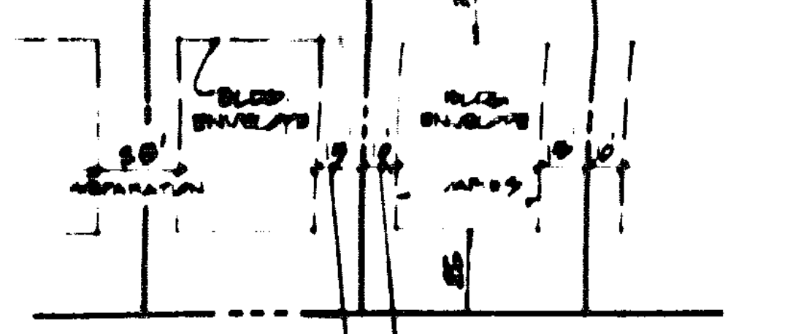
The Case of Mary Metz, et al which was introduced as a Protestants' exhibit, was a judicial proceeding which included a warrant, sheriff's return and inquisition. In the warrant, found at folio 220, in the first paragraph, it states that "the president of the Catonsville Short Line Railroad Company finds it necessary in the construction of their railway authorized by their charter to enter upon, take, use, occupy and possess for said railway and for the construction thereof" certain parcels of land. Further in the warrant, on page 221 in the paragraph above the signature of John Pilert, the charge is "to value the damages which the owner or owners of said land required as aforesaid will sustain by the use and occupation thereof of the said company for said railway...". In the inquisition, which begins on folio 223 and following on page 224 in the fifth line, it mentions "the damages the owners will sustain by the use and occupation of that parcel of land owned by the named individuals and by the use and occupation of that parcel of land", and 15 lines from the bottom "...which is required by the Catonsville Short Line Railroad Company for the construction of a railway..." and five lines from the bottom "...that the damages are assessed which the owners will sustain by the use and occupation aforesaid for said railway and

Note 25 **ZONING HISTORY** △

CASE NO	DATE	REQUEST	STATUS
65-[illegible]	[illegible]	CHANGE ZONING FROM [illegible] TO BL	DENIED
[illegible]	10/[illegible]/57	CHANGE ZONING FROM [illegible] TO MR	DENIED
[illegible]	5/10/57	SPECIAL EXCEPTION FOR CARE OR GUEST HOUSE	GRANTED, HOME CONSTRUCTED
92-[illegible]	12/18/91	TRANSFER OF DENSITY FROM PARCEL [illegible] TO PARCEL A	PARTIAL DENSITY TRANSFER GRANTED FROM I-695 WEST TO BLOOMSBURY AVE CURRENTLY UNDER APPEAL

VICINITY MAP

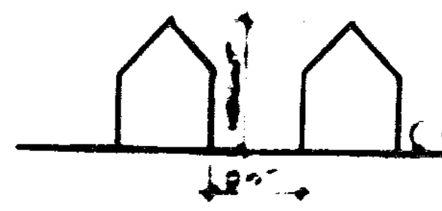

THE GENERAL GERMAN ORPHAN ASSOC OF BALTIMORE CITY
EX. DWELLING
FOREST CONS. (RESERVATION) 0.9 AC.±
LOCAL OPEN SPACE
DRAINAGE UTILITY EASEMENT
PROP PUBLIC STREET
PROP STREET LIGHTS
SIDEWALK
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
75'
FOREST CONSERVATION RESERVATION 0.6 AC.±
FOREST CONSERVATION RESERVATION 0.9 AC.±
20' DRAINAGE & UTILITY EASEMENT
PROP PUBLIC SWM
20' EASEMENT FOR FUTURE HIKER/BIKER TRAIL
STATE OF MARYLAND DEPT OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
SPRING GROVE (FORMERLY
LANE
HOLMES
FOREST CONS. RESERVATION 0.4 AC.±
FOREST CONS. RESERVATION 0.4 AC.±
ACCESS
AVENUE
BLOOMSBURY
AVENUE
20' EASEMENT FOR FUTURE HIKER/BIKER TRAIL
ZONED DR 2
ZONED DR 3.5
ZONED D1
LEGEND
EXISTING CONTOURS
EXISTING WOODS
SOILS
EXISTING STRUCTURES
EXISTING UTILITY POLE
ZONING
OPEN SPACE
FOREST CONSERVATION EASEMENT
PROPOSED STREET LIGHTS
PROPOSED SIDEWALK


BLDG ENVELOPE
BLDG ENVELOPE
NO WINDOWS PERMITTED
WINDOWS PERMITTED

TYPICAL LOT LAYOUT DETAIL

NOT TO SCALE

HEIGHT-DISTANCE FACTOR:

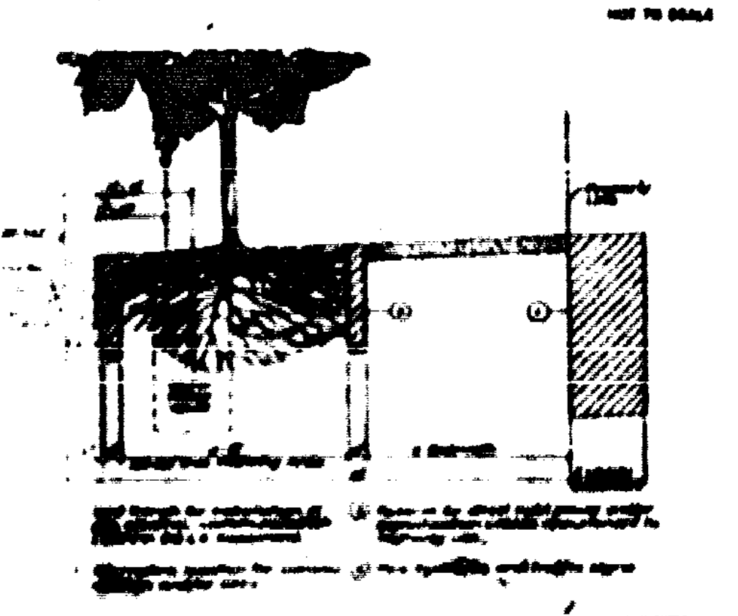

GRADELINE
20'

HEIGHT 20' [illegible] MAX [illegible] HEIGHT
BUILDING SEPARATION DISTANCE: 20' MINIMUM

1972 CMDP
BUILDING SETBACKS:
[illegible] BLDG TO TRACT BOUNDARY
[illegible] BLDG TO CENTER LINE OF STREET
30' BLDG TO STREET R/W
10' WINDOW TO PROPERTY LINE
30' WINDOW TO STREET R/W
30' WINDOW TO TRACT BOUNDARY
30' MAXIMUM BLDG. HEIGHT PERMITTED IN DR 2 ZONE

PUBLIC ROAD UTILITY & STREET TREE LOCATIONS

NOT TO SCALE



SOILS DATA

[illegible]	[illegible]	[illegible]	[illegible]	LIMITATIONS FOR STREETS & PARKING	LIMITATIONS FOR HOMESITES
[illegible]	[illegible]	[illegible]	[illegible]	MODERATE SLOPE	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	SEVERE	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	SEVERE	SEVERE
[illegible]	[illegible]	[illegible]	B	SEVERE SLOPE	MODERATE SLOPE
[illegible]	[illegible]	[illegible]	[illegible]	SEVERE SLOPE	SEVERE
[illegible]	[illegible]		B		

MORRIS & RITCHIE ASSOCIATES, INC.
ENGINEERS, PLANNERS, SURVEYORS, AND LANDSCAPE ARCHITECTS
110 West Road, Suite 105
Towson, Maryland 21204
(410) 821-1690
Fax (410) 821-1748

RECEIVED
JUN [illegible]

Tim Madden
1-6-95

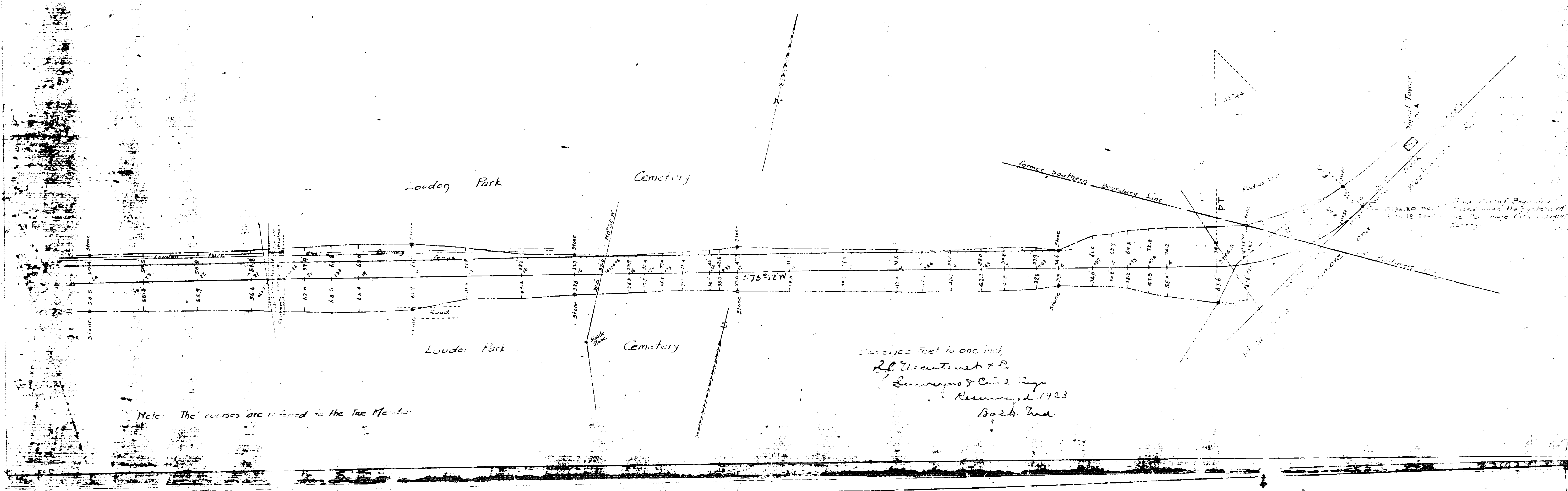
FIRST AMENDED CRG PLAN
FOR
BLOOMSBURY
[illegible] ELECTION DISTRICT BALTIMORE COUNTY MARYLAND
TAX MAP [illegible] PARCEL [illegible]
PUBLIC SERVICES CRG Nº 92010
PLANNING Nº I 307 DRC Nº 11094L

DATE	REVISIONS	
6/5/95	REVISE AS PER 2/6/95 PRE-CRG COMMENTS	JOB NO 10023
[illegible]	REVISE AS PER [illegible] PRE-CRG COMMENTS	SCALE 1"=50'
		DATE JAN 1995
		DRAWN BY JAS
		DESIGN BY
		REVIEW BY TFM
		SHEET 1

CATONSVILLE SHORT LINE RAILROAD

SHEET Nº 1

RIGHT OF WAY as of 1883



N
Louden Park Cemetery
Louden Park Cemetery
Louden Park Avenue
Road
Stone
S75°12'W
Former Southern Boundary Line of Baltimore City
P.T.
Radius 500
Signal Tower S.A.
Track
Washington
Philadelphia
Baltimore and
Coordinates of Beginning
13136.80 West
8731.18 South
based upon the system of the Baltimore City Topographical Survey

Scale = 100 Feet to one inch

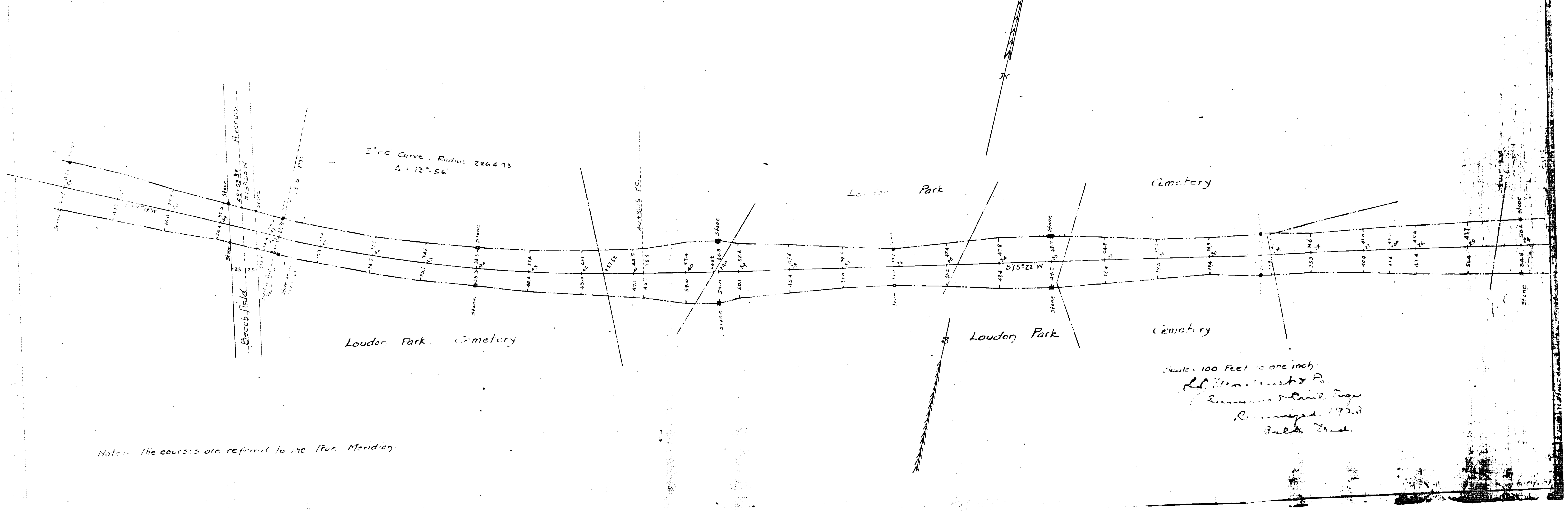
Surveyors & Civil Engrs.
Resurveyed 1923
Balto. Md.

Note: The courses are referred to the True Meridian

CATONSVILLE SHORT LINE RAILROAD

SHEET Nº 2

RIGHT OF WAY as of 1883



N
2°00' Curve, Radius 2864.93
Δ = 13°56'
Louden Park Cemetery
Louden Park Cemetery
Louden Park Cemetery
Stone
S75°22'W
Beechfield Avenue

Scale = 100 Feet to one inch

Surveyors & Civil Engrs.
Resurveyed 1923
Balto. Md.

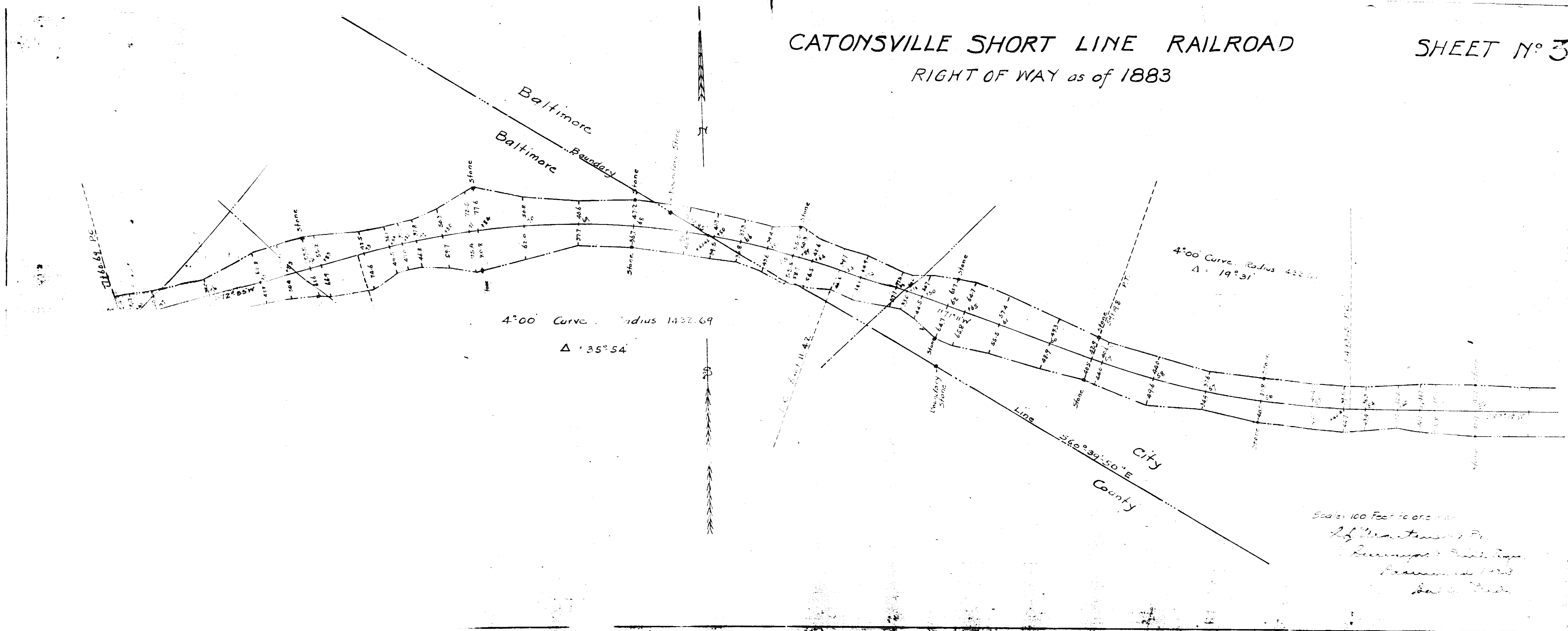
Note: The courses are referred to the True Meridian

ETITIONER'S
EXHIBIT 106

CATONSVILLE SHORT LINE RAILROAD

SHEET No 3

RIGHT OF WAY as of 1883

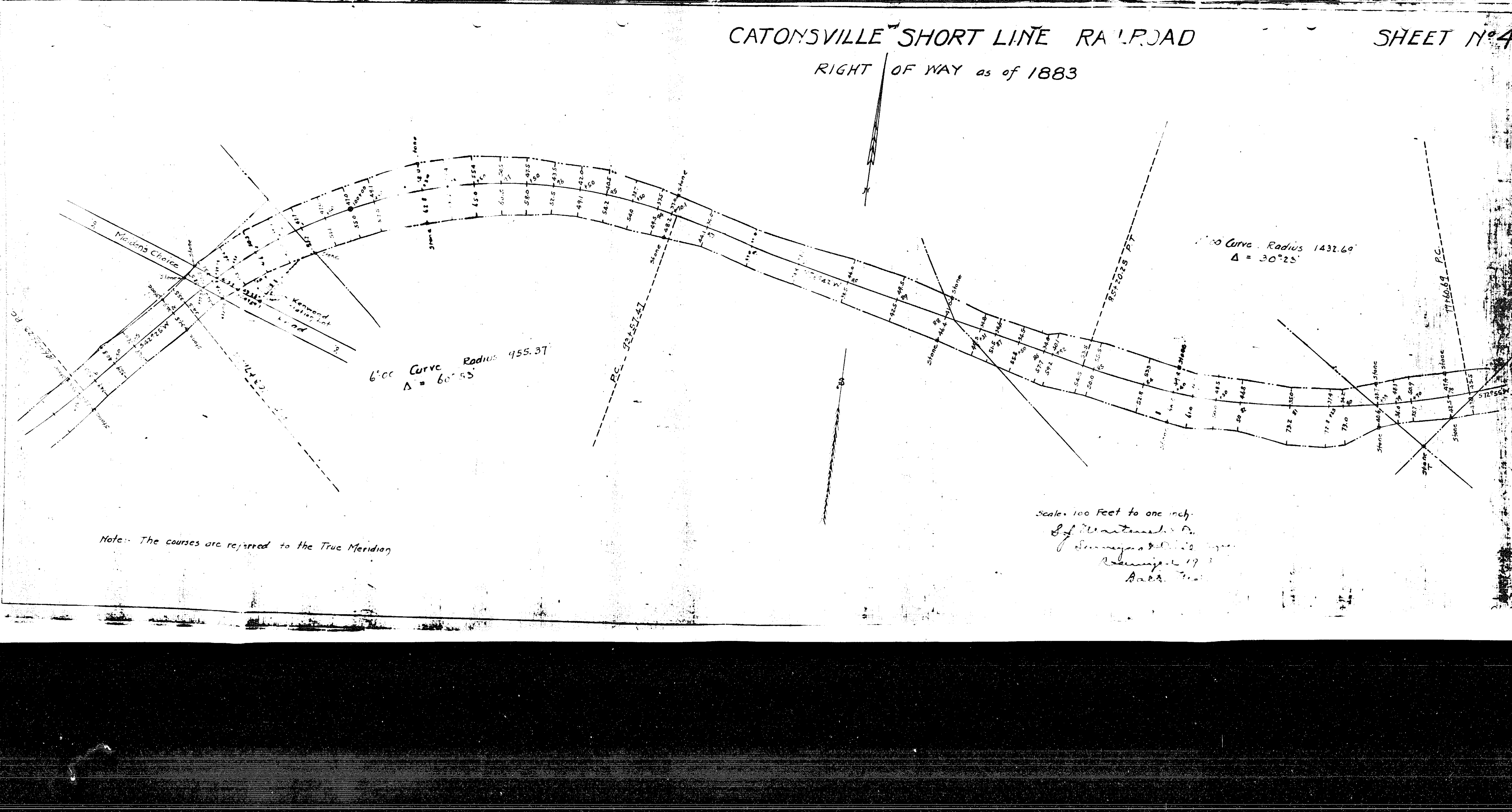

Baltimore
Baltimore
Boundary
Stone
Boundary Stone
City
County
Line S60°30'50"E
4°00' Curve Radius 1432.69
Δ = 35°54'
4°00' Curve Radius 1432.69
Δ = 19°31'
12°85'W

Scale: 100 Feet to one inch

CATONSVILLE SHORT LINE RAILROAD

SHEET No 4

RIGHT OF WAY as of 1883


Maidens Choice
Kenwood
Road
Stone
6°00' Curve Radius 955.37
Δ = 60°53'
4°00' Curve Radius 1432.69'
Δ = 30°25'
P.C.
P.T.
P.C.

Note:- The courses are referred to the True Meridian

Scale: 100 Feet to one inch

Balt. Md.

The Court has examined the testimony of the experts who testified before the CBA and would find from it that significant portions of Parcel B are not held in fee-simple title by the Petitioners, and, further, are not contiguous to Parcel A nor to each other, were these issues presented in a proper posture.

It is accordingly, by this Court,

ORDERED, this 20th day of April, 1993, pursuant to Maryland Rule B13 and Section 604 of the Baltimore County Charter that this case is REMANDED to the CBA with instructions to consider and determine:

1. Whether the Petitioners, who lack fee simple interests in at least some portions of the right of way of the former railroad (Parcel B) have development rights of sufficient character to permit them to transfer density units from those portions not owned in fee simple, to Parcel A, without the joinder or consent of the owners of the fee simple interests in Parcel B.
2. Whether the density units, if any, appurtenant to the non-contiguous portions of Parcel B, as, for example, those portions east of I-695, or east of the property of Children's Home, Inc., can be transferred to Parcel A, even if those non-contiguous portions are wholly or partially owned in fee simple by the Petitioners.
3. Whether Parcels A and B together constitute a "single tract" of land as contemplated by Section 1B01.2.A.2 of the Zoning Regulations.
4. Whether density units, if any, even if otherwise transferable, can be transferred from any portion of Parcel B which is zoned in other than a "D.R." classification, to Parcel A.

And it is further,

ORDERED, that Appellants shall reimburse Protestants for one-half of the costs of preparing the transcript of the CBA record in this matter, payable within 30 days of the date of

---

this order.

Christian M. Kahl

CMK:emh

cc: David H. Fishman, Esquire
Nancy E. Paige, Esquire
Michael P. Tanczyn, Esquire
Peter Max Zimmerman, Esquire
Marvin Singer, Esquire
Richard Keifer, Esquire
Baltimore County Board of Appeals

MICROFILMED

IN THE MATTER OF THE APPLICATION OF E. ROBERT CHERTKOF, ET AL FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE EAST SIDE OF BLOOMSBURY AVENUE, NORTH OF HOLMES AVENUE AT CATON/LOUDON RAILROAD
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

E. ROBERT CHERTKOF, ET AL, PLAINTIFFS/APPELLANTS AND SOUTH ROLLING ROAD IMPROVEMENT ASSOCIATION AND PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, CROSS-APPELLANTS

ZONING CASE NO. 92-173-SPH

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CG Doc. No. 36
Folio No. 365
File No. 92-CV-10254

* * * * * * * * *

PROCEEDINGS BEFORE THE ZONING COMMISSIONER AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Judson H. Lipowitz, and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of the Zoning Commissioner and the Board of Appeals of Baltimore County:

No. 92-173-SPH

	Petition filed by Julius W. Lichter, Esquire on behalf of E. Robert Chertkof, et al for a Special Hearing to approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwelling units on Parcel A.
Oct. 28, 1991	Certificate of Posting of property.
October 31	Publication in newspaper.
November 7	Comments of Baltimore County Zoning Plans Advisory Committee.

Nov. 20, 1991	Hearing held on Petition by the Zoning Commissioner.
December 18	Order of the Zoning Commissioner GRANTING Petition with restrictions.
Jan. 15, 1992	Notice of appeal received from Paul L. Erickson, Esquire on behalf of St. Charles Associates, Ltd., Protestants.
January 16	Notice of appeal filed by Nan Florence, Vice President of South Rolling Road Community Association.
January 17	Notice of Appeal received from Julius W. Lichter, Esquire on behalf of Petitioners.
June 26	Hearing before the Board of Appeals.
June 29	Withdrawal of appeal filed by Paul L. Erickson, Esquire on behalf of Retirement & Health Services Corporation.
July 16	Hearing completed before the Board of Appeals.
August 6	Protestants' Memorandum filed by Michael P. Tanczyn, Esquire.
August 6	Appellee/Cross-Appellant's Post-Hearing Memorandum filed by Julius W. Lichter, Esquire and Howard L. Alderman, Jr., Esquire.
October 6	Opinion and Order of the Board GRANTING the Petition for Special Hearing subject to Petitioner obtaining an Order from the Circuit Court declaring that the Caton and Loudon Railway owns sufficient contiguous parcels which density therein will allow them to transfer that density so that Parcel A will be developed as shown on Petitioner's Exhibit No. 2.
November 4	Order for Appeal and Petition on Appeal filed in the Circuit Court for Baltimore County by David H. Fishman, Esquire and Nancy E. Paige, Esquire on behalf of E. Robert Chertkof, et al.
November 4	Petition and Order for Appeal filed in the Circuit Court for Baltimore County by Michael P. Tanczyn, Esquire on behalf of South Rolling Road Improvement Association, et al.
November 5	Certificate of Notice sent to interested parties.

Nov. 13, 1992	Order for Appeal and Petition filed in the Circuit Court for Baltimore County by People's Counsel for Baltimore County.
November 13	Second Certificate of Notice sent to intereseted parties.
December 7	Order of John F. Fader, II, Judge extending time in which to file transcript up to and including January 8, 1993.
Jan. 8, 1993	Transcript of testimony filed.

Petitioner's Exhibit No.
1 -Retirement and Health Services Corp. Withdrawal of Appeal
2 -3 pg. Plat dated 9/3/91 - 6/25/92 prints
3 -Deed 8631/232 10/22/90
4 -Articles of Inc. - Caton & Loudon Railway Co.
5 -Deed 1410/107 10/31/45
6 -I.C.C. Finance Docket #15-235
7 -Catonsville Short Rail as of 1888 (4 sheets)
8 -Franklin Realty letter 4/4/84 to Erickson
9 -Inquisition 7310/582 #84-CG-1261
10 -Inquisition 8625/271 #88-CG-1187
11 -CRG Comments 10/7/91
12 -Retirement Health Services 11/19/91 letter to BCZC from Erickson
13 -5/19/91 Caton & Loudon Railroad Blue Binder Photos (20 photos, map & index)
14 -Articles of Inc. of Catonsville Short Line Railroad 2/25/82
15 -Sunpapers' articles on acquiring right of way for Catonsville Short Line Railroad - 1881, 1882
16 -To Pat Keller from Schapiro 11/19/91

Protestants' Exhibit No.
1 - Deed 11/2/03 pages 442 & 443
2 - Inquisition from State Archives
3 - Memo from Pat Keller to Jablon 11/18/91

Children's Home Exhibit No. 1 -Title Search and related documents.

Jan. 8, 1993	Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board.

Respectfully submitted,

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals
Room 49 - Basement, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180

cc: David H. Fishman, Esquire
Nancy E. Paige, Esquire
Michael P. Tanczyn, Esquire
Paul L. Erickson, Esquire
People's Counsel for Baltimore County

IN THE MATTER OF
THE APPLICATION OF
E. ROBERT CHERTKOF, ET AL.
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE OF BLOOMSBURY AVENUE,
NORTH OF HOLMES AVENUE
AT CATON/LOUDON RAILROAD
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

E. ROBERT CHERTKOF, ET AL.,
PLAINTIFFS/APPELLANTS AND
SOUTH ROLLING ROAD IMPROVEMENT
ASSOCIATION, ET AL.,
CROSS-APPELLANTS;
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ADDITIONAL CROSS-APPELLANT

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
CASE NO. 92-CV-10254

* * * * * * * * * * * * *

ORDER

The cross motions of the parties having been considered and counsel for the parties having been heard, it is this 24th date of November, 1992, by the Circuit Court for Baltimore County

ORDERED:

1. That the Motion for Stay filed by South Rolling Road Improvement Association, et al., is withdrawn; and
2. That the Cross Motion to excuse E. Robert Chertkof, et al., from securing a transcript is denied; and
3. That the time for filing the record is extended to January 8, 1993; and
4. That the cost of securing the transcript shall be shared equally by E. Robert Chertkof, et al.,

FILED DEC 7 1992

---

plaintiffs/appellants, and South Rolling Road Improvement Association, et al., cross-appellants, assessment of costs to abide the final decision.

JOHN F. FADER, II, JUDGE
December 2, 1992

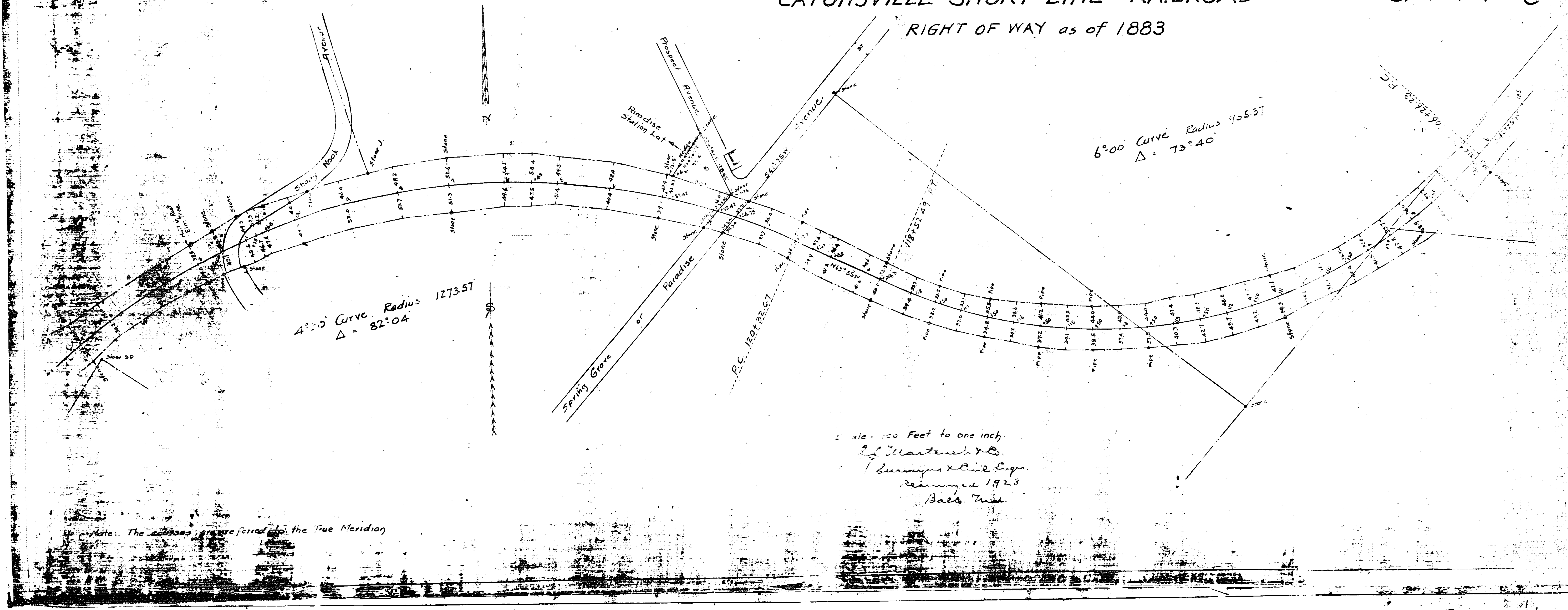
L30213c.124

True Copy Test
SUZANNE MENSH, Clerk
Per Carolyn [illegible]
Assistant Clerk

CATONSVILLE SHORT LINE RAILROAD

SHEET No 5

RIGHT OF WAY as of 1883


Avenue
Shady Nook
N
Prospect Avenue
Paradise Station Lot
Spring Grove or Paradise Avenue
4°30' Curve Radius 1273.57
Δ = 82°04
6°00' Curve Radius 955.37
Δ = 73°40
P.C. 120+32.67
118+52.29 P.T.

Scale: 100 Feet to one inch

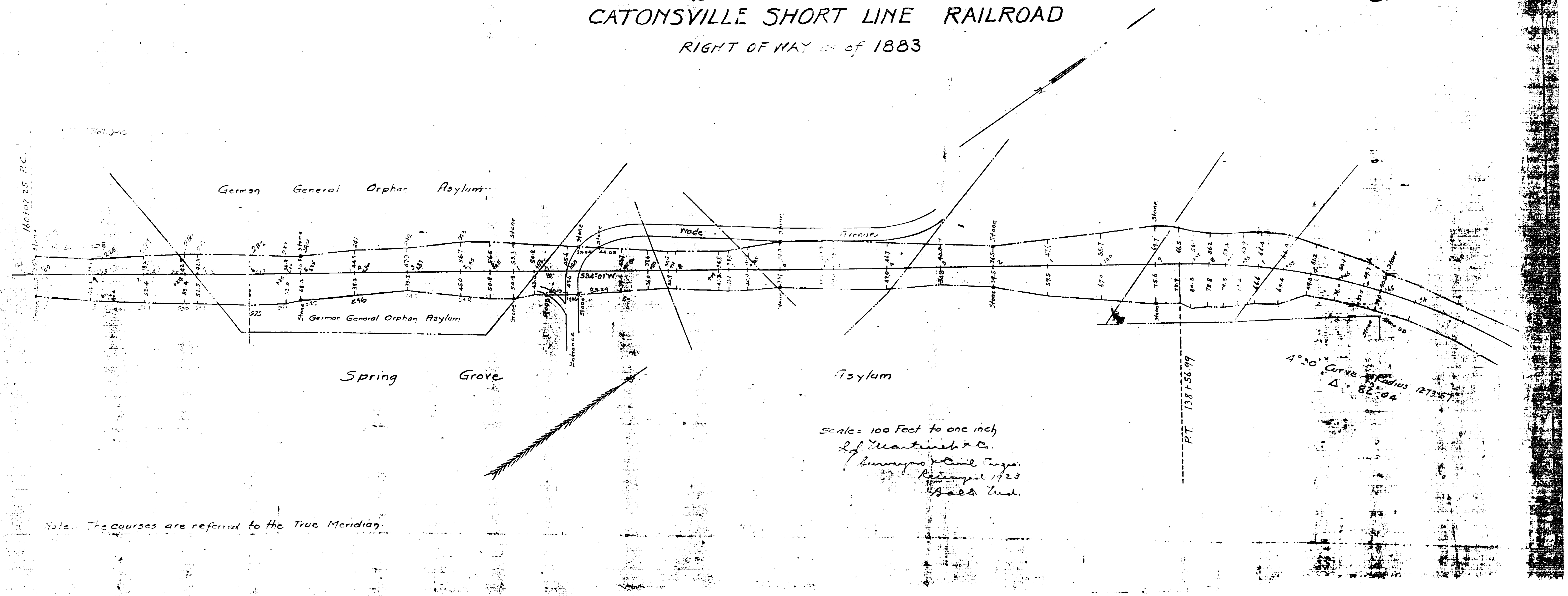
S. J. Martenet & Co.
Surveyors & Civil Engrs.
Resurveyed 1923
Balto. Md.

Note: The courses are referred to the True Meridian

CATONSVILLE SHORT LINE RAILROAD

SHEET No 6

RIGHT OF WAY as of 1883


140+07.25 P.C.
German General Orphan Asylum
Wade Avenue
S34°01'W
Entrance
Spring Grove Asylum
P.T. 138+58.99
4°30' Curve Radius 1273.57
Δ = 82°04

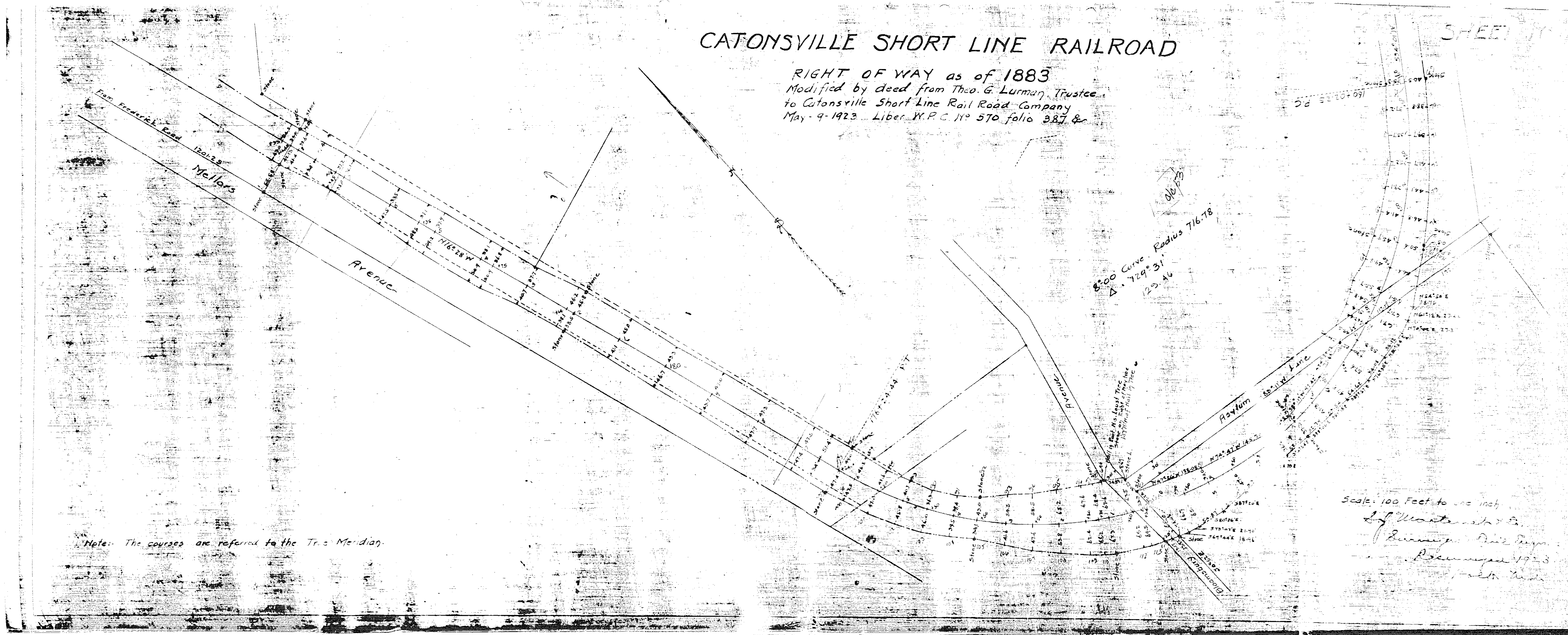
Scale: 100 Feet to one inch

S. J. Martenet & Co.
Surveyors & Civil Engrs.
Resurveyed 1923
Balto. Md.

Note: The courses are referred to the True Meridian

CATONSVILLE SHORT LINE RAILROAD

RIGHT OF WAY as of 1883
Modified by deed from Theo. G. Lurman, Trustee
to Catonsville Short Line Rail Road Company
May-9-1923 Liber W.P.C. No 570 folio 387 &


SHEET N
From Frederick Road
Mellors
Avenue
N16°28'W
Asylum
Lane
Bloomsbury
8°00' Curve Radius 716.78
Δ = 7°29'31"
123.46

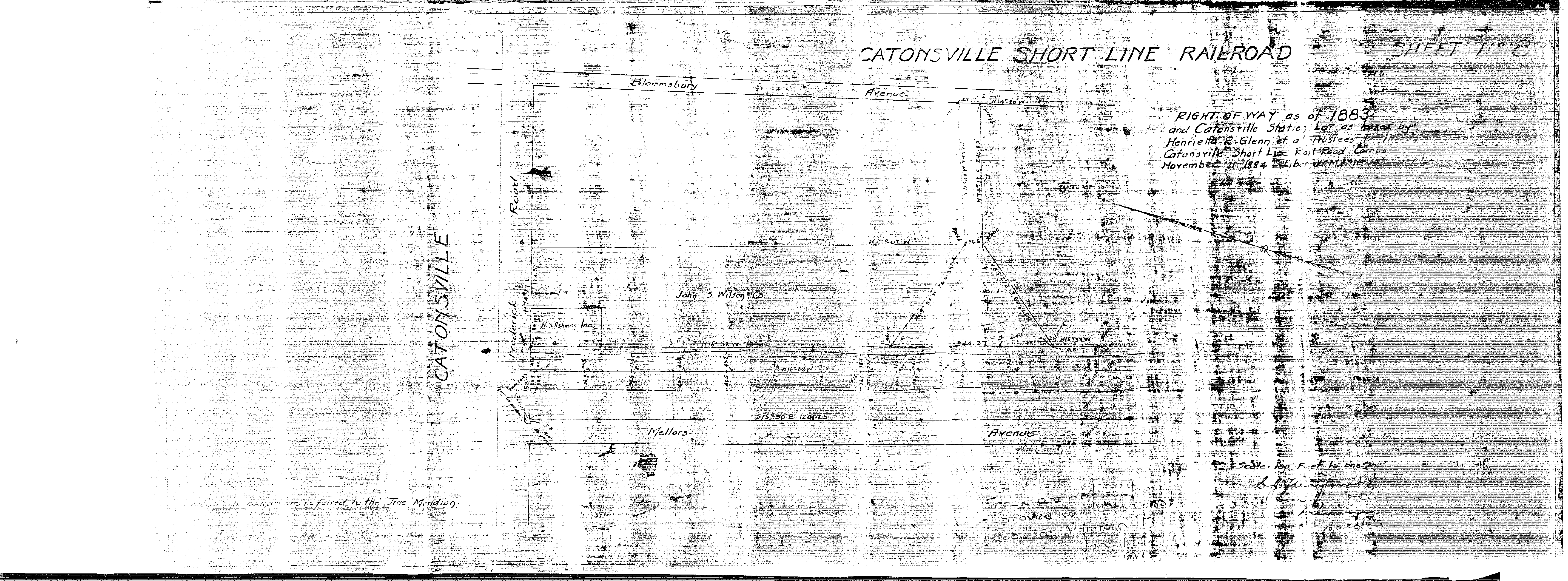
Note: The courses are referred to the True Meridian.

Scale: 100 Feet to one inch

CATONSVILLE SHORT LINE RAILROAD

SHEET No 8

RIGHT OF WAY as of 1883
and Catonsville Station Lot as leased by
Henrietta R. Glenn et al Trustees to the
Catonsville Short Line Rail Road Comp.
November 11-1884 Liber W.M.I. No


Bloomsbury
Avenue
N14°20'W
N74°12'E 290.83
Stone
N17°02'W
CATONSVILLE
Frederick
Road
John S. Wilson Co.
H. S. Fishman Inc.
N16°32'W 789.12
S15°30'E 1201.25
Mellors
Avenue

Note: The courses are referred to the True Meridian.

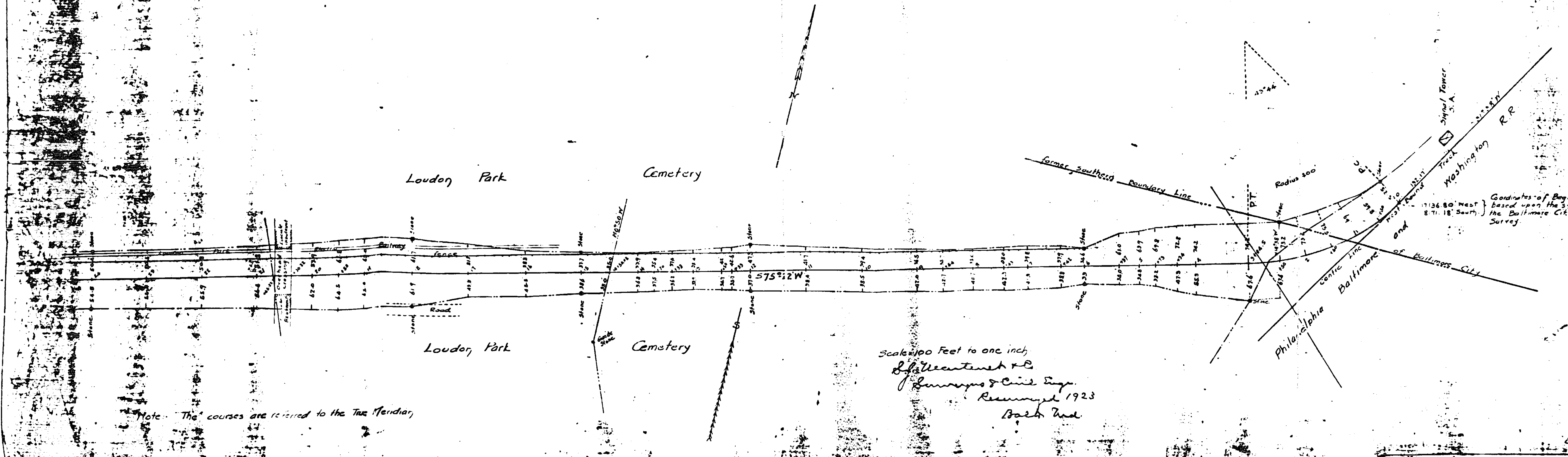
Scale: 100 Feet to one inch

Track removed
Maintain
Jan. 1941

CATONSVILLE SHORT LINE RAILROAD

SHEET No 1

RIGHT OF WAY as of 1883


Loudon Park
Cemetery
Loudon Park
Cemetery
Railway
Fence
Road
S75°22'W
Stone
former southern Boundary Line of Baltimore City
Radius 500
P.T.
P.C.
Signal Tower S.A.
West Bound Track
Centre Line
Philadelphia Baltimore and Washington R.R.
Coordinates of Beginning based upon the system of the Baltimore City Topographical Survey
17136.80' West
8711.18' South

Scale 100 Feet to one inch

[illegible]

Surveyors & Civil Engrs.

Resurveyed 1923

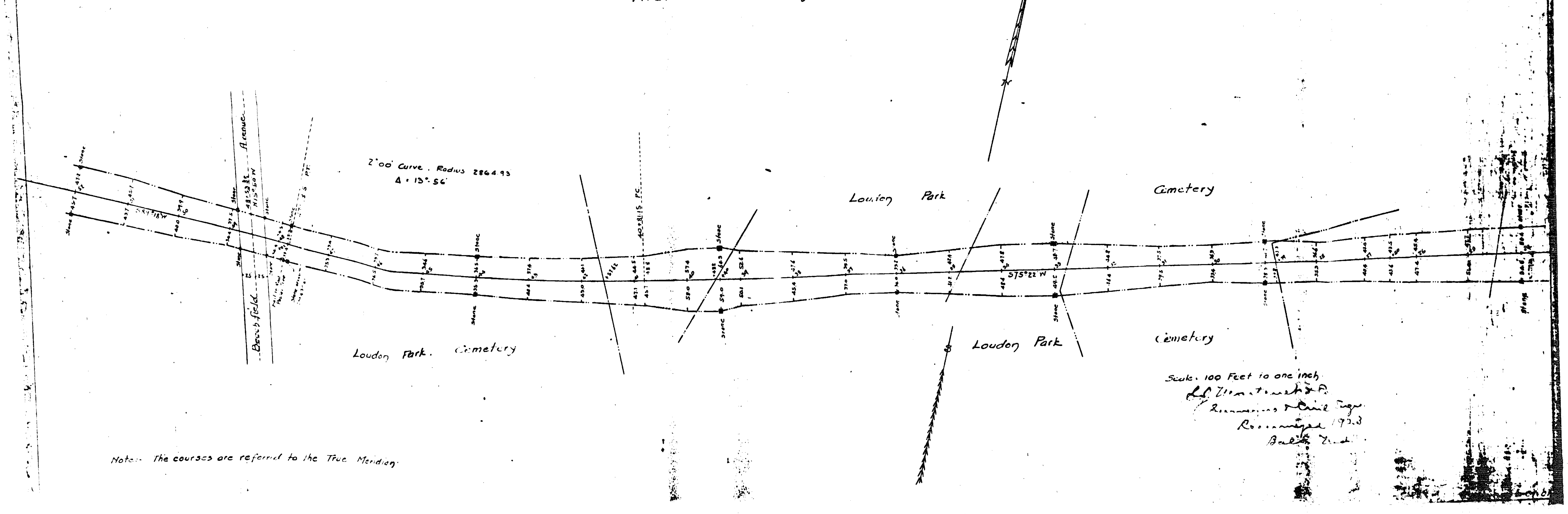
Balto Md

Note:- The courses are referred to the True Meridian

CATONSVILLE SHORT LINE RAILROAD

SHEET No 2

RIGHT OF WAY as of 1883


2°00' Curve. Radius 2864.93
Δ = 13°-56'
Beechfield Avenue
N15°60'W
S84°18'W
PT.
PC.
Stone
Loudon Park
Cemetery
S75°22'W
Loudon Park. Cemetery
Loudon Park
Cemetery

Scale. 100 Feet to one inch

[illegible]

Surveyors & Civil Engrs.

Resurveyed 1923

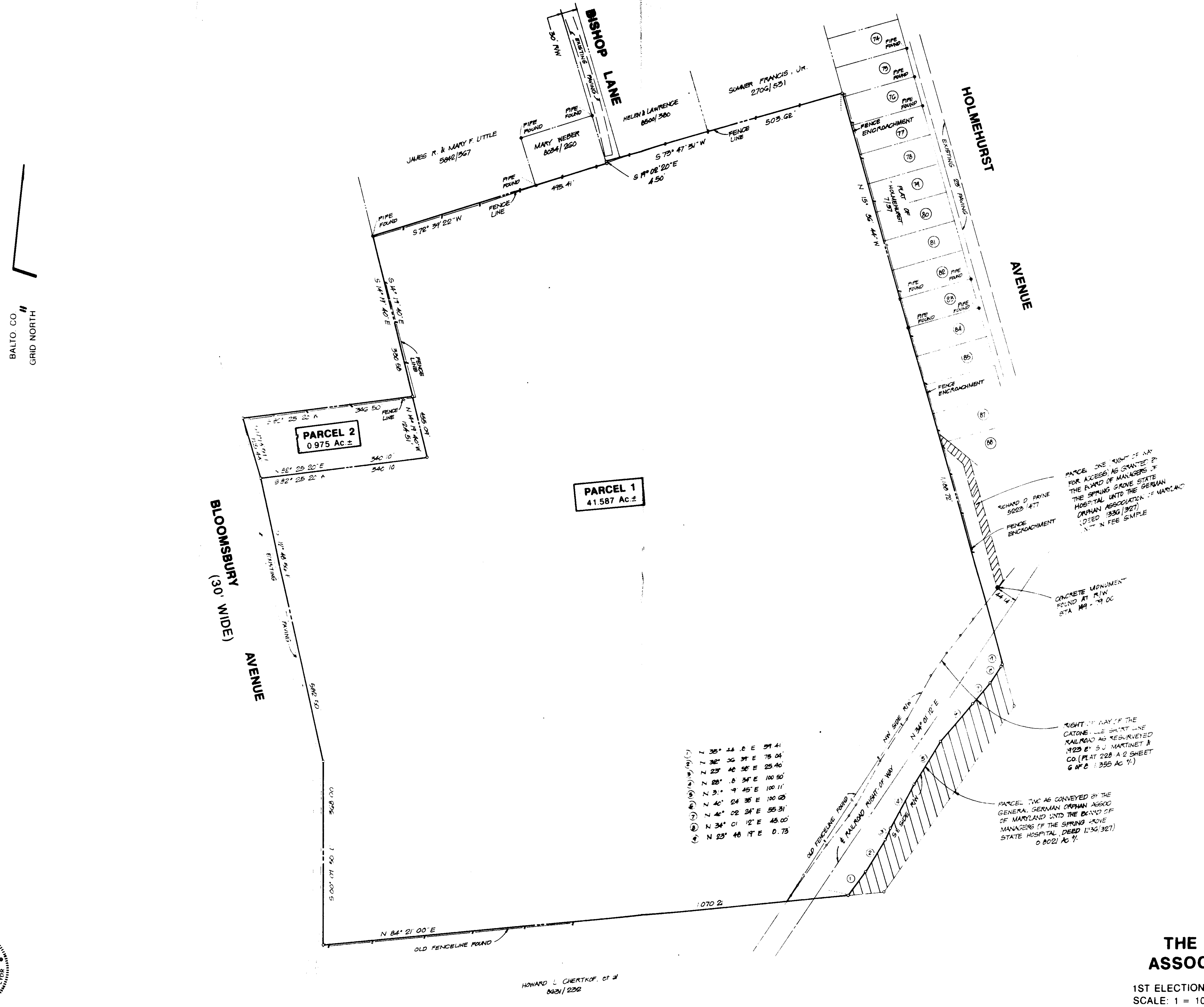
Balto Md

Note:- The courses are referred to the True Meridian

Petitioner's Ex #7

ETITIONER'S EXHIBIT No 6

TOTAL AREA OF SITE
42.562 Ac.±


BALTO CO. GRID NORTH
BISHOP LANE
30' R/W
EXISTING PAVING
HOLMEHURST AVENUE
EXISTING 23' PAVING
BLOOMSBURY (30' WIDE) AVENUE
EXISTING PAVING
JAMES R. & MARY F. LITTLE 5842/367
MARY WEBER 8034/260
HELEN & LAWRENCE 8500/380
SUMNER FRANCIS, JR. 2706/531
PIPE FOUND
FENCE LINE
S 72° 39' 22" W
495.41'
S 19° 02' 20" E 4.50'
S 73° 47' 31" W
503.62'
FENCE ENCROACHMENT
PLAT OF HOLMEHURST 7/57
N 15° 56' 44" W
74
75
76
77
78
79
80
81
82
83
84
85
87
88
1,188.72'
RICHARD D. PAYNE 5223/477
PARCEL ONE RIGHT OF WAY FOR ACCESS AS GRANTED BY THE BOARD OF MANAGERS OF THE SPRING GROVE STATE HOSPITAL UNTO THE GERMAN ORPHAN ASSOCIATION OF MARYLAND (DEED 1336/327) NOT IN FEE SIMPLE
CONCRETE MONUMENT FOUND AT R/W STA 149 + 79.00
44.14'
S 14° 19' 40" E
S 14° 17' 40" E
330.58
455.09'
346.50
S 82° 25' 20" W
PARCEL 2
0.975 Ac.±
N 14° 19' 40" W
124.51'
340.10'
S 82° 25' 20" E
S 82° 25' 20" W
340.10
S 12° 48' 50" E
582.50
PARCEL 1
41.587 Ac.±
S 00° 10' 00" E
N 84° 21' 00" E
1,070.21'
OLD FENCELINE FOUND
HOWARD L. CHERTKOF, et al 8231/232
NW SIDE R/W
℄ RAILROAD RIGHT OF WAY
N 34° 01' 12" E
SE SIDE R/W
① N 35° 44' 18" E 59.41'
② N 32° 36' 39" E 75.04'
③ N 23° 46' 56" E 25.40'
④ N 28° 18' 34" E 100.50'
⑤ N 31° 49' 45" E 100.11'
⑥ N 40° 24' 35" E 100.03'
⑦ N 40° 02' 24" E 55.31'
⑧ N 34° 01' 12" E 45.00'
⑨ N 23° 48' 19" E 0.73'
RIGHT OF WAY OF THE CATONSVILLE SHORT LINE RAILROAD AS RESURVEYED 1923 BY S.J. MARTINET & CO. (PLAT 228 A-2 SHEET 6 OF 8) 1.355 AC +/-
PARCEL TWO AS CONVEYED BY THE GENERAL GERMAN ORPHAN ASSOC OF MARYLAND UNTO THE BOARD OF MANAGERS OF THE SPRING GROVE STATE HOSPITAL, DEED 1336/327) 0.0021 Ac +/-

OUTLINE SURVEY PLAT
OF THE PROPERTY OF

THE GENERAL GERMAN ORPHAN ASSOCIATION OF THE STATE OF MD.

1ST ELECTION DISTRICT
SCALE: 1 = 100

BALTIMORE CO., MD.
JUNE 10, 1992

MICROFILMED

DEED REFERENCE
516/552

No. 9012
JAMES W. McKEE

JAMES W McKEE
(Maryland Registered No 9012)

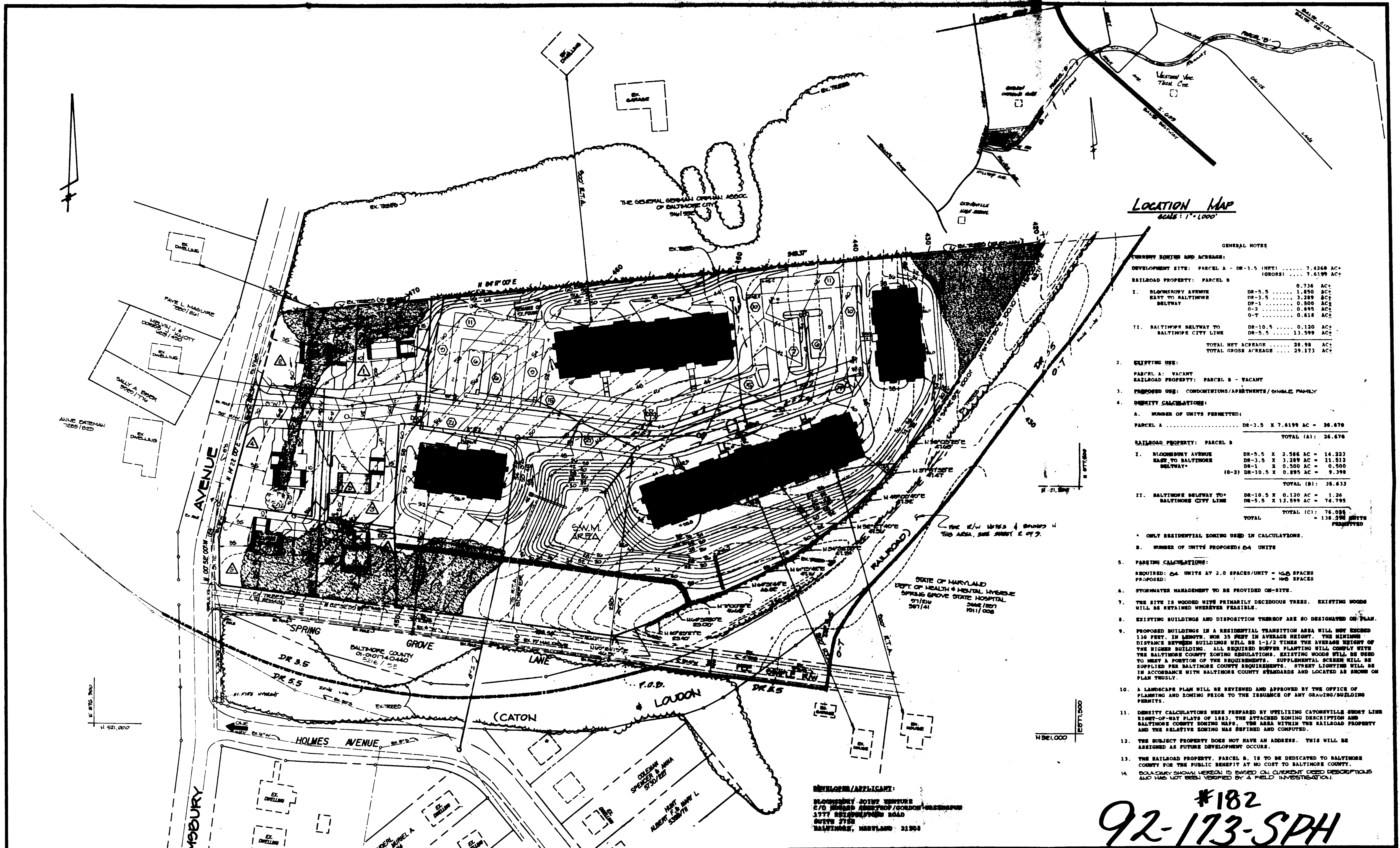
DATE

McKEE & ASSOCIATES, INC.

Engineering - Surveying - Real Estate Development

SHAWAN PLACE 5 SHAWAN ROAD
HUNT VALLEY MARYLAND 21030

(301) 527-1555


LOCATION MAP
SCALE: 1"=1,000'
BLOOMSBURY AVENUE
HOLMES AVENUE
SPRING GROVE LANE
CATON & LOUDON
S.W.M. AREA
RAILROAD
DR 3.5
DR 5.5
O-T
THE GENERAL GERMAN ORPHAN ASSOC. OF BALTIMORE CITY
STATE OF MARYLAND DEPT OF HEALTH & MENTAL HYGIENE SPRING GROVE STATE HOSPITAL
BALTIMORE COUNTY 01-0101740440
FAYE L. MAGUIRE
SALLY A. BAKER
ANNE DATEMAN
COLEMAN SPENCER & ANNA 5730/227
HUNT ALBERT F. & MARY L
HOERL RUTH E.
EX. DWELLING
EX. GARAGE
EX. HOUSE
EX. TREES
EX. FIRE HYDRANT
50' R.T.A.
250' R.T.A.
P.O.B.
FOR R/W NOTES & BOUNDS IN THIS AREA, SEE SHEET 2 OF 2.
ONE WAY
N 521,000
E 877,500
BALTO. BELTWAY
WESTERN VOC. TECH. CTR.
CATONSVILLE HIGH SCHOOL

GENERAL NOTES

1. CURRENT ZONING AND ACREAGE:

DEVELOPMENT SITE: PARCEL A - DR-3.5 (NET) ...... 7.4260 AC±
(GROSS) .... 7.6199 AC±

RAILROAD PROPERTY: PARCEL B

		0.736	AC±
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY	DR-5.5	1.850	AC±
	DR-3.5	3.289	AC±
	DR-1	0.500	AC±
	O-2	0.895	AC±
	O-T	0.618	AC±
II. BALTIMORE BELTWAY TO BALTIMORE CITY LINE	DR-10.5	0.120	AC±
	DR-5.5	13.599	AC±
	TOTAL NET ACREAGE	28.98	AC±
	TOTAL GROSS ACREAGE	29.173	AC±

2. EXISTING USE:

PARCEL A: VACANT
RAILROAD PROPERTY: PARCEL B - VACANT

3. PROPOSED USE: CONDOMINIUMS/APARTMENTS/SINGLE FAMILY

4. DENSITY CALCULATIONS:

A. NUMBER OF UNITS PERMITTED:

PARCEL A		DR-3.5 X	7.6199 AC =	26.670
			TOTAL (A):	26.670
RAILROAD PROPERTY: PARCEL B				
I. BLOOMSBURY AVENUE EAST TO BALTIMORE BELTWAY*		DR-5.5 X	2.586 AC =	14.223
		DR-3.5 X	3.289 AC =	11.512
		DR-1 X	0.500 AC =	0.500
	(O-2)	DR-10.5 X	0.895 AC =	9.398
			TOTAL (B):	35.633
II. BALTIMORE BELTWAY TO* BALTIMORE CITY LINE		DR-10.5 X	0.120 AC =	1.26
		DR-5.5 X	13.599 AC =	74.795
			TOTAL (C):	76.055
		TOTAL		= 138.358 UNITS PERMITTED

* ONLY RESIDENTIAL ZONING USED IN CALCULATIONS.

B. NUMBER OF UNITS PROPOSED: 84 UNITS

5. PARKING CALCULATIONS:

REQUIRED: 84 UNITS AT 2.0 SPACES/UNIT = 168 SPACES
PROPOSED: = 168 SPACES

6. STORMWATER MANAGEMENT TO BE PROVIDED ON-SITE.

7. THE SITE IS WOODED WITH PRIMARILY DECIDUOUS TREES. EXISTING WOODS WILL BE RETAINED WHEREVER FEASIBLE.

8. EXISTING BUILDINGS AND DISPOSITION THEREOF ARE SO DESIGNATED ON PLAN.

9. PROPOSED BUILDINGS IN A RESIDENTIAL TRANSITION AREA WILL NOT EXCEED 130 FEET, IN LENGTH, NOR 35 FEET IN AVERAGE HEIGHT. THE MINIMUM DISTANCE BETWEEN BUILDINGS WILL BE 1-1/2 TIMES THE AVERAGE HEIGHT OF THE HIGHER BUILDING. ALL REQUIRED BUFFER PLANTING WILL COMPLY WITH THE BALTIMORE COUNTY ZONING REGULATIONS. EXISTING WOODS WILL BE USED TO MEET A PORTION OF THE REQUIREMENTS. SUPPLEMENTAL SCREEN WILL BE SUPPLIED PER BALTIMORE COUNTY REQUIREMENTS. STREET LIGHTING WILL BE IN ACCORDANCE WITH BALTIMORE COUNTY STANDARDS AND LOCATED AS SHOWN ON PLAN THUSLY.

10. A LANDSCAPE PLAN WILL BE REVIEWED AND APPROVED BY THE OFFICE OF PLANNING AND ZONING PRIOR TO THE ISSUANCE OF ANY GRADING/BUILDING PERMITS.

11. DENSITY CALCULATIONS WERE PREPARED BY UTILIZING CATONSVILLE SHORT LINE RIGHT-OF-WAY PLATS OF 1883, THE ATTACHED ZONING DESCRIPTION AND BALTIMORE COUNTY ZONING MAPS. THE AREA WITHIN THE RAILROAD PROPERTY AND THE RELATIVE ZONING WAS DEFINED AND COMPUTED.

12. THE SUBJECT PROPERTY DOES NOT HAVE AN ADDRESS. THIS WILL BE ASSIGNED AS FUTURE DEVELOPMENT OCCURS.

13. THE RAILROAD PROPERTY, PARCEL B, IS TO BE DEDICATED TO BALTIMORE COUNTY FOR THE PUBLIC BENEFIT AT NO COST TO BALTIMORE COUNTY.

14. BOUNDARY SHOWN HEREON IS BASED ON CURRENT DEED DESCRIPTIONS AND HAS NOT BEEN VERIFIED BY A FIELD INVESTIGATION.

#182
92-173-SPH

DEVELOPER/APPLICANT:

BLOOMSBURY JOINT VENTURE
C/O [illegible]/GORDON [illegible]
1777 REISTERSTOWN ROAD
SUITE [illegible]
BALTIMORE, MARYLAND 21208

CURRENT OWNERSHIP:

PARCEL A:

HOWARD L. & E. [illegible]
TAX ACCOUNT NO.: 01-[illegible]

PARCEL B:

CATON AND LOUDON [illegible]
TAX ACCOUNT NO.: [illegible]

RICHARD H. CASSELL 10427

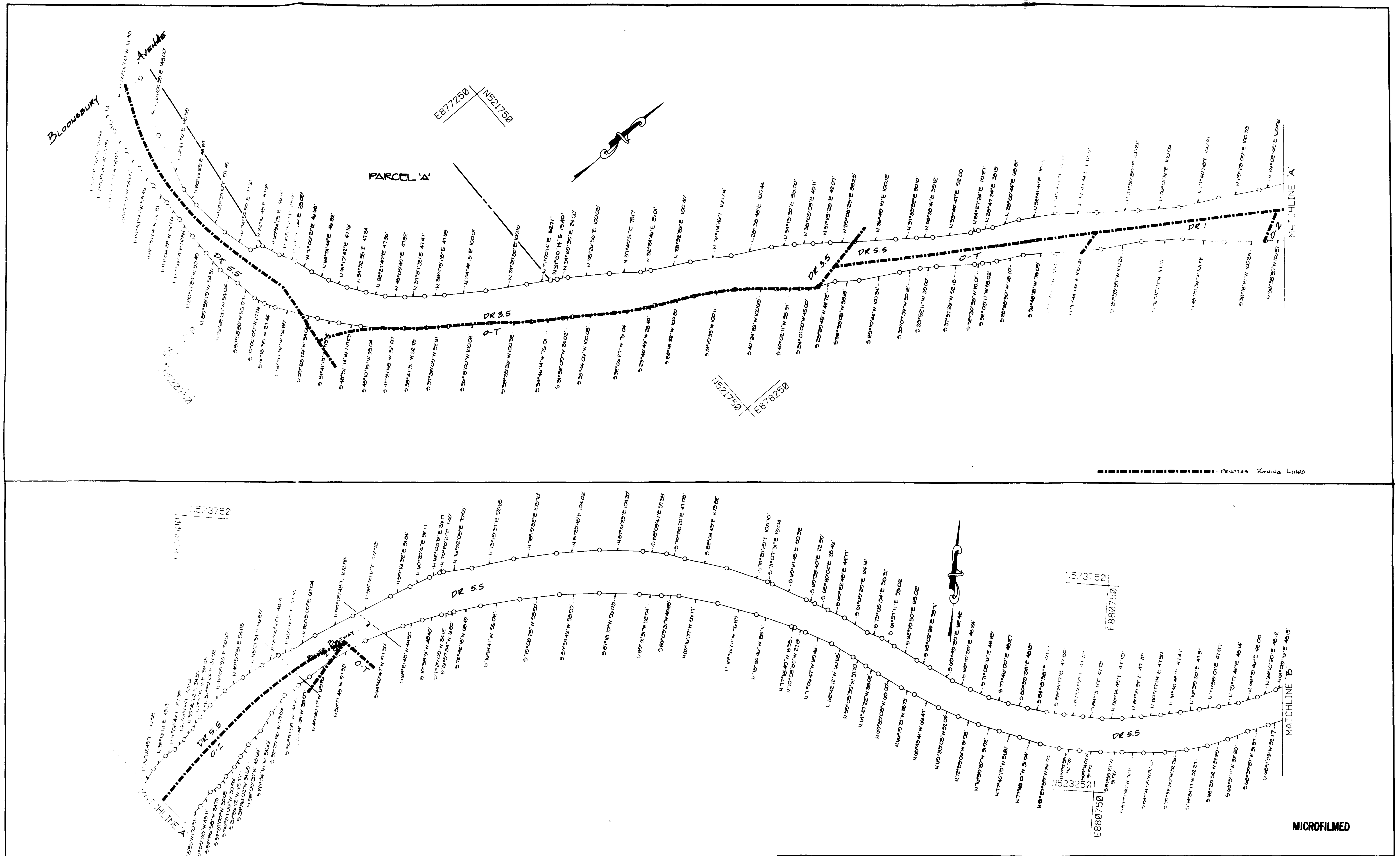
Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301)486-1811

REVISIONS:
JULY 29 '91 REV. UNIT COUNT TO [illegible] 2-6-91 SHIFT BLDGS #6 & 7, [illegible] ADDED OFF-SITE DRAINAGE SWM, ADD 250' RTA. [illegible] FROM PARCEL SOUTH OF SPRING GROVE LANE.
2/8/91 - [illegible]

PLAT TO
ACCOMPANY PETITION
FOR
SPECIAL HEARING

PARCEL 305, TAX MAP 101
COUNCILMANIC DISTRICT No. 1
ELECTION DISTRICT No1 BALTIMORE COUNTY, MARYLAND

SCALE: 1"=50'
DRAWN BY: KAS
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 1 OF: 2
PROJECT NO. 40



BLOOMSBURY AVENUE
E877250
N521750
PARCEL 'A'
DR 5.5
DR 3.5
O-T
DR 5.5
DR 3.5
O-T
DR 1
O-2
MATCHLINE 'A'
N521750
E878250
Denotes Zoning Lines
N523750
DR 5.5
O-T
DR 5.5
O-2
MATCHLINE 'A'
N523750
E880750
DR 5.5
MATCHLINE 'B'
N523250
E880750

MICROFILMED

SEAL 5/28/91

HARRIS, SMARIGA, MATZ, INC

PLANNERS / ENGINEERS / SURVEYORS
104 CHURCH LANE, SUITE 100
BALTIMORE, MARYLAND 21208
(301)-486-1511

REVISIONS:

PLAT TO ACCOMPANY PETITION

FOR SPECIAL HEARING

Parcel 365, Tax Map 101

ELECTION DISTRICT NO. 1   BALTIMORE COUNTY, MARYLAND

SCALE: 1" = 100'
DRAWN BY: KAH
CHECKED BY: MEA
DATE: MAY/1991
SHEET: 2 OF: 3
PROJECT NO. 40567

the construction thereof...". The platted drawing at the end of the Inquisition references the Lurman tract as well as the Asylum Road and notes the relative position of the asylum. The Albert tract is also shown on that plat to the right side, which is mentioned in the chain of title for The German Children's Home deed.

Petitioners' Exhibit No. 6, which was the report of the Interstate Commerce Commission dated June 26, 1946, mentions that "The line sought to be purchased was a single track and of standard gauge" on page 1 and references on page 2 in the second to the last paragraph the chain of title being the deed of Michael Paul Smith of October 31, 1945 (supra).

Petitioners' Exhibit No. 10, an Inquisition at the suit of Baltimore County, Maryland vs Caton and Loudon Railroad, recorded in the Land Records of Baltimore County in Liber 8625, folio 271, references in the attached drawings title of the Caton and Loudon Railway Company being found in Liber RJS 1410, folio 107, or the deed of Michael Smith, Receiver.

Finally, Exhibit No. 10 below of the Petitioners was a Interoffice Memo from Stanley Shapiro, Associate Attorney of the Baltimore County Office of Law, in which he asserts his opinion that, since the County and the State acquired land by eminent domain and purportedly took a fee simple interest, that he was therefore satisfied that, subject to further questions arising as to the ownership of the property, the petitioners had a fee simple

interest.

"An estate in fee simple is the entire interest in property and land held by the tenant to himself and his heirs forever." Tiffany, Real Property, Section 36.

Tiffany, in Section 42, states that "the most important quality of a fee simple estate is the freedom of alienation enjoyed by its owner, a power which has been of gradual growth. Since the estate comprises the entire interest and property in the land, one who grants a fee simple grants away his whole interest, but a tenant in fee simple may dispose of part of his interest and may accordingly grant or create inferior estates or interests."

In Section 571 of Tiffany, Real Property, Professor Tiffany states in "Rights Subject to Appropriation by Eminent Domain", "Where a private corporation exercises the power, the presumption is that the fee does not pass and, unless the statute explicitly authorizes its taking or this is necessary for the particular use, a right of user only is taken by even a public corporation. Thus a railroad company ordinarily acquires by condemnation merely an easement and, if land is taken for highway purposes, the public frequently acquires merely the right to use the land for such purposes."

As to any claim of right to another's land by custom, in Section 470, Professor Tiffany says, "There can be no right by custom to maintain a building or other permanent structure on another's land."

18 M.L.E. "Railroads", Section 23 in cases cited thereunder, states "Where there has been a grant or conveyance of land to a railroad company, the question as to what estate or interest is thereby acquired by the company must be determined by the intention of the parties as shown by the whole instrument. Where land obtained by purchase or agreement is conveyed by an instrument which purports to convey a right-of-way only, it does not convey title to the land itself, but the railroad company acquires a mere easement in the land for right-of-way purposes leaving the fee subject to such servitude in the owner."

In Section 25 subsequent, "As a general rule, land or an easement therein acquired by a railroad company, either by condemnation or by purchase or grant from the owner, is charged with a public use for railroad purposes but, except to the extent that the company is restricted by the terms of the grant to it or by its charter or by a statute, land or a right-of-way acquired by a railroad company may be used for any legitimate incidental purpose that is reasonably necessary or convenient to the construction, maintenance and operation of the railroad."

The Maryland cases on point are East Washington Railway Company vs Mary G. Brooke, found at 244 Md 287, 223 A 2d 599 (1966). In that case a dispute over the title led to an action to quiet title to land located in Prince George's County, 66 feet in width, which traversed a farm owned by Mary Brooke, the plaintiff therein. She claimed title by record title, and East Washington

Railway Company claimed title by a deed to the same strip of land used for railway purposes to its predecessor in title, Chesapeake Beach Railway Company. The Court found in pertinent part at page 603 that, because the grant was for railroad purposes, the conveyance was of an easement for railway purposes and use only.

In the case of D.C. Transit Systems, Inc. vs State Roads Commission, 259 Md 675, 270 A 2d 793 (1970), out of condemnation proceedings in which the transit company appealed from a Circuit Court Order holding that instruments under which the transit company claimed title granted only an easement and that the easement had been abandoned. The Court said, at page 797, "It is elementary that the condemnor in a condemnation proceeding obtains only such title as was owned by the parties to the condemnation proceeding." Quoting Nichols on Eminent Domain, Section 5.2. Restated in the succeeding paragraph by the court, "In other words, the commission could not obtain from the transit company a fee simple title to land in this proceeding if the transit company owned only an easement."

The grant there was in contrast to the case quoted at folio 799, State Roads Commission vs Johnson, 222 Md 493, 161 A 2d 444 (1960) in which "the Annapolis and Elkridge Railroad Company was held to have acquired an absolute fee simple title to property by condemnation in light of the fact that '[t]he jurors declared in their inquisition upon oath that they condemned 'so much of the land represented as belonging to the said Leonard Inglehart * * *

as of an absolute estate in perpetuity as [was] contained within the lines of the annexed plat * * *''

"In Richfield Oil Corp. vs Chesapeake & Curtis Bay Railroad Co., 179 Md 560, 20 A 2d 581 (1941), the phrase 'right of way for railroad purposes' was used. In holding that this language 'was the grant of an easement for railroad purposes and not a grant of the fee', Judge Collins said for the Court:

> "Quoting Elliott on 'Railroads', (3rd Ed.), sec. 1158, pages 627 and 628: 'Where the intention to convey a fee does not appear, as in the conveyance of a 'right of way' for the railroad through certain lands, the company takes an easement only.' Quoting Lewis on 'Eminent Domain', (3rd Ed.), sec. 468: 'The conveyance of a right of way or for specified uses, conveys an easement only.' Quoting Jones on 'Easements', (1898 Ed.), sec. 212: 'Where the granting clause of a deed declared the purpose of the grant to be the right of way for a railroad, the deed passes an easement only, etc.' [citing other authorities] 1 Thompson on Real Property, page 533, sec. 420, defines 'a grant of a right of way to a railroad company to be the grant of an easement merely, and the fee remains in the grantor.' Jones on Easements, (supra), sec. 211; 33 CYC 'Railroads', page 169; Smith vs Holloway, 124 Ind. 329, 24 N.E. 886.' Id. at 572-573, 20 A 2d at 587-588.
>
> "See also East Washington Railway Co. vs Brooke, 244 Md 287, 223 A 2d 599 (1966), and Annot., 6 A.L.R.3d 973 (1966), entitled 'Deed to Railroad Company as Conveying Fee or Easement'."

On Issue One you can then conclude that a fee simple interest in land is required to allow residential development and similarly to request a transfer of density from one tract to another. In this case, on the evidence submitted before this Court, the ownership interest required is clearly that of a fee simple interest under the Baltimore County Zoning Regulations.

ISSUE TWO

Did the Petitioners meet their burden to establish the requisite ownership interest to allow the density transfers requested under Section 1.B.01.A.2 of the Baltimore County Zoning Regulations?

The Petitioners on issues which have been submitted before this Board had the burden to establish the requisite fee simple estate in the land it occupies to allow the density transfers requested under Section 1B01.2.A.2 of the Baltimore County Zoning Regulations. For the legal authority and factual authority stated in Issue One, it is at once clear that the long tail, representing the railroad right-of-way, which comprises 26 of 33+ acres under discussion from which they seek to transfer density units, are not owned by the Petitioners by virtue of a fee simple grant and therefore cannot be properly considered for transfer of density units.

Petitioners' proof on Parcel B, including the testimony of Richard Tassell, its professional engineer, was to the effect that he had accepted the Petitioners' claims of title and had not independently investigated same.

The testimony of Howard Chertkoff for the Petitioners by which the Petitioners' exhibits mentioned earlier were introduced, admitted on cross that he could not say he had a fee interest and no one had ever told him he had a fee interest in the right-of-way.

On the continuance of this hearing Petitioners' fifth witness was David Fishman, Esquire, whose testimony included a discussion of what he termed a "bundle of rights" as defined by the Supreme Court and of those bundled rights he found the most significant as being the right to exclude others from entering. He surmised that there must have been written instruments giving the railroad the right to lay tracks but that he could not locate them.

In summary, based on his exhaustive review, including review of the documentation mentioned and although focused on the property nearest Bloomsbury Avenue, including the German Children's Home and points immediately east, he could find no evidence which would establish a fee simple estate in the Petitioners. He stated that he believed this title to be such that they could exclude others from coming onto the right-of-way. His testimony is not at odds with that of Michael N. Schleupner, Jr., Esquire, called by the Protestants, who said that, based on his prior experience, he could find no evidence of record of a fee simple estate being vested in the Caton and Loudon Railway in any portion of the right-of-way from Bloomsbury Avenue to just west of the Baltimore Beltway, I-695, along the right-of-way.

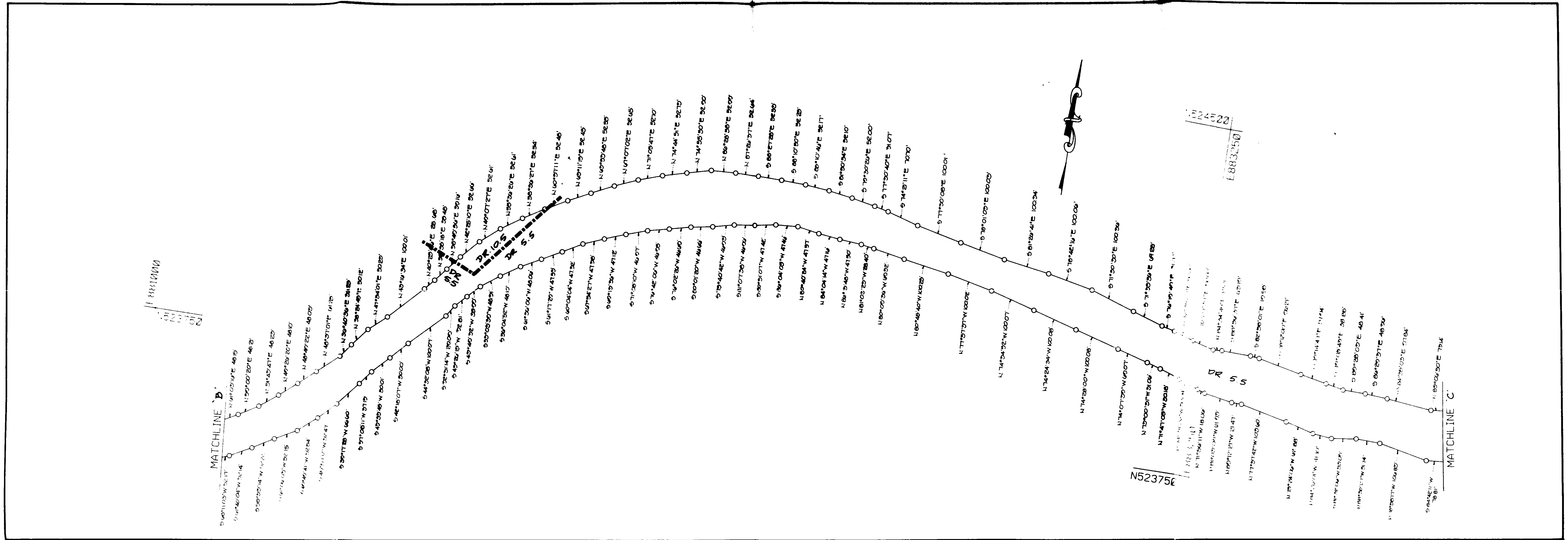
It is clear from the deeds submitted that the claim of the railroad to a fee simple estate in the land described as Parcel B is not supported by the instruments or deeds on which it bases its claim. All of them are for rights-of-way which were

conveyed for railway purposes and, as construed under the Maryland case law mentioned above, are presumed, subject to persuasive evidence being presented to the contrary, to be easements only rather than greater interests in the land.

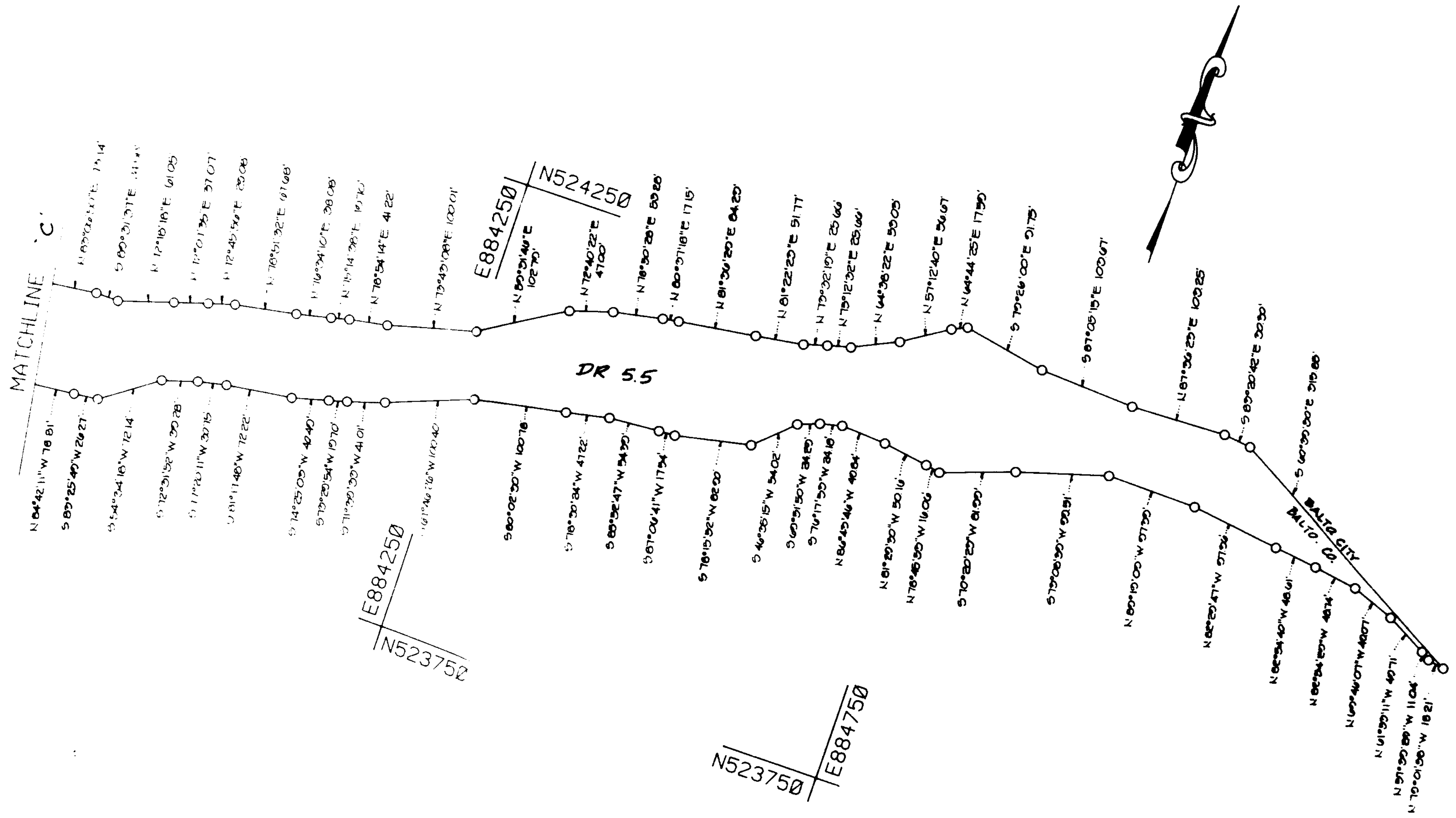
The issue before the Board raises the question of whether the Petitioners or, for instance, the German Children's Home, has rights to develop based on the acreage in 42 acres comprising the German Children's Home. In portions described on the plat as a right-of-way and by the Petitioners as part of Parcel B, if their grant was for railway purposes, then it was an easement and not a fee simple grant.

In this case Mr. Fishman could find no documentary evidence of any grant to the railway company to establish the character of their interest as fee simple. As the burden is on the Petitioner to establish that it owns an interest which will support its right to develop residentially, the Petitioners' property on Parcel B is cut-off by its failure to provide evidence of a fee simple interest of that land.

All of the Petitioners' references to title on Parcel B relate and refer to the Judicial Proceedings of Catonsville Short Line Railroad Company vs Mary Metz et al and careful reading of the language previously mentioned from that documentation clearly establishes that the grant under Maryland case law was that of an easement since it was for use for railway purposes and not an outright grant of an estate in perpetuities of the type found to


MATCHLINE 'B'
MATCHLINE 'C'
DR 10.5
DR 5.5
DR 5.5
N523750
N524250
E883250
E883000

▬ ▪ ▬ ▪ ▬ ▪ ▬ DENOTES ZONING LINES


MATCHLINE 'C'
DR 5.5
N524250
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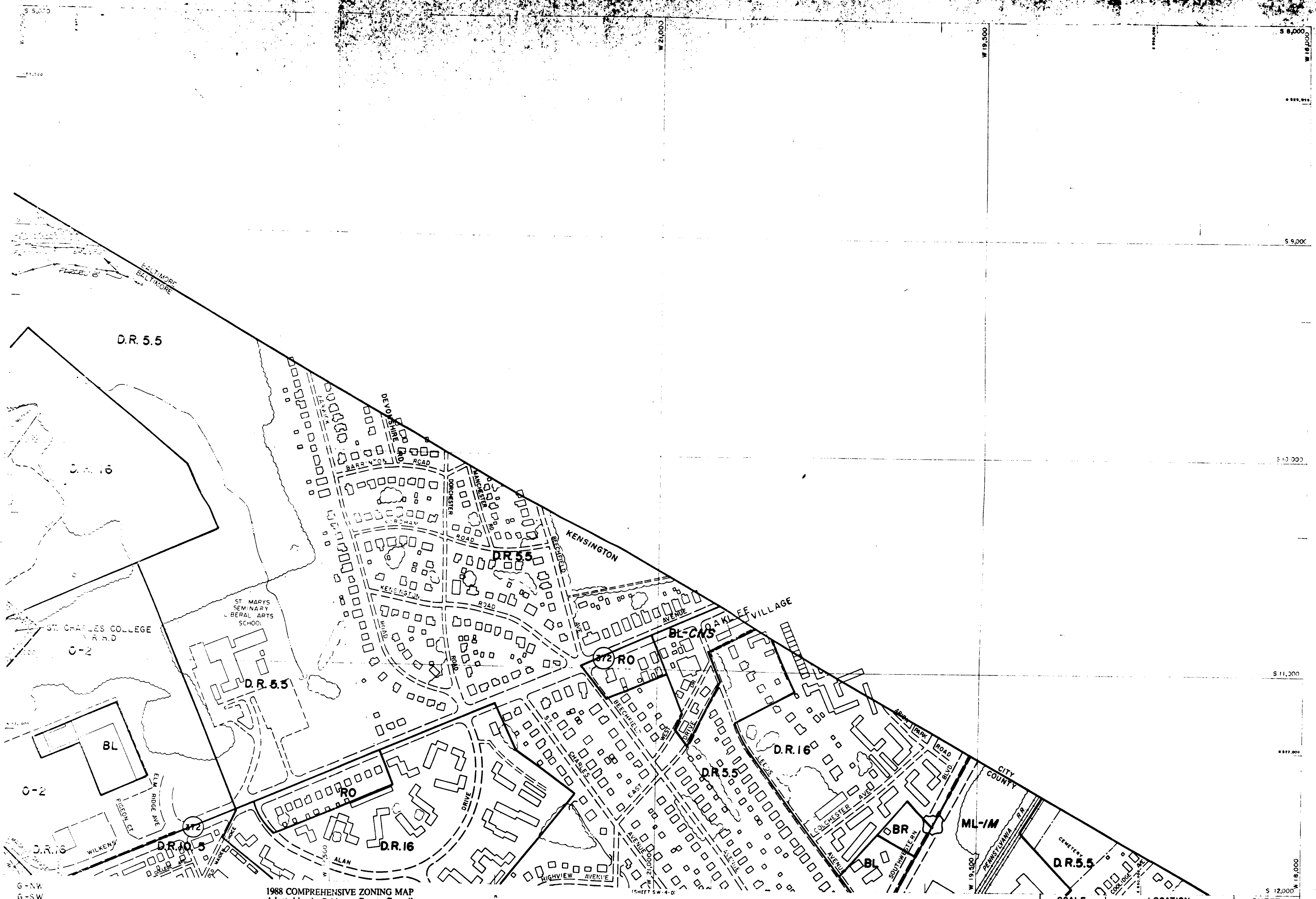
N523750
N523750
E884750
BALTO CITY
BALTO CO.

MICROFILMED

RICHARD EARL MATZ No. 16203 SEAL 5/28/91.	**HARRIS,SMARIGA,MATZ,INC** PLANNERS / ENGINEERS / SURVEYORS 104 CHURCH LANE, SUITE 100 BALTIMORE, MARYLAND 21208 (301)-486-1511 REVISIONS:	PLAT TO ACCOMPANY PETITION FOR SPECIAL HEARING PARCEL 365, TAX MAP 101 ELECTION DISTRICT NO. 1 BALTIMORE COUNTY, MARYLAND	SCALE: 1"= 100' DRAWN BY: KAS CHECKED BY: MEA DATE: MAY/1991 SHEET: 3 OF: 3 PROJECT NO. 40567


S 8,000
W 21,000
W 19,500
W 18,000
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S 12,000
BALTIMORE
BALTIMORE
D.R. 5.5
D.R. 16
DEVONSHIRE RD
BARRINGTON ROAD
DORCHESTER ROAD
MANCHESTER RD
BEECHFIELD AVE
KENSINGTON
KENSINGTON ROAD
D.R.5.5
ST. MARYS SEMINARY LIBERAL ARTS SCHOOL
ST. CHARLES COLLEGE
O-2
D.R. 5.5
AVENUE
OAKLEE VILLAGE
BL-CNS
372
RO
BL
O-2
ELM RIDGE AVE
PIGEON CT
WILKENS
D.R.16
372
D.R.10.5
COLLEGE AVE
RO
D.R.16
ALAN
DRIVE
ST. CHARLES
EAST
WEST DRIVE
BEECHFIELD
D.R.5.5
HIGHVIEW AVENUE
AVENUE
D.R.16
LEEDS AVENUE
COLCHESTER AVE
PARK ROAD
BLVD
BR
BL
SOUTHWESTERN
CITY
COUNTY
ML-IM
PENNSYLVANIA R.R.
CEMETERY
D.R.5.5
COOLIDGE AVE
(SHEET SW-4-D)
G-NW
G-SW

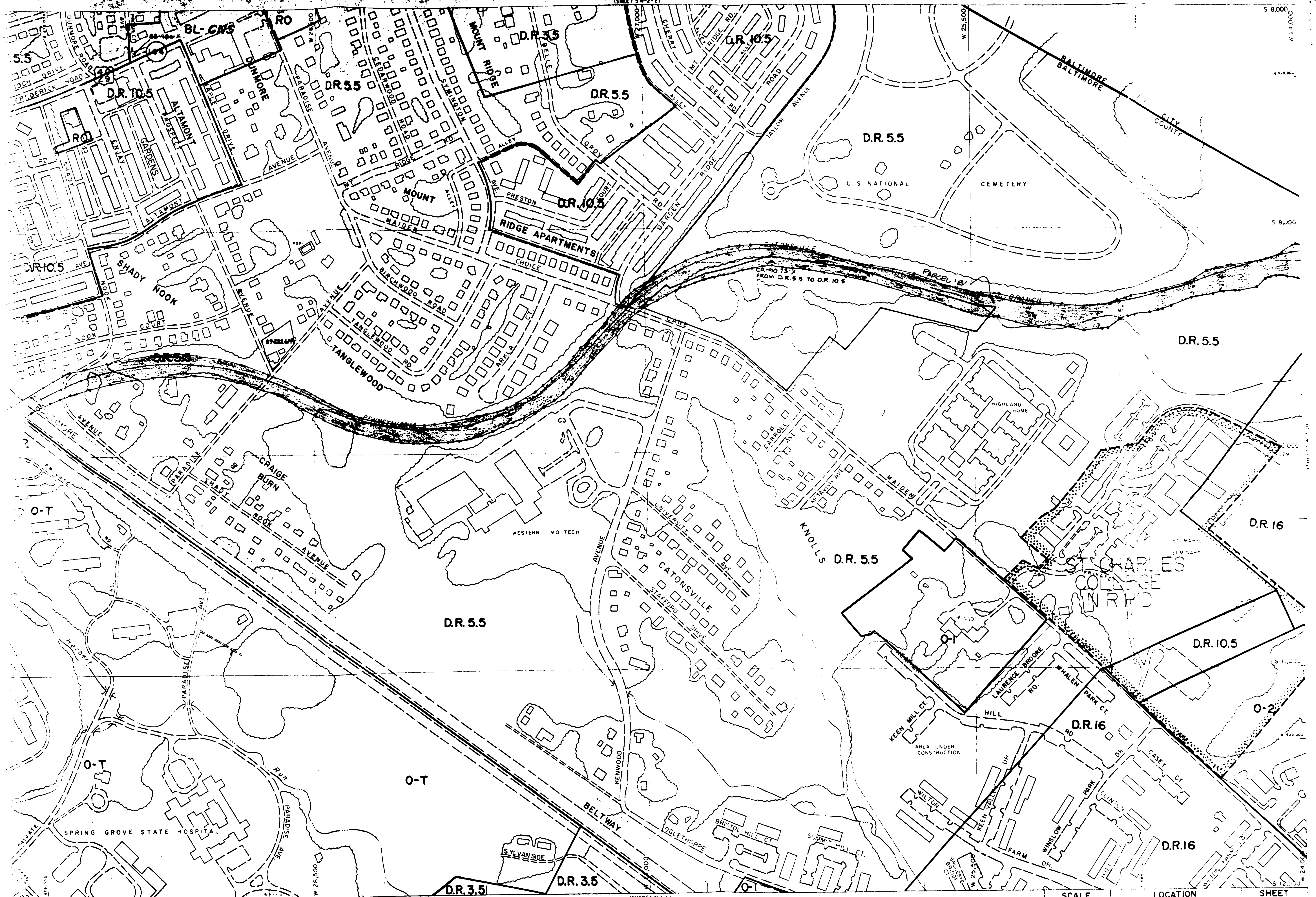
1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	ARBUTUS	S. W. 3-D
DATE OF PHOTOGRAPHY JANUARY 1986		


(SHEET SW-2-E)
BL-CNS
RO
D.R. 10.5
D.R. 5.5
D.R. 3.5
D.R. 16
O-T
O-1
O-2
DUNMORE
ALTAMONT
GARDENS
MOUNT RIDGE
RIDGE APARTMENTS
SHADY NOOK
TANGLEWOOD
BIRCHWOOD ROAD
PRESTON
MAIDEN
CHOICE
CHERRY
TAYLOR AVENUE
U.S. NATIONAL CEMETERY
BALTIMORE CITY
BALTIMORE COUNTY
PARCEL 'B'
BRANCH
CRAIGE BURN
PARADISE AVE
WESTERN VO-TECH
UNIVERSITY AVE
CATONSVILLE
STAFFORD DRIVE
KNOLLS
HIGHLAND HOME
CARROLL
ST. CHARLES COLLEGE
N.R.P.D.
LAURENCE BROOKE
WHALEN RD.
PARK CT.
KEEN MILL CT.
HILL
AREA UNDER CONSTRUCTION
CASEY CT.
WILTON
FARM DR.
WINSLOW
BELTWAY
OGLETHORPE
BRISTOL HILL CT.
KENWOOD
SYLVANSIDE
SPRING GROVE STATE HOSPITAL
S 8,000
S 9,000
W 25,500
W 28,500
(SHEET SW 4-E)

G-NW
G-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, 148-88, 149-88, 150-88

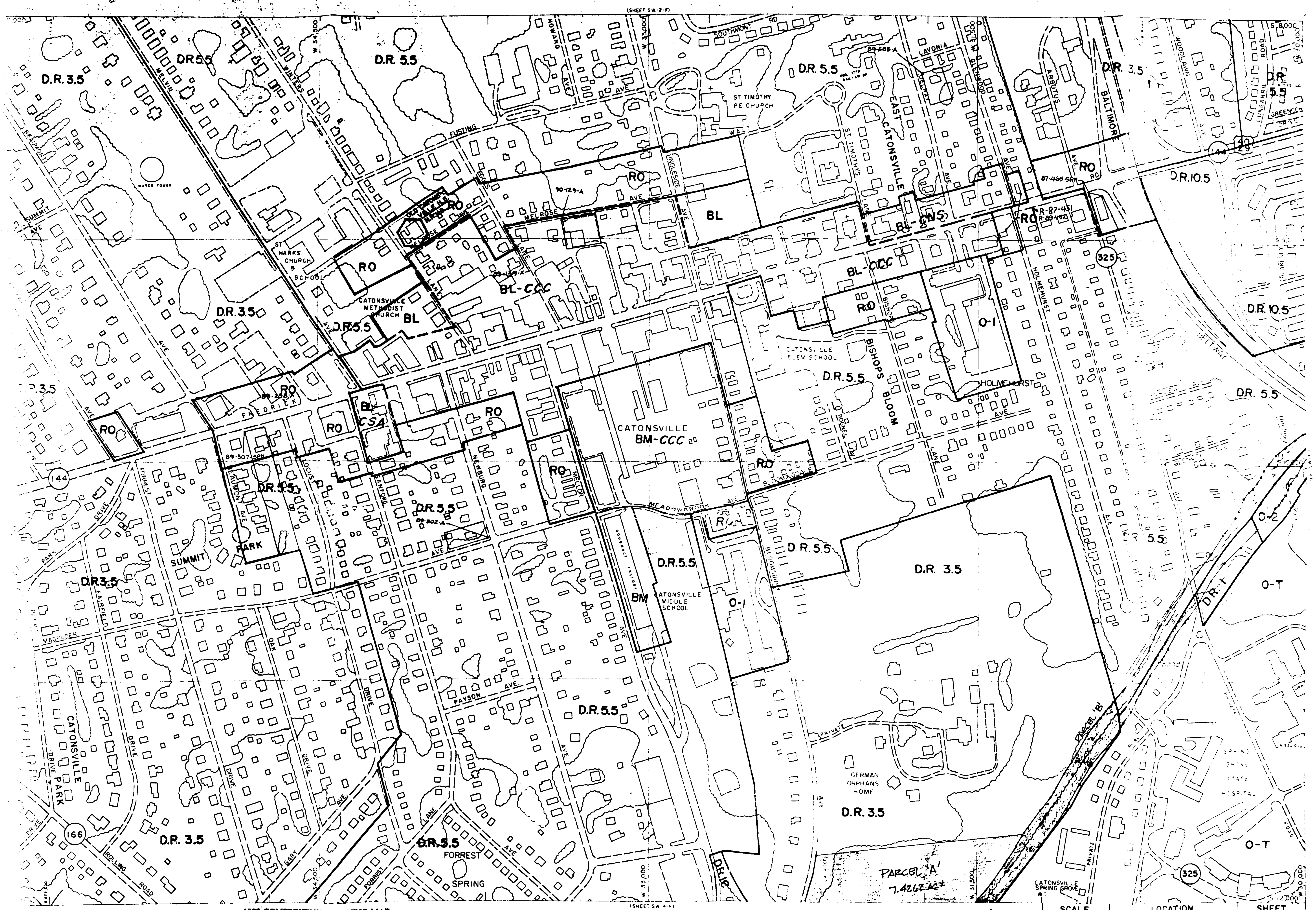
Dale T. Volz
Chairman, County Council

AP HAS BEEN REVISED IN SELECTED AREAS.
APHY COMPILED BY PHOTOGRAMMETRIC METHODS
ART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	CATONSVILLE	S.W. 3-E
DATE OF PHOTOGRAPHY JANUARY 1986		

MICROFILMED


(SHEET SW-2-F)
D.R. 3.5
D.R. 5.5
D.R. 10.5
RO
BL
BL-CNS
BL-CCC
BL CSA
O-1
O-T
C-2
DR-1
CATONSVILLE BM-CCC
BM
MELVIN
WINTERS
HOWARD
SOUTHMONT RD
LAVONIA
ARBUTUS
BALTIMORE
FUSTING
MELROSE AVE
INGLESIDE AVE
ST TIMOTHY PE CHURCH
EAST CATONSVILLE
ST TIMOTHYS LANE
HOLMEHURST
WATER TOWER
ST MARKS CHURCH & SCHOOL
CATONSVILLE METHODIST CHURCH
FREDERICK
CATONSVILLE ELEM SCHOOL
BISHOPS
BLOOM
NEWBURG
MELLOR
MEADOWBROOK AVE
CATONSVILLE MIDDLE SCHOOL
SUMMIT
PARK
FAIRFIELD
MAGRUDER
PAYSON AVE
GERMAN ORPHANS HOME
FORREST SPRING
ROLLING ROAD
CATONSVILLE PARK DRIVE
GARY
PARCEL 'B'
PARCEL 'A' 7.4262 Ac±
CATONSVILLE SPRING GROVE WT
SPRING GROVE STATE HOSPITAL
144
325
166
90-129-A
89-655-A
87-465-SPH
R-87-43
89-307-SPH
(SHEET SW 4-F)

G-NW
G-SW

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COMPILED BY PHOTOGRAMMETRIC METHODS
HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
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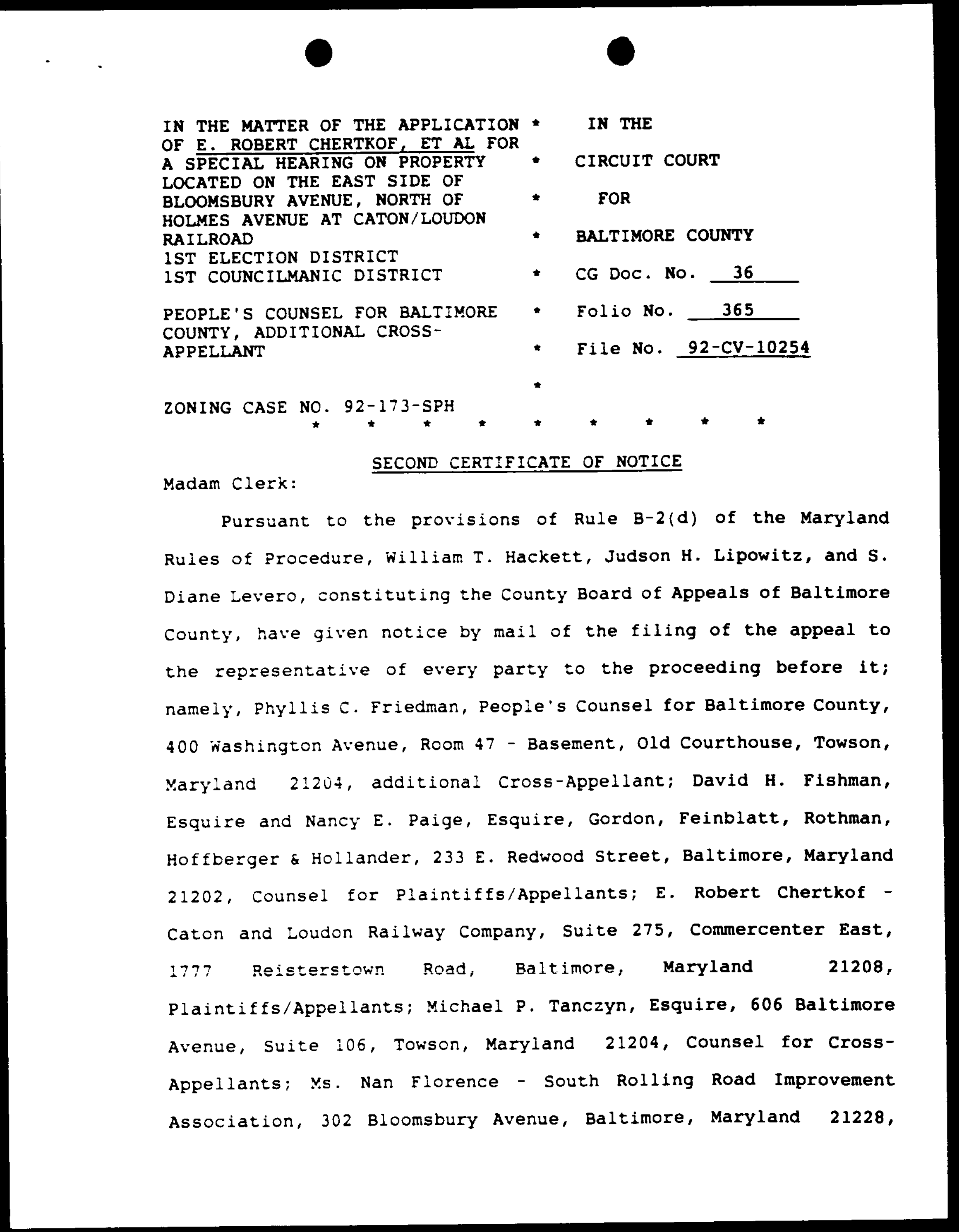
DATE OF PHOTOGRAPHY JANUARY 1986		



IN THE MATTER OF THE APPLICATION * IN THE
OF E. ROBERT CHERTKOF, ET AL FOR
A SPECIAL HEARING ON PROPERTY * CIRCUIT COURT
LOCATED ON THE EAST SIDE OF
BLOOMSBURY AVENUE, NORTH OF * FOR
HOLMES AVENUE AT CATON/LOUDON
RAILROAD * BALTIMORE COUNTY
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT * CG Doc. No. 36

PEOPLE'S COUNSEL FOR BALTIMORE * Folio No. 365
COUNTY, ADDITIONAL CROSS-
APPELLANT * File No. 92-CV-10254

*

ZONING CASE NO. 92-173-SPH

* * * * * * * * *

SECOND CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Judson H. Lipowitz, and S. Diane Levero, 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, Phyllis C. Friedman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, additional Cross-Appellant; David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood Street, Baltimore, Maryland 21202, Counsel for Plaintiffs/Appellants; E. Robert Chertkof - Caton and Loudon Railway Company, Suite 275, Commercenter East, 1777 Reisterstown Road, Baltimore, Maryland 21208, Plaintiffs/Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Cross-Appellants; Ms. Nan Florence - South Rolling Road Improvement Association, 302 Bloomsbury Avenue, Baltimore, Maryland 21228,

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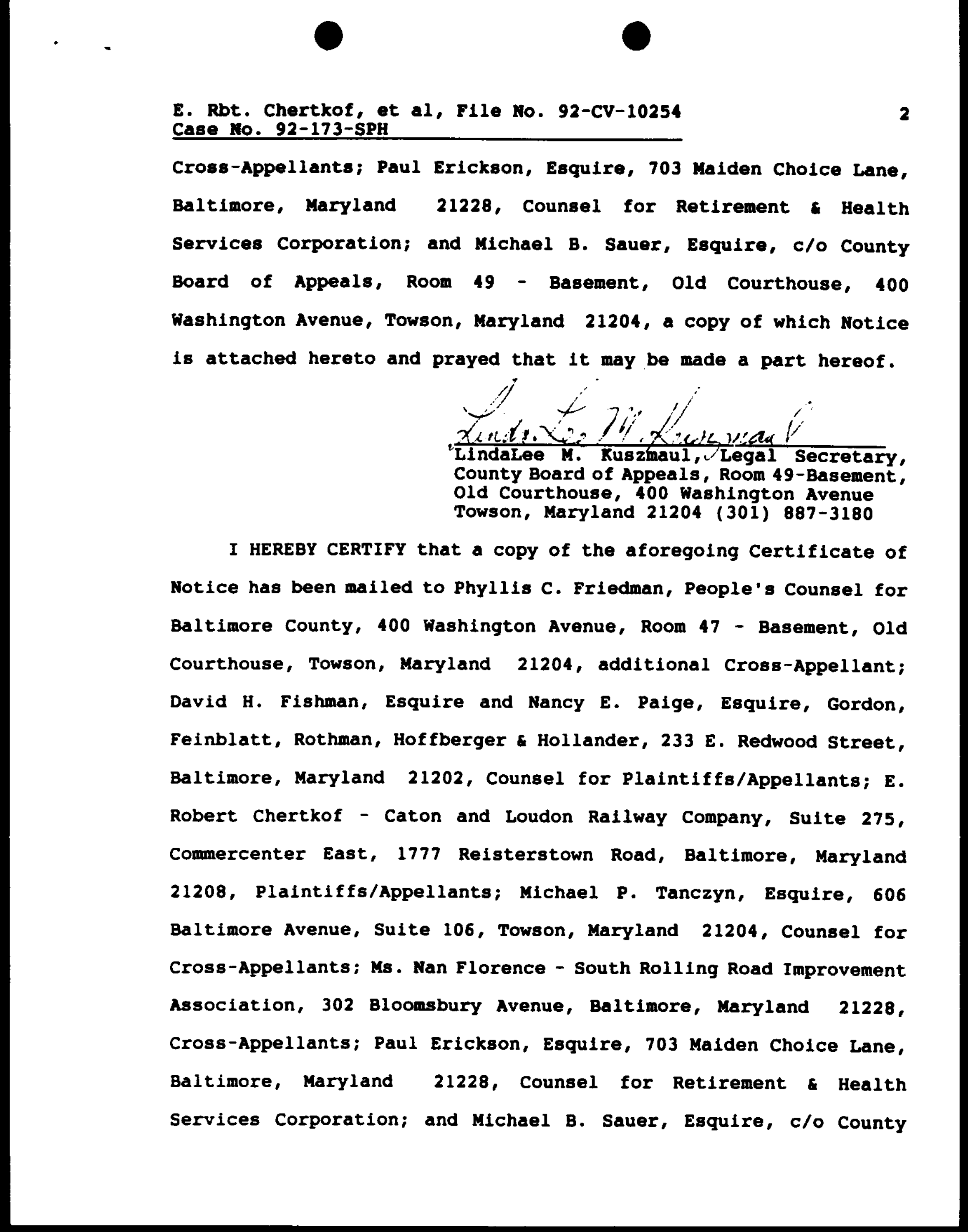

Cross-Appellants; Paul Erickson, Esquire, 703 Maiden Choice Lane, Baltimore, Maryland 21228, Counsel for Retirement & Health Services Corporation; and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to Phyllis C. Friedman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, additional Cross-Appellant; David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood Street, Baltimore, Maryland 21202, Counsel for Plaintiffs/Appellants; E. Robert Chertkof - Caton and Loudon Railway Company, Suite 275, Commercenter East, 1777 Reisterstown Road, Baltimore, Maryland 21208, Plaintiffs/Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Cross-Appellants; Ms. Nan Florence - South Rolling Road Improvement Association, 302 Bloomsbury Avenue, Baltimore, Maryland 21228, Cross-Appellants; Paul Erickson, Esquire, 703 Maiden Choice Lane, Baltimore, Maryland 21228, Counsel for Retirement & Health Services Corporation; and Michael B. Sauer, Esquire, c/o County

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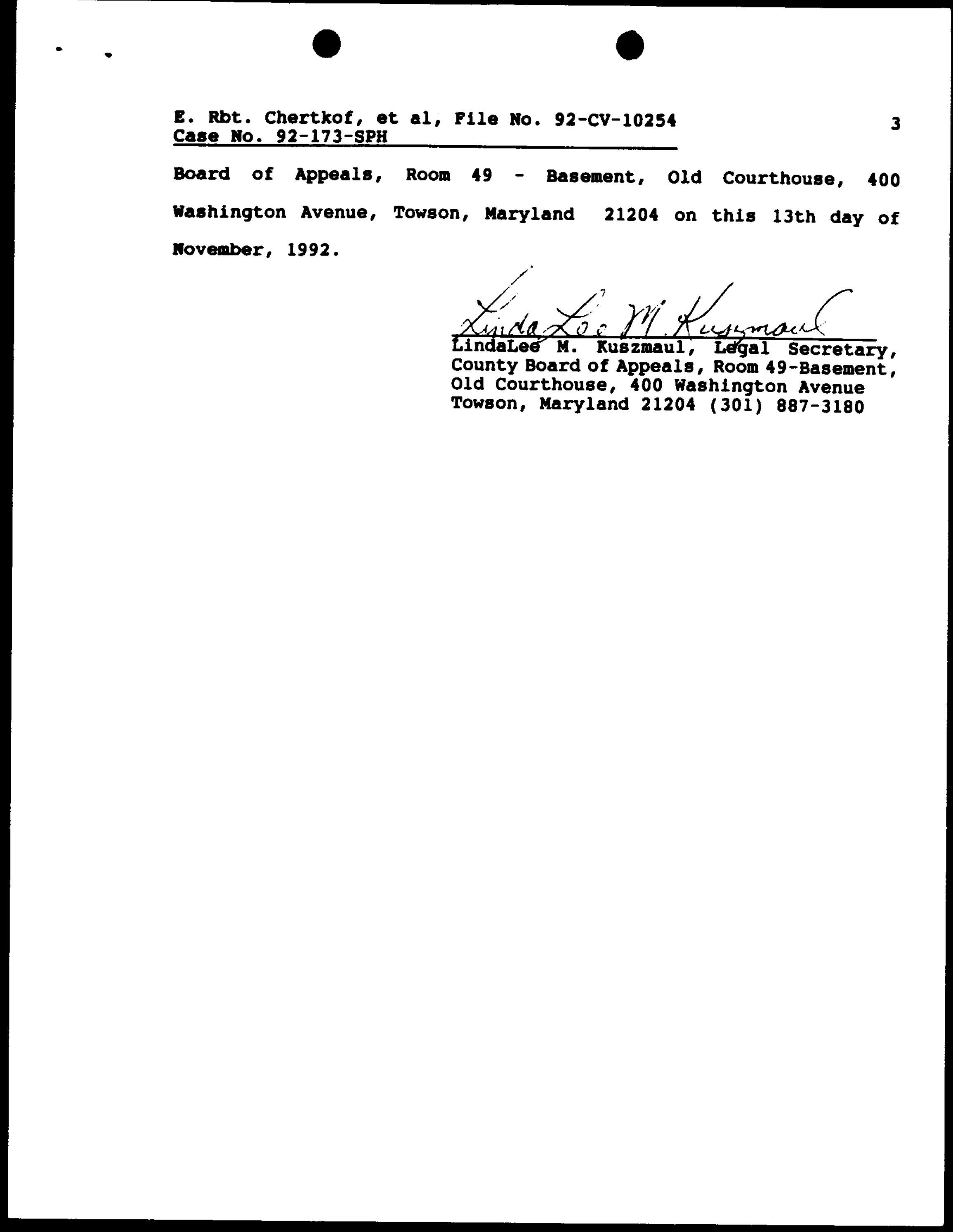
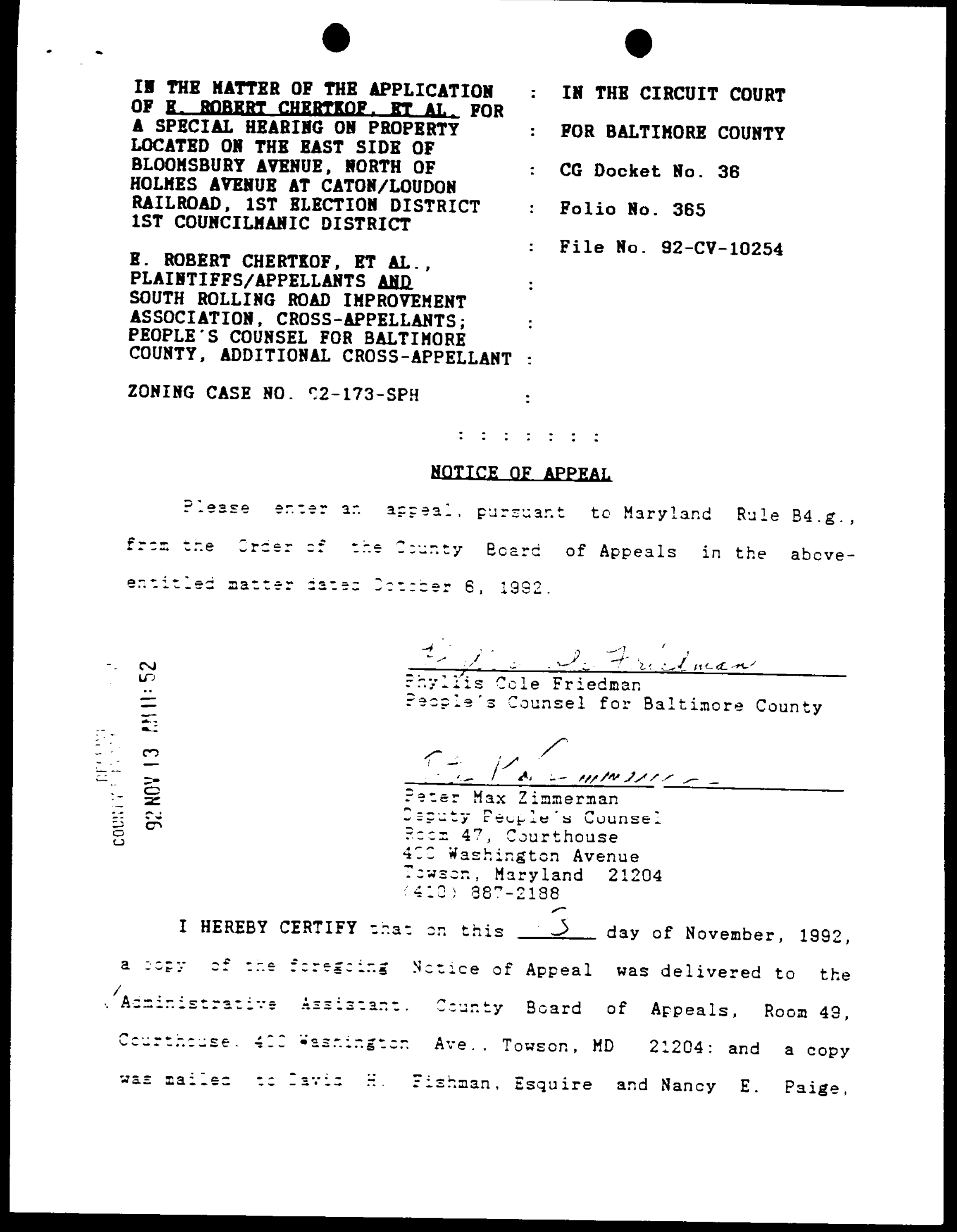


Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 13th day of November, 1992.

LindaLee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180



IN THE MATTER OF THE APPLICATION : IN THE CIRCUIT COURT
OF E. ROBERT CHERTKOF, ET AL. FOR
A SPECIAL HEARING ON PROPERTY : FOR BALTIMORE COUNTY
LOCATED ON THE EAST SIDE OF
BLOOMSBURY AVENUE, NORTH OF : CG Docket No. 36
HOLMES AVENUE AT CATON/LOUDON
RAILROAD, 1ST ELECTION DISTRICT : Folio No. 365
1ST COUNCILMANIC DISTRICT
: File No. 92-CV-10254
E. ROBERT CHERTKOF, ET AL.,
PLAINTIFFS/APPELLANTS AND :
SOUTH ROLLING ROAD IMPROVEMENT
ASSOCIATION, CROSS-APPELLANTS; :
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ADDITIONAL CROSS-APPELLANT :

ZONING CASE NO. 92-173-SPH :

: : : : : : :

NOTICE OF APPEAL

Please enter an appeal, pursuant to Maryland Rule B4.g., from the Order of the County Board of Appeals in the above-entitled matter dated October 6, 1992.

92 NOV 13 AM 11:52

Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 3 day of November, 1992, a copy of the foregoing Notice of Appeal was delivered to the Administrative Assistant, County Board of Appeals, Room 49, Courthouse, 400 Washington Ave., Towson, MD 21204; and a copy was mailed to David H. Fishman, Esquire and Nancy E. Paige,

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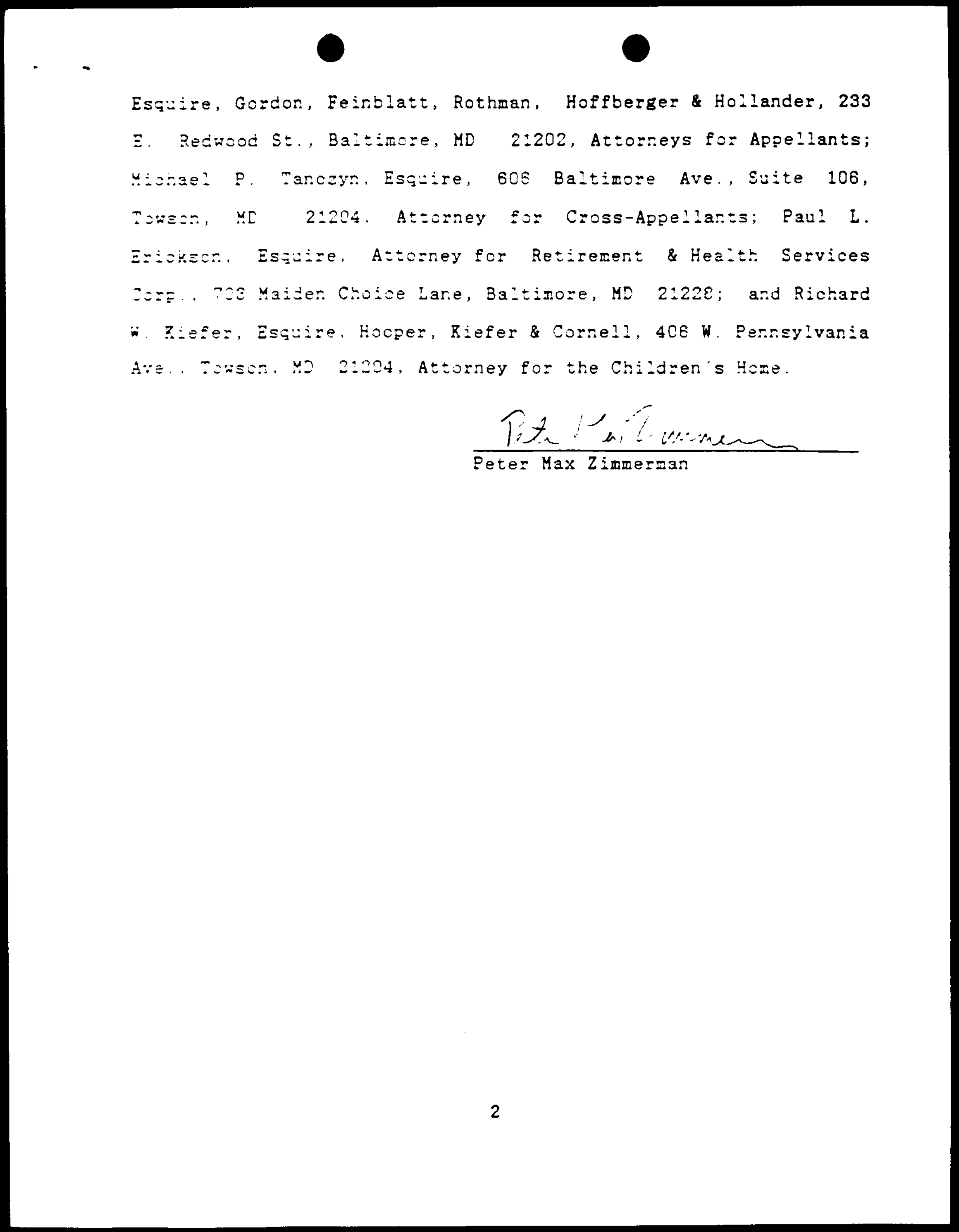
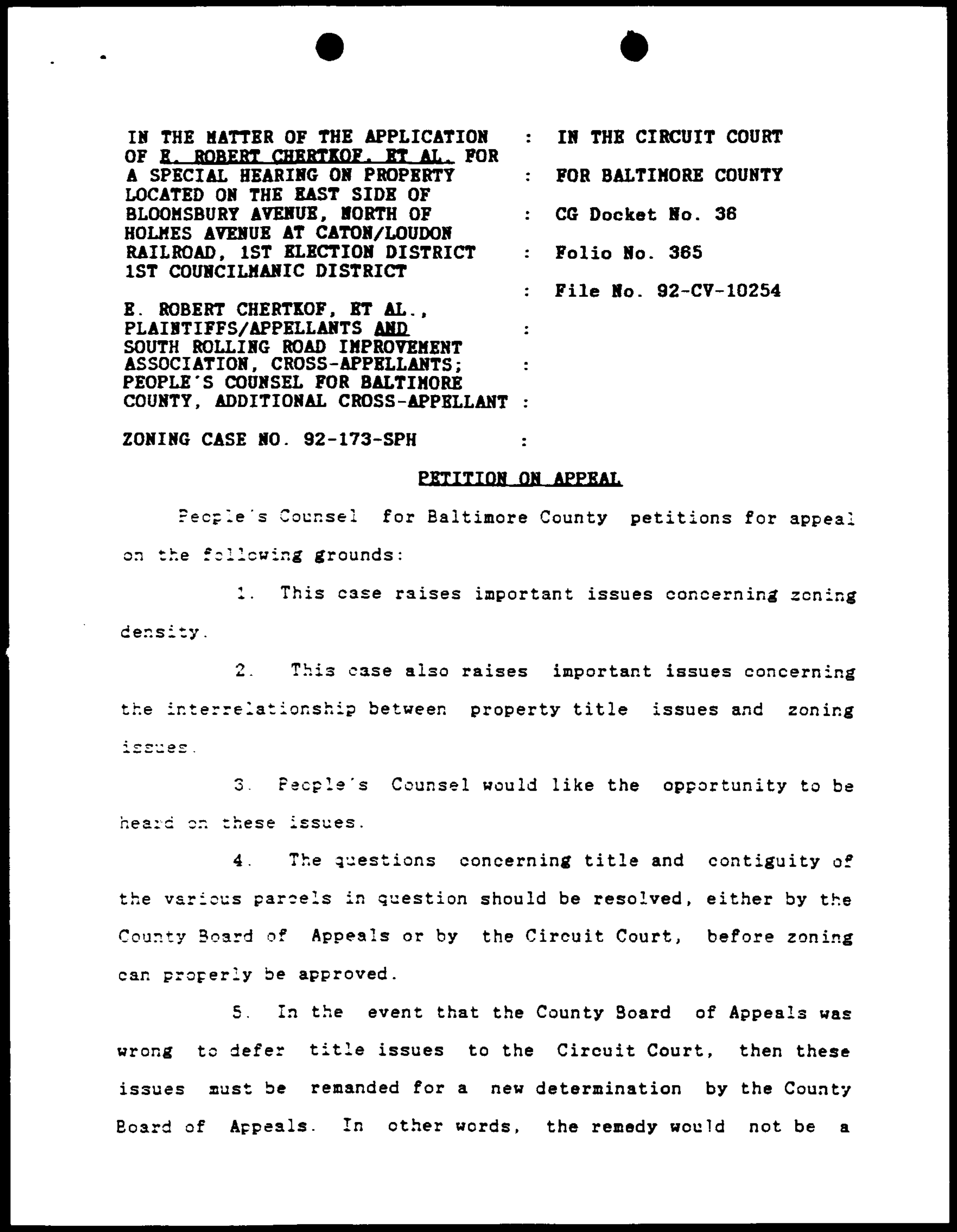


Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood St., Baltimore, MD 21202, Attorneys for Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Ave., Suite 106, Towson, MD 21204, Attorney for Cross-Appellants; Paul L. Erickson, Esquire, Attorney for Retirement & Health Services Corp., 703 Maiden Choice Lane, Baltimore, MD 21228; and Richard W. Kiefer, Esquire, Hooper, Kiefer & Cornell, 406 W. Pennsylvania Ave., Towson, MD 21204, Attorney for the Children's Home.

Peter Max Zimmerman



IN THE MATTER OF THE APPLICATION : IN THE CIRCUIT COURT
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E. ROBERT CHERTKOF, ET AL.,
PLAINTIFFS/APPELLANTS AND :
SOUTH ROLLING ROAD IMPROVEMENT
ASSOCIATION, CROSS-APPELLANTS; :
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ADDITIONAL CROSS-APPELLANT :

ZONING CASE NO. 92-173-SPH :

PETITION ON APPEAL

People's Counsel for Baltimore County petitions for appeal on the following grounds:

1. This case raises important issues concerning zoning density.

2. This case also raises important issues concerning the interrelationship between property title issues and zoning issues.

3. People's Counsel would like the opportunity to be heard on these issues.

4. The questions concerning title and contiguity of the various parcels in question should be resolved, either by the County Board of Appeals or by the Circuit Court, before zoning can properly be approved.

5. In the event that the County Board of Appeals was wrong to defer title issues to the Circuit Court, then these issues must be remanded for a new determination by the County Board of Appeals. In other words, the remedy would not be a

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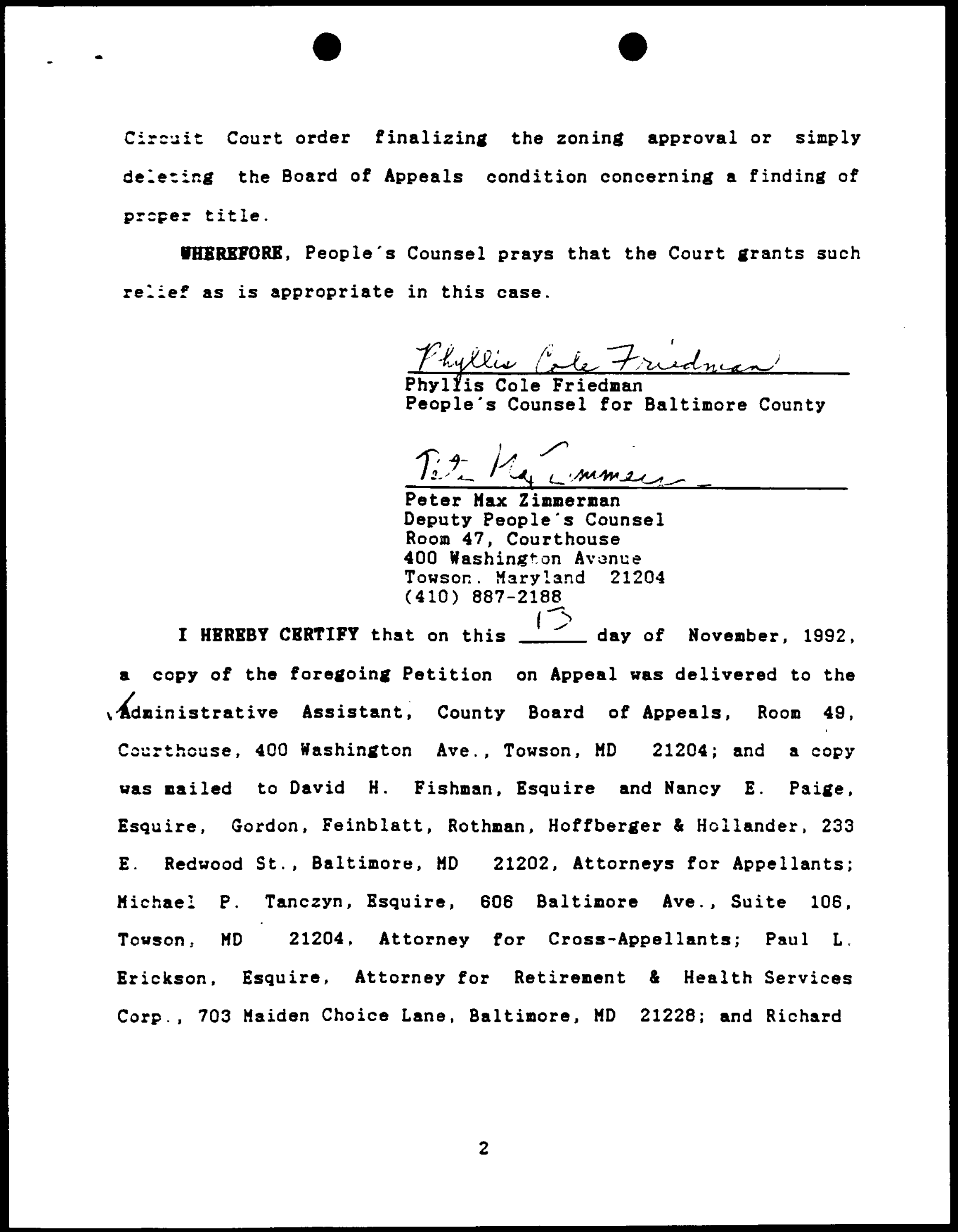

Circuit Court order finalizing the zoning approval or simply deleting the Board of Appeals condition concerning a finding of proper title.

WHEREFORE, People's Counsel prays that the Court grants such relief as is appropriate in this case.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 13 day of November, 1992, a copy of the foregoing Petition on Appeal was delivered to the Administrative Assistant, County Board of Appeals, Room 49, Courthouse, 400 Washington Ave., Towson, MD 21204; and a copy was mailed to David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood St., Baltimore, MD 21202, Attorneys for Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Ave., Suite 106, Towson, MD 21204, Attorney for Cross-Appellants; Paul L. Erickson, Esquire, Attorney for Retirement & Health Services Corp., 703 Maiden Choice Lane, Baltimore, MD 21228; and Richard

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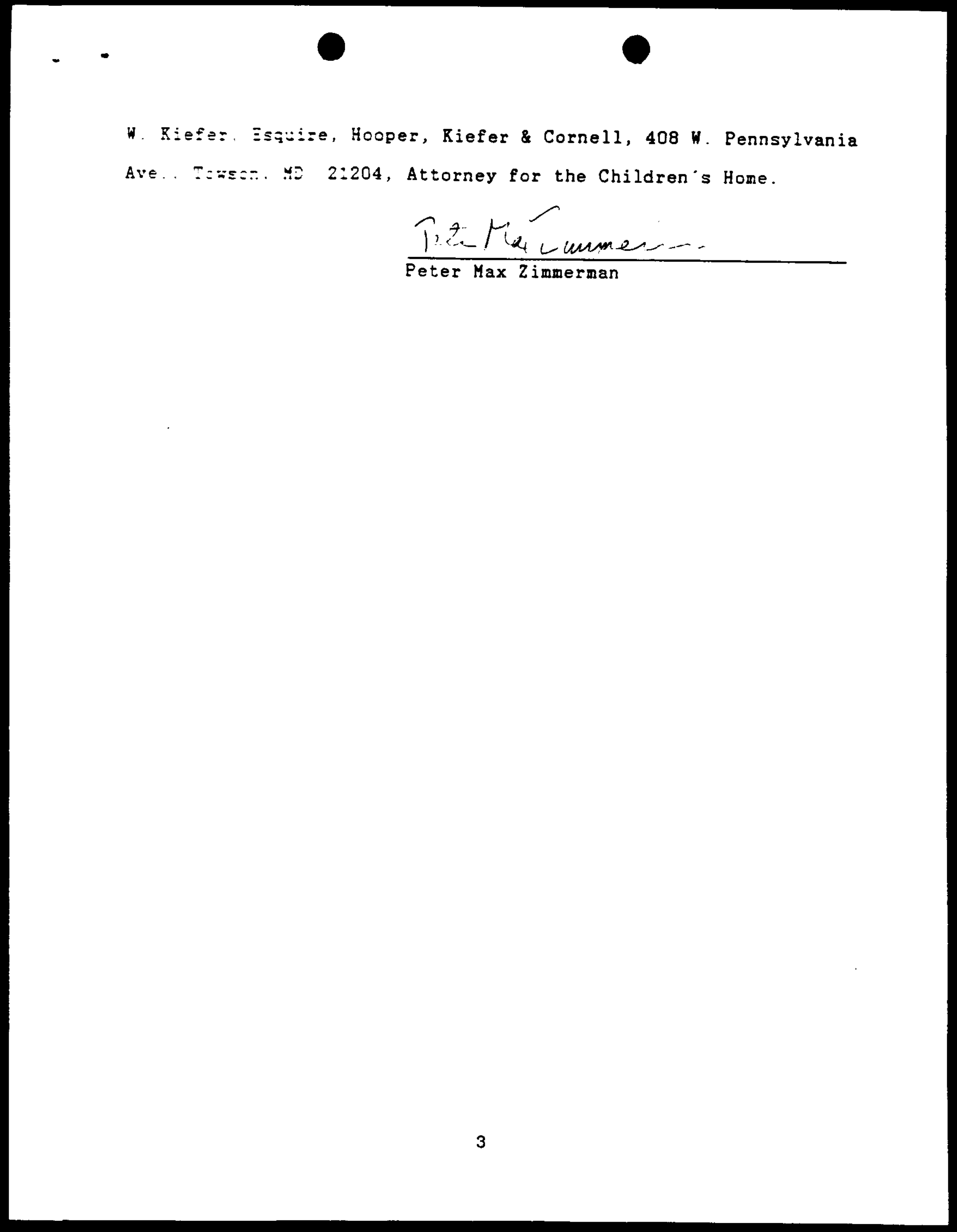
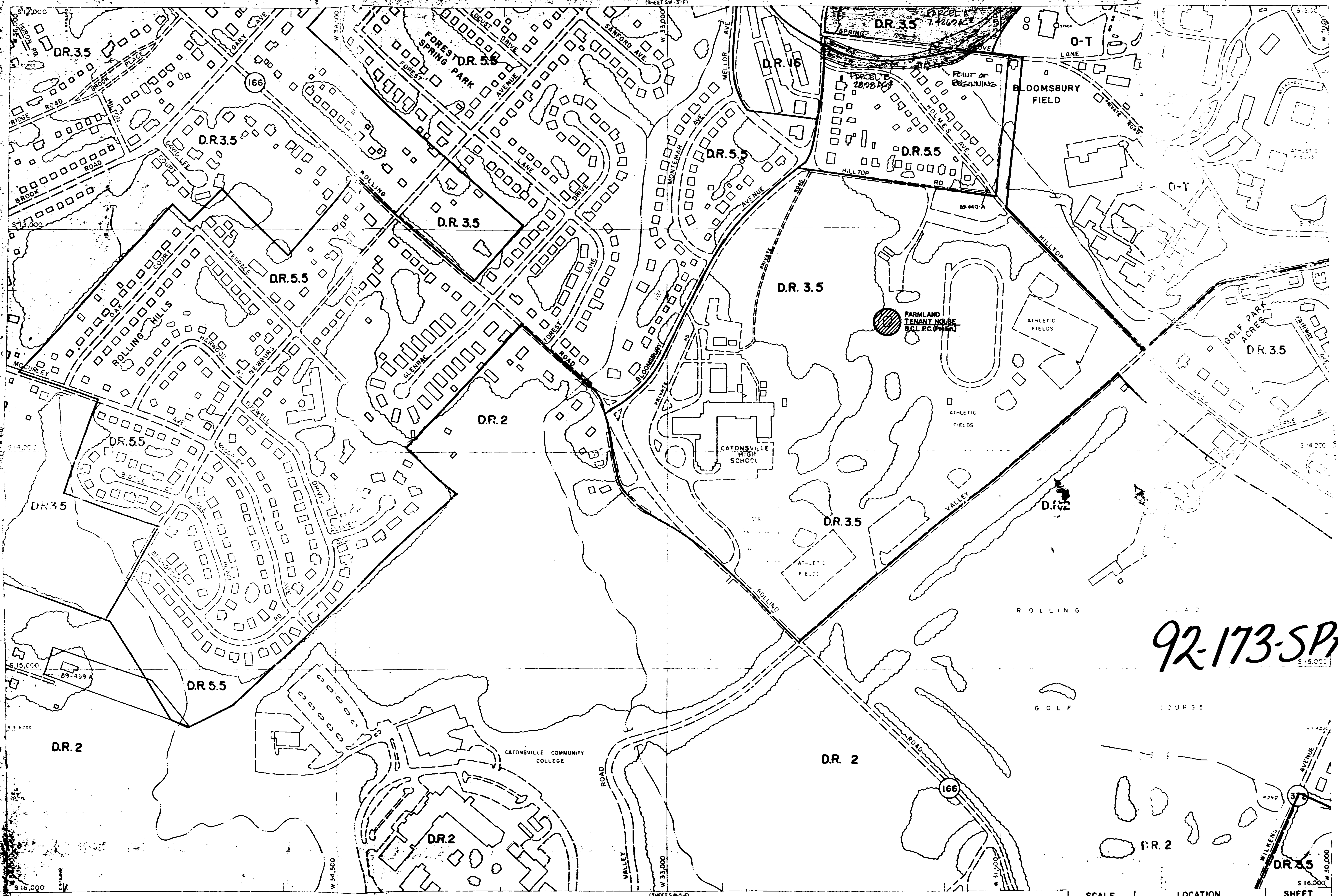


W. Kiefer, Esquire, Hooper, Kiefer & Cornell, 408 W. Pennsylvania Ave., Towson, MD 21204, Attorney for the Children's Home.

Peter Max Zimmerman


D.R. 3.5
D.R. 5.5
D.R. 16
D.R. 2
O-T
FOREST SPRING PARK
ROLLING HILLS
PARCEL A 7.4269 AC
PARCEL B 2.898 AC
POINT OF BEGINNING
BLOOMSBURY FIELD
FARMLAND TENANT HOUSE B.C.L. R.C. (Prelim.)
ATHLETIC FIELDS
CATONSVILLE HIGH SCHOOL
CATONSVILLE COMMUNITY COLLEGE
GOLF PARK ACRES
ROLLING ROAD
GOLF COURSE
HILLTOP RD
BLOOMSBURY AVENUE
FOREST DRIVE
MELLOR AVE
MONTEMAR AVE
HOLMES AVE
SANFORD AVE
VALLEY ROAD
WILKENS AVENUE
166
372
SHEET SW-3-F
SHEET SW-5-F

92-173-SPH

182

H-SE G-SW

1988 COMPREHENSIVE ZONING MAP
Adopted by the Baltimore County Council
Oct. 13, 1988
Bill Nos. 144-88, 145-88, 146-88, 147-88, [illegible] 156-88

Dale T. Volz
Chairman, County Council

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200' ±	CATONSVILLE	S.W. 4-F
DATE OF PHOTOGRAPHY JANUARY 1986		

IN THE MATTER OF THE APPLICATION : IN THE CIRCUIT COURT
OF E. ROBERT CHERTKOF, ET AL. FOR
A SPECIAL HEARING ON PROPERTY : FOR BALTIMORE COUNTY
LOCATED ON THE EAST SIDE OF
BLOOMSBURY AVENUE, NORTH OF : CG Docket No. 36
HOLMES AVENUE AT CATON/LOUDON
RAILROAD, 1ST ELECTION DISTRICT : Folio No. 365
1ST COUNCILMANIC DISTRICT
: File No. 92-CV-10254

E. ROBERT CHERTKOF, ET AL.,
PLAINTIFFS/APPELLANTS AND :
SOUTH ROLLING ROAD IMPROVEMENT
ASSOCIATION, CROSS-APPELLANTS; :
PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY, ADDITIONAL CROSS-APPELLANT :

ANSWER TO PETITIONS ON APPEAL

People's Counsel for Baltimore County answers the petitions on appeal as follows:

1. In reference to the Chertkof Caton and Loudon Railroad appeal, People's Counsel admits Paragraphs 1 through 3 and neither admits nor denies Paragraph 4, as this is a conclusion of law. In further answering, in the event that the Board Order referring ownership issues to the Circuit Court was without jurisdiction, the case would have to be remanded to the Board for its own exercise of jurisdiction and a decision on the merits.

2. In reference to the South Rolling Road Improvement Association Florence appeal, People's Counsel states that the appeal presents substantial issues, upon which this office desires the opportunity to be heard, particularly regarding density transfer, relevance of the Baltimore County Master Plan, and ownership

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WHEREFORE, People's Counsel prays that the Court order such relief as is appropriate and in the interest of justice.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

I HEREBY CERTIFY that on this 13th day of November, 1992, a copy of the foregoing Answer to Petitions on Appeal was delivered to the ✓Administrative Assistant, County Board of Appeals, Room 49, Courthouse, 400 Washington Ave., Towson, MD 21204; and a copy was mailed to David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood St., Baltimore, MD 21202, Attorneys for Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Ave., Suite 106, Towson, MD 21204, Attorney for Cross-Appellants; Paul L. Erickson, Esquire, Attorney for Retirement & Health Services Corp., 703 Maiden Choice Lane, Baltimore, MD 21228; and Richard W. Kiefer, Esquire, Hooper, Kiefer & Cornell, 406 W. Pennsylvania Ave., Towson, MD 21204, Attorney for the Children's Home.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF THE APPLICATION * IN THE
OF E. ROBERT CHERTKOF, ET AL FOR
A SPECIAL HEARING ON PROPERTY * CIRCUIT COURT
LOCATED ON THE EAST SIDE OF
BLOOMSBURY AVENUE, NORTH OF * FOR
HOLMES AVENUE AT CATON/LOUDON
RAILROAD * BALTIMORE COUNTY
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT * CG Doc. No. 36

E. ROBERT CHERTKOF, ET AL, * Folio No. 365
PLAINTIFFS/APPELLANTS AND
SOUTH ROLLING ROAD IMPROVEMENT * File No. 92-CV-10254
ASSOCIATION, CROSS-APPELLANTS
*
ZONING CASE NO. 92-173-SPH

* * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Judson H. Lipowitz, and S. Diane Levero, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood Street, Baltimore, Maryland 21202, Counsel for Plaintiffs/Appellants; E. Robert Chertkof - Caton and Loudon Railway Company, Suite 275, Commercenter East, 1777 Reisterstown Road, Baltimore, Maryland 21208, Plaintiffs/Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Cross-Appellants; Ms. Nan Florence - South Rolling Road Improvement Association, 302 Bloomsbury Avenue, Baltimore, Maryland 21228, Cross-Appellants; Paul Erickson, Esquire, 703 Maiden Choice Lane, Baltimore, Maryland 21228, Counsel for Retirement & Health Services Corporation; Phyllis C.

Friedman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, and Michael B. Sauer, Esquire, c/o County Board of Appeals, Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, a copy of which Notice is attached hereto and prayed that it may be made a part hereof.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180

I HEREBY CERTIFY that a copy of the aforegoing Certificate of Notice has been mailed to David H. Fishman, Esquire and Nancy E. Paige, Esquire, Gordon, Feinblatt, Rothman, Hoffberger & Hollander, 233 E. Redwood Street, Baltimore, Maryland 21202, Counsel for Plaintiffs/Appellants; E. Robert Chertkof - Caton and Loudon Railway Company, Suite 275, Commercenter East, 1777 Reisterstown Road, Baltimore, Maryland 21208, Plaintiffs/Appellants; Michael P. Tanczyn, Esquire, 606 Baltimore Avenue, Suite 106, Towson, Maryland 21204, Counsel for Cross-Appellants; Ms. Nan Florence - South Rolling Road Improvement Association, 302 Bloomsbury Avenue, Baltimore, Maryland 21228, Cross-Appellants; Paul Erickson, Esquire, 703 Maiden Choice Lane, Baltimore, Maryland 21228, Counsel for Retirement & Health Services Corporation; Phyllis C. Friedman, People's Counsel for Baltimore County, 400 Washington Avenue, Room 47 - Basement, Old Courthouse, Towson, Maryland 21204, and Michael B. Sauer, Esquire, c/o County Board of Appeals,

---

Room 49 - Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 on this 5th day of November, 1992.

Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul, Legal Secretary,
County Board of Appeals, Room 49-Basement,
Old Courthouse, 400 Washington Avenue
Towson, Maryland 21204 (301) 887-3180

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 5, 1992

Paul L. Erickson, Esquire
Retirement & Health Services Corp.
703 Maiden Choice Lane
Baltimore, Maryland 21228

Re: Case No. 92-173-SPH (E. Robert Chertkof, et al)

Dear Mr. Erickson:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal and a cross-appeal have 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,
Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Julius W. Lichter, Esquire
Howard L. Alderman, Jr., Esquire
Richard W. Kiefer, Esquire
Fred L. Skelton, Esquire
People's Counsel for Baltimore County
Mr. Richard H. Cassell
Mr. and Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. and Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
Mr. Robert C. Hoerl
Public Services
Timothy M. Kotroco
Docket Clerk -Zoning
Arnold Jablon, Director of Zoning Administration
Mr. Richard Decker
Ms. Caroline Alder
Ms. Phylene Raven
M. Lee Cimino
Ms. Paula Dennis
Dr. Kurt Sfiffert
Mr. Dale Mauerhan
P. David Fields
Lawrence E. Schmidt
W. Carl Richards, Jr.

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County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 5, 1992

Michael P. Tanczyn, Esquire
606 Baltimore Avenue
Suite 106
Towson, Maryland 21204

Re: Case No. 92-173-SPH (E. Robert Chertkof, et al)

Dear Mr. Tanczyn:

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

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

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

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,
Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Ms. Nan Florence - South Rolling Road
Community Association

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County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

November 5, 1992

David H. Fishman, Esquire
Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
233 East Redwood Street
Baltimore, Maryland 21202

Re: Case No. 92-173-SPH (E. Robert Chertkof, et al)

Dear Mr. Fishman:

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

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

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

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,
Linda Lee M. Kuszmaul
LindaLee M. Kuszmaul
Legal Secretary

Enclosure

cc: Nancy E. Paige, Esquire
E. Robert Chertkof - Caton & Loudon
Railway Company

Printed on Recycled Paper

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824
Fax: (410) 296-8827

November 4, 1992

Civil Clerk
Baltimore County Circuit Court
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Re: E. Robert Chertkof, et al
Case Number 92-173-SPH

Dear Madam Clerk:

Enclosed herewith please find Petition and Order for Appeal entering an appeal from the October 6, 1992 Order of the County Board of Appeals for Baltimore County as well as Motion for Stay and For Extension of Time for Transmittal of Record in the above matter .

Very truly yours,

Michael P. Tanczyn

92 NOV -4 PM 1:56

MPT/ed
Enclosure

cc: Richard W. Kiefer, Esq.
Julius W. Lichter, Esq.
Howard Alderman, Esq.
Kathleen C. Weidenhammer
Phyllis Cole Friedman, Esq.
Ms. Nan Florence
South Rolling Road Improvement Association

IN THE MATTER OF	*	BEFORE THE CIRCUIT COURT
E. ROBERT CHERTKOF, et al For a Special Hearing on Property Located on the East Side of Bloomsbury Avenue, North of Holmes Avenue at Caton/Loudon Railroad	*	FOR BALTIMORE COUNTY
1st Election District 1st Councilmanic District	*	
Case No. 92-173-SPH	*	Case No.

* * * * * * * * * * * * * *

PETITION AND ORDER FOR APPEAL

NOW COMES, South Rolling Road Improvement Association, and Nan Florence, Appellants, by their attorney, Michael P. Tanczyn, Esq., and respectfully request this Honorable Court enter the appearance of their attorney in this matter and enter an Appeal from the Decision of the County Board of Appeals of Baltimore County dated October 6, 1992 to the Circuit Court for Baltimore County.

Appellants, pursuant to Maryland Rule B2(e) respectfully submit the following:

I. Action Appealed From:

Howard L. Chertkof, E. Robert Chertkof, and the Caton & Loudon Railway Company, Petitioners, previously applied for density transfer from portions of real property described on their plat collectively as Parcel B of different zoning classifications, whose zoning density was sought to be transferred to the real

property shown on Petitioners' Plat as Parcel A, for property located on the east side of Bloomsbury Avenue, north of Holmes Avenue in the 1st Election District and 1st Councilmanic District of Baltimore County, Maryland.

The Zoning Commissioner of Baltimore County, Lawrence Schmidt, by Decision dated December 18, 1991 granted the Petition for Special Hearing allowing the density transfer with restrictions. Appeals were taken from that Decision by the Petitioners, South Rolling Road Improvement Association, and Paul L. Erickson on behalf of St. Charles Associates.

The matter was then considered by the County Board of Appeals for Baltimore County and was heard on June 26 and July 16, 1992. On hearing the Appeal of St. Charles Associates was dismissed as was evidenced by Petitioners' Exhibit No. 1 before the County Board of Appeals for Baltimore County.

The Appellants, who participated at all hearings, are the community improvement association within whose borders and boundaries the subject parcel is located and an individual Appellant who is a neighbor to this property and actually resides in this community.

2. Error Committed by the Agency in Taking Such Action

Appellants aver that the County Board of Appeals's Decision which accompanied its Order:

A. was not supported by the evidence;

B. was based on error of law in construing the

pertinent regulations of the Baltimore County Zoning Regulations;

C. was arbitrary, capricious and/or illegal in the following regards:

1. The County Board of Appeals for Baltimore County granted the density transfer with an important condition requiring the Petitioner to obtain an Order from the Circuit Court declaring that Caton & Loudon Railway owns sufficient contiguous parcels which density will allow them to transfer that density from Parcel B to Parcel A; without requiring that they prove they are entitled to the density transfer by virtue of ownership before approving such density transfer;

2. The evidence presented the County Board of Appeals for Baltimore County provides no adequate basis on which to determine that the Petitioner has sufficient ownership to entitle them to seek a density transfer, which was a threshhold issue and finding to be made by the County Board of Appeals for Baltimore County. Regardless of whether that proof was in the form of a Circuit Court Order, it was a condition precedent to the consideration by the County Board of Appeals for Baltimore County and approval of any requested density transfer, and under the law the Petitioner bore the burden of establishing its entitlement to the relief requested under any fair reading of the applicable regulations;

C. The decision to approve a massive density transfer from a 80 to 100 foot wide parcel resembling a tail

representing the railroad right-of-way was against the spirit and intent of the Zoning Regulations allowing a density on Parcel A if approved far in excess of that presently provided for under the current zoning of the property;

D. The evidence before the County Board of Appeals for Baltimore County showed substantial harm to the community which would be visited on the community by the approval of such a request, including the opinion of the Department of Planning contained in the remarks or comments submitted by the Department as corroborated by the testimony of the area planner;

E. The County Board of Appeals for Baltimore County Decision was unsupported by the evidence of the nearest adjacent property owner, The Children's Home, as to its paramount ownership and rights to density for the portion of the Petitioners' railroad right-of-way which ran through its land, thereby breaking the Petitioners' holdings and creating a condition based on the ownership of the property which would viciate any hope the Petitioners had to transfer density from parcels which were not contiguous or adjacent to Parcel A as requested;

F. The requested density transfer is in conflict with the Master Plan for the area and the Catonsville 2000 Plan and would represent improper crowding and clustering of Parcel A.

III. Relief Sought

Appellants respectfully request this Court, after

consideration of the pleadings herein, the transcript, and following hearing:

A. Reverse the County Board of Appeals' Decision of October 6, 1992;

B. Reverse and remand, in the alternative, to the County Board of Appeals for further proceedings consistent with the Court's decision;

C. Order the Appellees to pay the costs of these proceedings, including the costs of the transcript to the proceedings before the County Board of Appeals;

D. Order the Appellees to pay the Court costs of these proceedings;

E. Stay the hearing and the furnishing of the transcript before the County Board of Appeals for Baltimore county for this Appeal until the Petitioners comply with the condition of the County Board of Appeals for Baltimore County that they establish their fee simple ownership interest and right to transfer density from Parcel B as required by the County Board of Appeals and which as a necessary condition precedent to their proceeding to development under the Order of the County Board of Appeals for Baltimore County would moot their Petition if they cannot prove ownership to Parcel B or contiguous portions thereof, particularly those parcels nearest the site which are presently adjacent and contiguous to Parcel A; and

F. Grant such other and further relief as the

nature of the Appellants' cause may require in the Court's judgment.

MICHAEL P. TANCZYN, ESQ.
Attorney for the Appellants
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204
Telephone: (410) 296-8823

I HEREBY ADMIT receipt of a copy of the Petition and Order for Appeal in Case Number 91-450-SPH.

WITNESS

SECRETARY, County Board of
Appeals for Baltimore County,
Maryland

I HEREBY CERTIFY that this 4th day of November, 1992, a copy of the foregoing Order and Petition for Appeal was mailed, postage prepaid, to Julius W. Lichter, Esq. and Howard Alderman, Esq., 305 West Chesapeake Avenue, Towson, Maryland, 21204, attorneys for the Appellees; to Kathleen C. Weidenhammer, Administrative Assistant, County Board of Appeals for Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland, 21204; Phyllis Cole Friedman, Esq., Baltimore County People's Counsel, Old Courthouse, Room 48, 400 Washington Avenue, Towson, Maryland, 21204; and Richard W. Kiefer, Esq., Hooper, Kiefer & Cornell, 406 West Pennsylvania Avenue, Towson, Maryland, 21204, attorney for The Children's Home.

MICHAEL P. TANCZYN, ESQ.

IN THE MATTER OF	*	BEFORE THE CIRCUIT COURT
E. ROBERT CHERTKOF, et al For a Special Hearing on Property Located on the East Side of Bloomsbury Avenue, North of Holmes Avenue at Caton/Loudon Railroad	*	FOR BALTIMORE COUNTY
1st Election District 1st Councilmanic District	*	
Case No. 92-173-SPH	*	Case No.

* * * * * * * * * * * * * *

MOTION FOR STAY AND FOR EXTENSION OF TIME FOR TRANSMITTAL OF RECORD

NOW COMES, South Rolling Road Improvement Association, and Nan Florence, Appellants, by their attorney, Michael P. Tanczyn, Esq., and, pursuant to Maryland Rule B7(b) and B7(c) of the Maryland Rules of Procedure, respectfully request this Honorable Court extend the time for transmittal of the record before the County Board of Appeals to the Circuit Court for Baltimore County, and to stay this Appeal under Maryland Rule B6(a) and B7(b) and for reasons say:

1. The Appellants are, respectively, the community improvement association and an individual resident, owner of neighboring property to the Petitioner's property.

2. The County Board of Appeals for Baltimore County in its Order of October 6, 1992 placed the unusual condition that the Petitioner could not proceed with the density transfer as approved until the Petitioner obtained an Order from the Circuit Court for

Baltimore County establishing its ownership of the land in Parcel B from which it seeks to transfer density to Parcel A and which was otherwise approved by the County Board of Appeals subject to that condition.

3. Because the Petitioner, both before the Zoning Commissioner and the County Board of Appeals, as the moving party seeking to obtain a transfer of density units from a railroad right-of-way to its property located on Parcel A, had the burden of proving it was entitled to that density transfer, it was and remains the position of the Appellants that the County Board of Appeals' approval of the density transfer was premature since the Opinion of the County Board of Appeals clearly disavows any statement or findings of the County Board of Appeals to support the Petitioners' claimed ownership of the tract in question. In fact, the County Board of Appeals, in its Opinion, asserts the position of the Petitioner that the County Board of Appeals had no right to determine ownership of the land which comprised the railroad right-of-way and from which the Petitioner sought to transfer density.

4. In order to conserve judicial time as well as the resources of the community association, Appellants request this Honorable Court stay the processing of this Appeal and extend the time within which the record need be transcribed and forwarded to the Circuit Court for Baltimore County from the County Board of Appeals to sixty (60) days following the obtention of an Order by

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the Petitioners from the Circuit Court for Baltimore County which satisfies the condition imposed by the County Board of Appeals and which properly should have been a pre-condition to any approval by the County Board of Appeals as to any requested density transfer.

5. A stay will not prejudice any party since the Petitioners could not go forward and seek building permits without a Court Order from the Circuit Court for Baltimore County following trial to establish fee simple ownership, which is required to transfer density in Baltimore County, Maryland.

6. The Appellants wish to preserve their rights to appeal on the issues raised in the Petition and Order for Appeal as to the zoning aspects of the County Board of Appeals' Decision, and it would appear that the interests of justice would be best served by a Court Ordered stay on this Appeal until the Petitioners can demonstrate by obtaining a Court Order proving that they have ownership to the lands in the Parcel B right-of-way of a sufficient character of fee simple ownership to allow them to have density which would be capable of being transferred as otherwise was ordered by the County Board of Appeals.

WHEREFORE, Appellants respectfully request this Honorable Court:

A. Stay the hearing of this Appeal until the Petitioners obtain a Court Order which satisfies the condition imposed by the County Board of Appeals in its approval of October 6, 1992 establishing their fee simple ownership in the railroad

---

right-of-way, which comprises Parcel B;

B. Extend the time within which the record need be transmitted to the Circuit Court for Baltimore County from the County Board of Appeals to sixty (60) days following the obtention of an Order under subparagraph A above by the Petitioners from the Circuit Court for Baltimore County as prayed; and

C. Grant such other and further relief as the nature of this cause may require.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.
Attorney for the Appellants
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204
Telephone: (410) 296-8823

STATEMENT OF POINTS AND AUTHORITIES

Maryland Rule B6(a)
Maryland Rule B7(b)
Maryland Rule B7(c)
Swarthmore Co. vs Kaestner, 258 Md. 517, 266 A.2d 341 (1970)

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

REQUEST FOR HEARING

Appellants, by their undersigned attorney, request a hearing be scheduled on their Motion for Stay and for Extension of Time to Transmit Record in this matter.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

I HEREBY CERTIFY that this 4th day of November, 1992, a copy of the foregoing Motion for Stay and For Extension of Time For Transmittal of Record was mailed, postage prepaid, to Julius W. Lichter, Esq. and Howard Alderman, Esq., 305 West Chesapeake Avenue, Towson, Maryland, 21204, attorneys for the Appellees; to Kathleen C. Weidenhammer, Administrative Assistant, County Board of Appeals for Baltimore County, Old Courthouse, Room 49, 400 Washington Avenue, Towson, Maryland, 21204; Phyllis Cole Friedman, Esq., Baltimore County People's Counsel, Old Courthouse, Room 48, 400 Washington Avenue, Towson, Maryland, 21204; and Richard W. Kiefer, Esq., Hooper, Kiefer & Cornell, 406 West Pennsylvania Avenue, Towson, Maryland, 21204, attorney for The Children's Home.

Michael P. Tanczyn
MICHAEL P. TANCZYN, ESQ.

IN THE MATTER OF	*	BEFORE THE CIRCUIT COURT
E. ROBERT CHERTKOF, et al For a Special Hearing on Property Located on the East Side of Bloomsbury Avenue, North of Holmes Avenue at Caton/Loudon Railroad	*	FOR BALTIMORE COUNTY
1st Election District 1st Councilmanic District	*	
Case No. 92-173-SPH	*	Case No.

* * * * * * * * * * * * * *

ORDER

UPON CONSIDERATION of the Motion for Stay and for Extension of Time to Transmit Record filed heretofore by the Appellants, and any response thereto, it is by the Circuit Court for Baltimore County this ____ day of __________, 1992,

ORDERED, that the hearing of this Appeal be and is stayed until the Petitioners obtain a Court Order which satisfies the condition imposed by the County Board of Appeals in its approval of October 6, 1992 establishing their fee simple ownership in the railroad right-of-way, which comprises Parcel B; and it is further

ORDERED, that the time within which the record need be transmitted to the Circuit Court for Baltimore County from the County Board of Appeals is extended to to sixty (60) days following the obtention of said Order above by the Petitioners from the Circuit Court for Baltimore County as prayed.

____
JUDGE

IN THE MATTER OF THE APPLICATION OF E. ROBERT CHERTKOF, ET AL. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE EAST SIDE OF BLOOMSBURY AVENUE, NORTH OF HOLMES AVENUE AT CATON/LOUDON RAILROAD 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 92-173-SPH 92-CV-10254

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COUNTY BOARD OF APPEALS
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* * * * * * * * * * * * *

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ORDER FOR APPEAL BY PETITIONERS

Clerk:

Please enter an appeal on behalf of E. Robert Chertkof, Howard L. Chertkof, and the Caton and Loudon Railroad Company, petitioners, from the October 6, 1992 Order of the County Board of Appeals.

David H. Fishman

Nancy E. Paige
Nancy E. Paige

Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
233 East Redwood Street
Baltimore, Maryland 21202
410/576-4294

Attorneys for Appellants

CERTIFICATE OF COMPLIANCE WITH RULE B2C

I HEREBY CERTIFY that on this 2nd day of November, 1992, a copy of the foregoing Order for Appeal By Petitioners was mailed, first-class, postage prepaid, to County Board of Appeals of Baltimore County, Old Court House, Room 49, 400 Washington Avenue, Towson, Maryland 21204.

Nancy E. Paige
Nancy E. Paige

L29885.124 S:3

IN THE MATTER OF THE APPLICATION OF E. ROBERT CHERTKOF, ET AL. FOR A SPECIAL HEARING ON PROPERTY LOCATED ON THE EAST SIDE OF BLOOMSBURY AVENUE, NORTH OF HOLMES AVENUE AT CATON/LOUDON RAILROAD 1ST ELECTION DISTRICT 1ST COUNCILMANIC DISTRICT	*	IN THE CIRCUIT COURT FOR BALTIMORE COUNTY CASE NO.

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COUNTY BOARD OF APPEALS
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* * * * * * * * * * * * *

PETITION ON APPEAL

E. Robert Chertkof, Howard L. Chertkof, and the Caton and Loudon Railway Company, appellants, file the following petition on appeal:

1. Howard L. Chertkof is the President of the Caton and Loudon Railway Company (the "Railroad").

2. E. Robert Chertkof and Howard L. Chertkof (the "Chertkofs"), are owners of 7.4 acres ("Parcel A") adjoining the Railroad property ("Parcel B").

3. This is an appeal from the decision of the Board of Appeals permitting the transfer of approximately 56 density units from Parcel B, owned by the Railroad, to Parcel A, owned by the Chertkofs, "subject to Petitioner obtaining an Order from the Circuit Court declaring that the [Railroad] owns sufficient contiguous parcels which [sic] density therein will allow them to transfer the density so that Parcel A will be developed as shown on Petitioner's Exhibit No. 2."

4. The Board's order subjecting the relief granted to petitioner on the condition that the petitioner obtain an order of the Circuit Court respecting ownership of Parcel B is beyond

the jurisdiction and authority of the Board and, therefore, arbitrary, capricious and unlawful.

WHEREFORE, appellants pray that the Order of the Board be modified by striking that portion which subjects its Order to the further order of the Circuit Court, with costs to be paid by appellees.

David H. Fishman

Nancy E. Paige
Nancy E. Paige

Gordon, Feinblatt, Rothman,
Hoffberger & Hollander
233 East Redwood Street
Baltimore, Maryland 21202
410/576-4294

Attorneys for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of November, 1992, a copy of the foregoing Petition on Appeal was mailed, first-class, postage prepaid, to County Board of Appeals of Baltimore County, Old Court House, Room 49, 400 Washington Avenue, Towson, Maryland 21204.

Nancy E. Paige
Nancy E. Paige

L29886.124 S:5

IN THE MATTER OF THE
THE APPLICATION OF
E. ROBERT CHERTKOF, ET AL
FOR A SPECIAL HEARING ON
PROPERTY LOCATED ON THE EAST
SIDE BLOOMSBURY AVENUE, NORTH
OF HOLMES AVENUE AT CATON/
LOUDON RAILROAD
1ST ELECTION DISTRICT
1ST COUNCILMANIC DISTRICT

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF
* BALTIMORE COUNTY
* CASE NO. 92-173-SPH

* * * * * * * * *

O P I N I O N

This case comes before this Board on appeals filed by Howard L. Chertkof, E. Robert Chertkof, and the Caton and Loudon Railway Company, Petitioners; the South Rolling Road Improvement Association, Protestant; and Paul L. Erickson on behalf of St. Charles Associates, Protestant, from a decision of the Zoning Commissioner dated December 18, 1991, which granted the Petition with restrictions. Upon opening of the hearing, the appeal by St. Charles Associates was dismissed, entered as Petitioner's Exhibit No. 1. Testimony and evidence was presented this Board on June 26 and July 16, 1992.

Petitioners presented as their first witness Richard Cassell, a Professional Engineer, who testified to the proposal and entered as Petitioner's Exhibit No. 2 the plan of the proposed development.

Next to testify was Howard Chertkof, the Petitioner, who noted that he is the President of the Caton and Loudon Railway Company some of which he inherited and some of which (now known as Parcel B) he purchased. He entered as Petitioner's Exhibit No. 3 a deed showing ownership of Parcel A, and a Certificate of Incorporation of the Caton and Loudon Railway Company as Petitioner's Exhibit No. 4. He also entered as Petitioner's Exhibit No. 5 a deed to Parcel B, as Petitioner's Exhibit No. 6 a financial document, as Petitioner's Exhibit No. 7 an original drawing of the old

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Catonsville railroad, and as Petitioner's Exhibit No. 8 a document denying the right for St. Charles corporation to erect a fence on the railroad right of way. He further entered into the record as Petitioner's Exhibits No. 9 and No. 10 two Inquisitions heard by the Circuit Court, identified as 84-CG-1261 and 88-CG-1187. In Case 84-CG-1261 the State Highways acquired from the Railroad .45 acre for the compensation of $20,000, and in Case 88-CG-1187 Baltimore County acquired land from the Railroad in order to widen Bloomsbury Avenue for the sum of $20,000. Mr. Chertkof testified that what he notes as Parcel B contains some 21+ acres, and by his engineer's calculations, contains some 111 density units. Mr. Chertkof's request is to transfer some 56 of these density units to Parcel A, which he owns in fee simple and which contains 7.4 acres, so that his proposal as shown on Petitioner's Exhibit No. 2 is to erect 83 units on Parcel A. Mr. Chertkof further testified that, while Parcel B contains some 21+ acres, it was a parcel approximately 4 miles long extending from Bloomsbury Avenue to the Baltimore City line.

Norman Gerber next testified that as a professional planner he has reviewed the Baltimore County Zoning Regulations (BCZR), the Baltimore County and Catonsville Master Plans, and has also reviewed Sections 1B01.1.A through E, and that in his opinion the subject site was ripe for clustering. He further testified that the proposal was in keeping with the spirit and intent of the regulations and that the clustering here would be an asset to everyone. He also testified that it was his opinion that there was no limit to the transfer of density that would accrue from the configuration of the property.

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Next to testify was David Fishman, an attorney and an expert in real estate law. He testified at length as to the term "bundle of rights," that he has studied all the condemnation proceedings, various documents of title, and the records from 1880 to 1882, and described the reversionary rights to this site. He further testified that the Railroad had the right to exclude anyone from entering onto the site. He also testified that the Railroad had obtained grants from adjacent owners for the rail line. Petitioner then rested his case.

Protestants presented as their first witness Michael Schleutner, an attorney and a recognized expert in real estate law and especially real estate law as it applies to titles. He testified he searched the Baltimore County Title Department and ran the Caton Short Line history from 1882 to 1945 and the Caton and Loudon Railway from 1945 to the present, and it was his opinion that there were no fee simple grants obvious in the deeds. He further testified that from the Beltway to the Children's Home he could find no fee simple title to the railway. He distinguished between a right of way and an easement and noted that the unrecorded grants were a license to run the railroad and that an easement is a grant to allow that use.

Nancy Florence proffered her community's interest in this and their protesting the granting. William Huey, a community planner for this area, entered Protestant's Exhibit No. 3, a memorandum from Pat Keller noting the possible ownership problems, and also proffered Stanley Schapiro's memorandum from the Office of Law. This concluded the direct testimony in this case, and this very brief synopsis of the witnesses is in no way intended to indicate

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their full testimony, but the record produced will speak for itself.

At the conclusion of the hearing, in lieu of closing arguments, the Board requested written memorandums. Both parties submitted written memorandums. From a study of the testimony and evidence received, and the memorandums submitted, the Board reaches the following conclusions.

Each and every property that is afforded a zoning inherits, along with its zoning classification, the density rights assigned thereto. There is nothing in the BCZR that this Board can find that would deny the transfer of units merely because a parcel is of an odd shape, in this case, a parcel that extends in excess of 4 miles and in total only encompasses approximately 21 acres. It is a given fact that the party who has a legitimate right of way or an easement for a specific use has the right to prohibit the trespassing of anyone upon his right of way. The right to exclude ingress does not, by the same token, provide the holder of the right of way the right to transfer density for property that he does not own. This Board is not empowered in any way whatsoever to establish property rights or property ownership. That right belongs to the Circuit Court. It is the opinion of this Board that if ownership of the necessary contiguous acreage of Parcel B is established by the Petitioner, the density units needed to build 83 homes as proposed on Petitioner's Exhibit No. 2 should be granted. However, no building permits nor recordation of plats should be permitted until the Circuit Court has found the ownership of Parcel B is sufficient to allow transfer of density to the Caton and Loudon Railway. The Board will note that in Mr. Chertkof's

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testimony he testified that such a title study is now underway. Subject to a finding by the Circuit Court that the Caton and Loudon Railway owns sufficient contiguous parcels which density therein will allow them to transfer that density so that Parcel A will be developed as shown on Petitioner's Exhibit No. 2, the Petition is granted, and the Board will so order.

O R D E R

IT IS THEREFORE this 6th day of October, 1992 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Special Hearing be **GRANTED** subject to Petitioner obtaining an Order from the Circuit Court declaring that the Caton and Loudon Railway owns sufficient contiguous parcels which density therein will allow them to transfer that density so that Parcel A will be developed as shown on Petitioner's Exhibit No. 2.

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

Judson H. Lipowitz
Judson H. Lipowitz

S. Diane Levero
S. Diane Levero

8311-92

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

October 6, 1992

Julius W. Lichter, Esquire
LEVIN & GANN, P.A.
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Case No. 92-173-SPH
E. Robert Chertkof, et al

Dear Mr. Lichter:

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

Very truly yours,

Kathleen C. Weidenhammer
Kathleen C. Weidenhammer
Administrative Assistant

encl.

cc: Howard L. Alderman, Jr., Esquire
Michael P. Tanczyn, Esquire
Mr. Paul L. Erickson
Richard W. Kiefer, Esquire
Fred L. Skelton, Esquire
Mr. E. Robert Chertkof
Ms. Nan Florence
Mr. Richard H. Cassell
Mr. & Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. & Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
Mr. Robert C. Hoerl
People's Counsel for Balto. Co.
P. David Fields
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.

Public Services
Mr. Richard Decker
Ms. Caroline Alder
Ms. Phylene Raven
Mr. Lee Cimino
Dr. Kurt Seiffert
Mr. Dale Mauerhan
Ms. Paula Dennis
Docket Clerk /Zoning
√Arnold Jablon, Director of
Zoning Administration

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TEL No. 410 296 2081 Jun 25,92 16:16 P.02

IN THE MATTER OF THE PETITION OF
E. ROBERT CHERTKOF, ET AL, FOR
A SPECIAL HEARING FOR THE
TRANSFER OF DENSITY AND
CLUSTERING OF DWELLING UNITS,
E/S BLOOMSBURY AVENUE, N. OF
HOLMES AVENUE AT CATON-LOUDON
RAILROAD
1st Election District
3rd Councilmanic District

* BEFORE THE
* COUNTY BOARD OF APPEALS
* OF BALTIMORE COUNTY
* CASE NO.: 92-173-SPH
*

* * * * * * * * * * *

WITHDRAWAL OF APPEAL

Retirement & Health Services Corporation, by and through its counsel, Paul L. Erickson, hereby voluntarily withdraws its appeal to this Board in the above-captioned case.

Paul L. Erickson
Paul L. Erickson
Retirement & Health Services
Corporation
703 Maiden Choice Lane
Baltimore, Maryland 21228
(410) 242-2880

USE OF TELEFAX WITHDRAWAL

Retirement & Health Services Corporation, by its undersigned counsel, hereby consents to the presentation of a Telefax copy of this Withdrawal of Appeal, to the County Board of Appeals for Baltimore County at its hearing on the above-captioned case, scheduled for Friday, June 25, 1992. Retirement & Health Services Corporation hereby certifies that an original of this Withdrawal of Appeal will be mailed to said Board of Appeals for inclusion in the Board's official file.

Paul L. Erickson
Paul L. Erickson

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be a fee simple in State Roads Commission vs Johnson (supra).

Therefore, the railroad company has failed in its burden to establish fee simple title to the property for which it seeks a density transfer. Even assuming arguendo that the railroad could prove a fee simple grant for portions of Parcel B beyond the German Orphan Children's Home, which they have not, it is clear that the break in fee simple ownership for the portions immediately adjacent to Parcel A on the German Orphan Children's Home causes the Petition to fail because it is no longer a single tract divided by a zone boundary, but rather separate tracts separately zoned, presuming a fee on either end of the German Orphan Children's Home and represents a second reason for denying the Petition on the evidence before this Board.

It should be noted that the evidence before this Board was much more detailed than that which the Zoning Commissioner had in a record previously established before the Board rendering the decision below.

CONCLUSION

The Petitioners' request should be denied for the reasons stated herein.

Respectfully submitted,

MICHAEL P. TANCZYN, ESQ.
Attorney for the Protestants
606 Baltimore Avenue, Suite 106
Towson, Maryland 21204
Telephone: (410) 296-8823

I HEREBY CERTIFY that on this 6th day of August, 1992, a copy of the foregoing was mailed, postage prepaid, to Julius W. Lichter, Esq., 305 West Chesapeake Avenue, Towson, Maryland, 21204; Phyllis Cole Friedman, Esq., Baltimore County People's Counsel, 400 Washington Avenue, Towson, Maryland, 21204; and Richard W. Kiefer, Esq., Hooper, Kiefer & Cornell, 406 West Pennsylvania Avenue, Towson, Maryland, 21204.

MICHAEL P. TANCZYN, ESQ.

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
305 W. CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
410-321-0600
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MERCANTILE BANK & TRUST BUILDING
2 HOPKINS PLAZA
9TH FLOOR
BALTIMORE, MARYLAND 21201
410-539-3700
TELECOPIER 410-625-9050

ELLIS LEVIN (1893-1960)

HOWARD L. ALDERMAN, JR.

August 6, 1992

William T. Hackett, Chairman
Baltimore County Board of Appeals
Room 49, Basement
Old Court House
400 Washington Avenue
Towson, MD 21204

RE: Appellee/Cross-Appellant's Post-Hearing Memorandum
Case No. 92-173-SPH
Howard L. Chertkof et al, Appellee/Cross-Appellants

Dear Chairman Hackett:

At the direction of the County Board of Appeals for Baltimore County, enclosed please find and accept for filing the Post-Hearing Memorandum of Howard L. Chertkof et al. It is our understanding that memoranda from all parties/persons who desire to participate in submission of post-hearing correspondence are due no later than the close of business this date. It is further our understanding that this Board will not accept any late filing of memoranda or replies to timely filed memoranda.

Should our understanding be inaccurate, or should you or the Board desire any further information, please do not hesitate to contact me.

Very truly yours,

Howard L. Alderman, Jr.

HLA,Jr./gk
Enclosure
cc (w/encl.): Mr. Howard L. Chertkof
Julius W. Lichter, Esquire
Michael P. Tanczyn, Esquire
Phyllis Cole Friedman, People's Counsel

Law Offices
Michael P. Tanczyn, P.A.
Suite 106, 606 Baltimore Avenue
Towson, Maryland 21204
(410) 296-8823 • (410) 296-8824
Fax: (410) 296-8827

August 6, 1992

County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, MD 21204

Re: E. Robert Chertkof, et al
Case Number 92-173-SPH

Gentlemen:

Enclosed please find Memorandum of the Protestants in the above matter for consideration by the Board in making its decision.

Very truly yours,

Michael P. Tanczyn

MPT/ed
Enclosure

cc: Julius W. Lichter, Esq.
Richard W. Kiefer, Esq.
Phyllis Cole Friedman, Esq.
Michael N. Schleupner, Jr., Esq.
South Rolling Road Community Association

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
E/S Bloomsbury Avenue, N of
Holmes Avenue at Caton/Loudon RR * ZONING COMMISSIONER
1st Election District
1st Councilmanic District * OF BALTIMORE COUNTY

E. Robert Chertkof, Howard L. * Case No. 92-173-SPH
Chertkof, and the Caton and
Loudon Railway Company - *
Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners, E. Robert Chertkof and Howard L. Chertkof, individually and as sole stockholders of the Caton and Loudon Railway Company, request a special hearing to approve the transfer of density from Parcel B to Parcel A, both of which are owned by the Petitioners, for purposes of clustering 83 dwelling units on Parcel A, as more particularly described on Petitioner's Exhibit 1. Broadly speaking, the Petitioners seek an interpretation of Section 1B01.2.A.2 of the Baltimore County Zoning Regulations (B.C.Z.R.).

Howard L. Chertkof, individually and as President of the Caton and Loudon Railway Company, appeared, testified and was represented by Julius W. Lichter, Esquire and Howard L. Alderman, Jr., Esquire. Also appearing on behalf of the Petition were Richard H. Cassell, Gordon Greenspun, and Norman Gerber. Appearing as Protestants in the matter were numerous residents of the area and representatives of the community association known as Catonsville 2000, Inc. Also appearing in opposition to the Petition was the Office of People's Counsel.

The facts presented in this case are simple and not in dispute. Messrs. E. Robert and Howard L. Chertkof own property which consists of 7.6199 acres more or less, is zoned D.R. 3.5 and is located near Bloomsbury and Holmes Avenues in Catonsville. This property is designated as

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Parcel A on Petitioner's Exhibit 1, the plat submitted with the Petition. Further, the Caton and Loudon Railway Company, of which the Chertkof brothers are the sole stockholders, owns 29.173 acres of land adjacent to Parcel A and identified as Parcel B on Petitioner's Exhibit 1. Unlike the roughly rectangular-shaped Parcel A, Parcel B is long and narrow. It was alternately described at the hearing as a "ribbon" and "tail." Testimony presented indicated that Parcel B constitutes the railway track bed for the Caton and Loudon Railway Company which leads from Parcel A to the Baltimore City/Baltimore County line. Although no longer in use, the Caton and Loudon track ran from Baltimore City to Catonsville and ended at Parcel A. The Petitioners seek to transfer all the density permitted under the various zoning classifications within Parcel B to Parcel A. Under such a scenario, 138.358 density units would be permitted for development on Parcel A. This far exceeds the 26.67 units permissible if the acreage considered on Parcel A alone were utilized. However, the Petitioners revised the site plan prior to the hearing and now propose to restrict development to 83 units in lieu of the maximum density allowed.

In my view, the issues presented in this case are four in number. The four will be addressed in turn:

1) Does the Petitioner own all of the lands designated on Petitioner's Exhibit 1 as Parcels A and B?

In addressing the first issue, there was significant evidence presented regarding the ownership of Parcels A and B. As the Petitioner acknowledged, however, the issue, although needing resolution before any transfer can take place, cannot be resolved by me. That is, if the Petitioner does not have clear title to any portion of Parcel B, the density attributable to that portion may not be transferred to Parcel A. Apparently, certain questions of adverse possession and the resulting loss of

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ownership rights are at issue. Clearly, the Zoning Commissioner does not possess the authority to resolve these questions of title. If the appropriate legal basis is established to confirm ownership, the transfer of density is permitted under Section 1B01.2.A.2. It should be noted, however, that, based upon the evidence before me, I would find that the Petitioners are the owners of Parcels A and B.

2) Does the divergent ownership of Parcels A and B prohibit the Petitioner from transfering density pursuant to Section 1B01.2.A.2 of the B.C.Z.R.?

Regarding the second issue, People's Counsel noted the distinction in the identity of the owners of Parcels A and B. That is, Parcel A is owned by the Chertkof brothers individually, whereas Parcel B is owned by the Caton and Loudon Railway Company. Because of this split ownership interest, People's Counsel argued that this property, taken as a whole, does not enjoy the same ownership and thus density cannot be transferred under Section 1B01.2.A.2. Although admittedly, ownership in name is bifurcated, I believe that it is a distinction without a difference. It is the incidents of ownership which must be considered. That is, is there a commonality regarding the dominion and control for these parcels? Clearly, these incidents of ownership are held by the same individuals. As indicated above, the Chertkof brothers are the sole stockholders of the Railway and as such, could establish title of both Parcels A and B in a single entity. Therefore, in my view, the difference in the names of those individuals and entities holding title under the deeds in this particular case is imaterial insofar as its application to Section 1B01.2.A.2.

3) Should the character of the existing community and the impact of the proposed development thereon be considered in determining whether the transfer of density under Section 1B01.2.A.2 should be permitted?

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Unlike a Petition for Zoning Variance or Special Exception, this matter comes before the Zoning Commissioner as a Petition for Special Hearing. In considering special exceptions and variances, I am required to apply the standards set forth in the B.C.Z.R. In the case of a special exception, the considerations set forth in Section 502.1 must be addressed. In the case of a variance, Section 307 requires that I make specific findings of fact as to adverse impact, practical difficulty and undue hardship. However, there are no such specific standards in the present case. The matter before me is one of statutory interpretation. Nowhere within Section 1B01.2.A.2 is it noted or required that any findings as to adverse impact on the community be considered. Thus, I will not consider them.

4) What is the meaning of the word "tract" as used in Section 1B01.2.A.2?

The definition of the word "tract" as used in Section 1B01.2.A.2, is what the entire case is all about. A review of that Section is appropriate. Section 1B01.2.A.2 states:

> "Application to Tract Divided by Zone Boundary. Wherever a single tract is divided by a zone boundary so that portions of such tract lie within D.R. zones and different classifications, the total number of dwelling or density units permitted, as determined by multiplying the gross acreage of each portion by the maximum density permitted under Subsection 1B02.2 in the zone within which that portion lies and totalling the results, shall be permitted without further regard to the zone boundary, and the units may be distributed over the tract as though it were in a single zone."

Simply stated, this regulation permits the landowner to cluster develop in a portion of a "tract" by transfering density from one part of the "tract" to another. As indicated, the Petitioners herein seek to cluster all development available on Parcel B onto Parcel A. Therefore, the question, as presented is, is this all one "tract?". This question is a difficult one to answer.

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Unfortunately, Section 101 of the the B.C.Z.R. does not provide any definition of the word "tract". Likewise, there is no definition of that term within the development regulations set forth in the County Code. However, Section 101 of the B.C.Z.R. does provide that any word not specifically defined therein shall have its ordinarily accepted definition as set forth in "Webster's Third New International Dictionary of the English Language, Unabridged." As applied to land, the definition of "tract" in Websters is "an area either large or small: (1): a region or stretch (as of land) that is usually indefinitely described or without precise boundaries...(2): a precisely defined or definable area of land." Thus, according to "Websters," a tract can be almost any descriptive parcel of land; that is, it can be large or small, definitely or indefinitely described, and with or without precise boundaries. In my view, "Websters'" definition provides little, if any, assistance in determining the meaning of the word tract in Section 1B01.2.A.2.

The definition of tract in "Black's Law Dictionary - Fifth Edition," is equally indefinite. Therein, tract is described as "a lot, piece, or parcel of land of greater or less size, the term not importing, in itself, any precise dimension, though the term generally refers to a large piece of land."

In turning to the case law for assistance, there is no appellate opinion in Maryland on point. Further, the appellate courts of other states provide little assistance of what the word tract may mean in the present instance. Frequently, those appellate decisions construe the meaning of the word "tract" as used in deeds and tax statutes. See Saulsberry v. Maddix, 125 F2d 430 (1942) and Lakewood Homes, Inc. v. Board of Adjustment, 23 Ohio Misc. 211, 258, NE 2d 470 (1970).

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The Appellate Court of Illinois noted the difficulty in defining the word tract in Town of Normal v. Harter, 283 NE 2d 44, 5 Ill. App. 3rd 363 (1972). Therein, the Court noted:

> "The few cases where the word is construed are not very helpful at least in our context... In Illinois Central Railroad v. Village of South Peacon (citation omitted), tract was said to mean a piece of land capable of being described... In People ex rel. Chicago General RY. Co. v. Chase (citation omitted), tract was 'an area or region of land or water of indefinite extent.' These sporadic constructions, as we have said, are not much help." (Pg. 45)

The Court's conclusion is no doubt accurate. However, the Court in the Normal case did attempt to define the meaning of the word "tract." It noted that "tract" is a word of abstract space, e.g., field, territory, area, acreage, parcel; as opposed to specific space, e.g., region, county, city, congressional district, block, lot or relative space, e.g. location and venue.

In Wiggers v. County of Skagit, 596 P2d 1345 (1979), the use of the word tract was considered in a zoning context. In that case, the Court concluded that the word tract could include non-contiguous parcels, notwithstanding that there was judicial authority to the effect that tract should be considered as only encompassing contiguous lands.

When all is said and done, neither "Websters," "Blacks," nor the case law supply particular assistance in defining the term tract as used in the subject regulation. That being the case, the term must be interpreted as it was intended to be defined by the legislature. It is a cardinal rule of statutory construction that the plain meanings of the words used within the statute should be given their effect. Statutory construction should only be employed when the meaning of the word is doubtful. See Falcone v. Palmer Ford, Inc., 219 A2d, 808, 242 Md. 487 (1966). As

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noted above, the plain meaning of the word "tract" is of no assistance in interpreting the statute in this case. When such is the case, the intent of the legislature must be determined. See State v. Fabritz, 348 A2d 275, 276 Md 416 (1975).

In determining the intent of the legislature, ascertaining the goal of the Council in adopting the statute is necessary. Clearly, by adoption of Section 1B01.2.A.2, the legislature intended to provide a landowner who owned a substantial tract of property the opportunity to cluster development available to the entire tract on a portion thereof. It was no doubt contemplated that certain tracts of land would contain topographical and/or other constraints which would prohibit development from being evenly spread across the property and that in such an event, development would be clustered on a portion of the land where development could be more practically located. Obviously, considerations as to not only the site's topography but how the proposed development would co-exist with adjacent parcels and the surrounding infrastructure play a role in the developer's plan in clustering any property. For example, if access to a public highway is available to a tract at only one portion thereof, the development would be oriented on the tract so as to utilize that access.

Those considerations being obviously apparent within the intent of the legislature, I do not believe that clustering of development, as proposed by the developer in this case, was within the contemplation of the drafters of this legislation. To permit the developer to proceed as proposed would shift an inordinately large amount of density to a parcel which is insufficient to support same. I particularly note that Parcel B traverses an extensive distance of over 2 miles from its junction with Parcel A to the Baltimore City Line. During that route, this parcel crosses natural and unnatural boundaries of community and neighborhood. During their closing argument, Counsel for the Petitioners argued that if a ribbon-shaped parcel of land led from the Pennsylvania Line to Catonsville, Section 1B01.2.A.2 of the B.C.Z.R. would permit clustering the density from all of the tract to one portion thereof. Quite simply, I disagree with this conclusion. I cannot help but believe that the drafters of the legislation intended that the use of the word "tract" connotates a parcel of land that exists wholely within a single community or locale.

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The above being my conclusion, the final question presented is to what extent may a transfer of density from Parcel B to Parcel A be permitted? That is, it is clear that density attributable to Parcel B where same abuts Baltimore City would not be transferable. However, the immediate property adjoining Parcel A is within the same community and the transfer of density therefrom is permissible. Thus the issue presented is what portion of Parcel B may transfer density permitted thereon to Parcel A?

In reviewing the evidence before me, particularly Petitioner's Exhibit 1, I believe that the density from that portion of Parcel B that is located between Parcel A and Interstate 695 (I-695) (the Baltimore Beltway), can permissibly be transferred. I make this judgment based upon the fact that the placement of the Beltway appears to provide a logical boundary for defining the community in which Parcel A is situated. That is, consistent with the reasoning provided above, I find that the transfer of density from that portion of Parcel B where it adjoins Parcel A to where it meets I-695 is appropriate, in that Parcel A and that limited portion of Parcel B are, in fact, a tract as the term is intended to be utilized in Section 1B01.2.A.2 of the B.C.Z.R.

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In making my decision, I am not overturning then Zoning Commissioner Arnold Jablon's decision in Case No. 86-509-SPH, In Re: The Hamilton Improvement Association, Inc. Within that case, the Zoning Commissioner held that the transfer of density was not prohibited by the bifurcation of the subject property by I-695. In support of this decision, the Commissioner relied on Gruver-Cooley Jade Corp. v. Perlis, 252 A2d 589 (1969). In that appellate decision, the Court of Appeals determined that two parts of a subdivision were contiguous and that density could be transferred from one portion to another, notwithstanding the existence of a roadway between them.

As indicated, I am not overruling that decision but instead am relying upon the placement of I-695 in the subject case to be evidence of the boundary of the subject tract, owned by the Petitioners as defined in Section 1B01.2.A.2. For the aforegoing reasons, the Petition for Special Hearing shall be granted as modified, and restricted so that the transfer of density will be permitted only for that portion of Parcel B westerly of I-695.

Lastly, I note that in computing the density to be transferred from Parcel B to Parcel A, the Petitioner utilized density from acreage zoned O-2. In my view, the language set forth in Section 1B01.2.A.2 is clear wherein same refers to "...portions of such tract lie within D.R. zones of different classification..." (emphasis added). Thus, I believe that only density in a D.R. zone may be transferred. Therefore, based on the calculations set forth on Petitioner's Exhibit 1, I will allow only the transfer of 26.235 units to Parcel A.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held and for the reasons given above, the relief requested in the Petition for Special Hearing, as modified, shall be granted.

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THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 18th day of December, 1991 that the transfer of 26.235 density units from that portion of Parcel B westerly of I-695 to Parcel A for purposes of clustering 83 dwelling units on Parcel A, be approved, and as such, the Petition for Special Hearing, as modified herein, is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.
>
> 2) Within thirty (30) days of the date of this Order and prior to the issuance of any permits, Petitioners shall submit a revised site plan incorporating the relief granted herein and outlining the boundaries of such relief.
>
> 3) Within sixty (60) days of the date of this Order, Petitioners shall cause a copy of this Order and revised site plan to be recorded in the Land Records of Baltimore County.
>
> 4) When applying for any permits, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

Lawrence E. Schmidt
LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

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Date 12/18/91
By

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Baltimore County Government
Zoning Commissioner
Office of Planning and Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

December 18, 1991

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue, Suite 113
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
E/S Bloomsbury Avenue, N of Holmes Avenue at the
Caton and Loudon Railroad
1st Election District - 1st Councilmanic District
E. Robert Chertkof, Howard L. Chertkof and
the Caton and Loudon Railway Company - Petitioners
Case No. 92-173-SPH

Dear Mr. Lichter:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Mr. James W. Mohler, Catonsville 2000, Inc.,
2 W Rolling Crossroads, Suite 203, Catonsville, Md. 21228

Ms. Sally Biser
218 Bloomsbury Avenue, Catonsville, Md. 21228

People's Counsel

File

MICROFILMED

11/15/91 2-27-92
8
2/3/92

RE: PETITION FOR SPECIAL HEARING : BEFORE THE ZONING COMMISSIONER
E/S Bloomsbury Ave., N of Holmes
Ave., Caton-Loudon Railroad : OF BALTIMORE COUNTY
right-of-way to City Line;
1st Election District :
1st Councilmanic District
:
CATON AND LOUDON RAILWAY Case No. 92-173-SPH
COMPANY, et al., Petitioners :

: : : : : : :

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
887-2188

I HEREBY CERTIFY that on this 12th day of November, 1991, a copy of the foregoing Entry of Appearance was mailed to Julius W. Lichter, Esquire, Levin & Gann, P.A., 305 W. Chesapeake Ave., #113, Towson, MD 21204, Attorney for Petitioner.

Peter Max Zimmerman
Peter Max Zimmerman

MICROFILMED

#182

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County 92-173-SPH

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 ______

within the spirit and intent of the Baltimore County Zoning Regulations should approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwelling units on Parcel A.

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.

Legal Owner:
~~Contract Purchaser/Lessee:~~

HOWARD L. CHERTKOF
(Type or Print Name)

Signature

Address

City and State

Attorney for Petitioner: Levin & Gann, P.A.
Julius W. Lichter
(Type or Print Name)
Julius W. Lichter
Signature
305 W. Chesapeake Ave. #113
Address
Towson, Maryland 21204
City and State
Attorney's Telephone No.: 321-0600

Legal Owner(s):

E. ROBERT CHERTKOF
(Type or Print Name)
E. Robert Chertkof
Signature

CATON AND LOUDON RAILWAY COMPANY
(Type or Print Name)
By:
Signature Howard L. Chertkof, President
Suite 275 Commercenter East
1777 Reisterstown Rd. 484-4100
Address Phone No.
Baltimore, Maryland 21208
City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
Julius W. Lichter, Esquire
Name
305 W. Chesapeake Ave., #113
Address Phone No.
Towson, Maryland 21204 321-0600

ORDER RECEIVED FOR FILING
Date 12/5/91
By

OFFICE USE ONLY
ESTIMATED LENGTH OF HEARING -1/2HR. +1HR.
AVAILABLE FOR HEARING
MON./TUES./WED. - NEXT TWO MONTHS
ALL ______ OTHER ______
REVIEWED BY: ______ DATE ______

MICROFILMED

Harris, Smariga, Matz, Inc.
Planners/Engineers/Surveyors
104 Church Lane, Suite 100/Baltimore, MD 21208
(301) 486-1511, Fax (301) 486-2573

#182

92-173-SPH

ZONING DESCRIPTION

BEGINNING for the same at a point in the intersection of the northern side of Asylum Lane (30' wide) and the northern right-of-way line of the Catonsville Short Line Railroad said point is located South 82 degrees 32 minutes 59 seconds East 496.58 feet from the northeastern intersection of Bloomsbury Avenue and Asylum Lane. Thence binding on the northern side of Asylum Lane and the 18th line in a deed dated February 18, 1957 from James K. Cullen, Executor of the Estate of M. Lasine Browne, party of the first part; Farley R. Lassotovitch and Gioachino Lassotovitch, her husband, parties of the second part to Franklin Construction Company, recorded among the Land Records of Baltimore County in Liber 3107, Folio 184;

(1) North 82 degrees 32 minutes 59 seconds West 496.58 feet, thence with the 1st 2nd and 3rd lines of the above mentioned deed the following three (3) courses and distances,
(2) North 00 degrees 52 minutes 00 seconds West 51.72 feet,
(3) North 14 degrees 22 minutes 00 seconds East 281.31 feet,
(4) North 84 degrees 17 minutes 00 seconds East 949.37 feet to intersect the northern right-of-way line of the Catonsville Short Line Railroad thence binding on the above mentioned right-of-way as shown on Sheets 3 through 7 of a plat entitled Catonsville Short Line Railroad right-of-way as of 1883 the following one-hundred and fifty eight (158) courses and distance,
(5) North 31 degrees 00 minutes 14 seconds East 13.40 feet,
(6) North 34 degrees 29 minutes 39 seconds East 24.00 feet,
(7) North 35 degrees 26 minutes 56 seconds East 100.03 feet,
(8) North 37 degrees 49 minutes 51 seconds East 75.17 feet,
(9) North 32 degrees 24 minutes 46 seconds East 25.01 feet,
(10) North 28 degrees 52 minutes 26 seconds East 100.40 feet,
(11) North 32 degrees 24 minutes 46 seconds East 100.04 feet,
(12) North 28 degrees 38 minutes 48 seconds East 100.44 feet,
(13) North 34 degrees 13 minutes 30 seconds East 55.00 feet,
(14) North 38 degrees 05 minutes 03 seconds East 45.11 feet,
(15) North 37 degrees 25 minutes 23 seconds East 42.07 feet,
(16) North 39 degrees 08 minutes 23 seconds East 58.23 feet,
(17) North 36 degrees 49 minutes 19 seconds East 100.12 feet,
(18) North 37 degrees 33 minutes 52 seconds East 50.10 feet,
(19) North 38 degrees 33 minutes 41 seconds East 39.12 feet,
(20) North 33 degrees 49 minutes 47 seconds East 92.00 feet,
(21) North 24 degrees 27 minutes 24 seconds East 19.27 feet,
(22) North 28 degrees 47 minutes 34 seconds East 35.15 feet,
(23) North 25 degrees 00 minutes 44 seconds East 65.81 feet,
(24) North 32 degrees 41 minutes 41 seconds East 78.02 feet,
(25) North 34 degrees 01 minutes 00 seconds East 22.00 feet,
(26) North 37 degrees 47 minutes 34 seconds East 100.22 feet,
(27) North 37 degrees 50 minutes 59 seconds East 100.22 feet,
(28) North 36 degrees 01 minutes 16 seconds East 100.06 feet,

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(29) North 27 degrees 40 minutes 58 seconds East 100.61 feet,
(30) North 29 degrees 23 minutes 09 seconds East 100.33 feet,
(31) North 26 degrees 02 minutes 49 seconds East 100.98 feet,
(32) North 38 degrees 16 minutes 18 seconds East 43.13 feet,
(33) North 51 degrees 08 minutes 46 seconds East 27.35 feet,
(34) North 40 degrees 08 minutes 08 seconds East 33.54 feet,
(35) North 33 degrees 40 minutes 22 seconds East 34.55 feet,
(36) North 29 degrees 09 minutes 16 seconds East 32.95 feet,
(37) North 36 degrees 29 minutes 24 seconds East 37.92 feet,
(38) North 42 degrees 09 minutes 33 seconds East 50.50 feet,
(39) North 49 degrees 50 minutes 51 seconds East 54.85 feet,
(40) North 53 degrees 21 minutes 34 seconds East 56.83 feet,
(41) North 55 degrees 00 minutes 10 seconds East 48.14 feet,
(42) North 65 degrees 06 minutes 29 seconds East 37.39 feet,
(43) North 55 degrees 15 minutes 00 seconds East 67.04 feet,
(44) North 59 degrees 09 minutes 48 seconds East 102.88 feet,
(45) North 58 degrees 39 minutes 12 seconds East 102.93 feet,
(46) North 59 degrees 16 minutes 32 seconds East 51.84 feet,
(47) North 60 degrees 20 minutes 41 seconds East 52.17 feet,
(48) North 62 degrees 03 minutes 12 seconds East 26.17 feet,
(49) North 79 degrees 28 minutes 21 seconds East 7.40 feet,
(50) North 76 degrees 52 minutes 05 seconds East 70.90 feet,
(51) North 73 degrees 29 minutes 37 seconds East 103.55 feet,
(52) North 78 degrees 19 minutes 32 seconds East 103.70 feet,
(53) North 81 degrees 23 minutes 45 seconds East 104.02 feet,
(54) North 87 degrees 16 minutes 23 seconds East 104.20 feet,
(55) South 88 degrees 05 minutes 47 seconds East 57.35 feet,
(56) South 79 degrees 58 minutes 29 seconds East 47.09 feet,
(57) South 82 degrees 04 minutes 43 seconds East 103.82 feet,
(58) South 75 degrees 25 minutes 29 seconds East 103.70 feet,
(59) South 71 degrees 07 minutes 31 seconds East 13.04 feet,
(60) South 69 degrees 21 minutes 45 seconds East 90.32 feet,
(61) South 69 degrees 35 minutes 40 seconds East 22.59 feet,
(62) South 69 degrees 20 minutes 04 seconds East 35.46 feet,
(63) South 69 degrees 22 minutes 48 seconds East 44.77 feet,
(64) South 61 degrees 09 minutes 29 seconds East 64.14 feet,
(65) South 73 degrees 05 minutes 34 seconds East 38.31 feet,
(66) South 61 degrees 57 minutes 11 seconds East 35.02 feet,
(67) South 62 degrees 19 minutes 50 seconds East 65.02 feet,
(68) South 65 degrees 02 minutes 24 seconds East 35.71 feet,
(69) South 63 degrees 43 minutes 29 seconds East 62.42 feet,
(70) South 68 degrees 19 minutes 35 seconds East 48.24 feet,
(71) South 71 degrees 05 minutes 16 seconds East 48.25 feet,
(72) South 77 degrees 46 minutes 00 seconds East 48.27 feet,
(73) South 80 degrees 53 minutes 38 seconds East 48.13 feet,
(74) South 84 degrees 15 minutes 38 seconds East 48.00 feet,
(75) South 85 degrees 21 minutes 17 seconds East 47.80 feet,
(76) South 87 degrees 30 minutes 57 seconds East 47.72 feet,

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(77) South 88 degrees 21 minutes 15 seconds East 47.73 feet,
(78) North 86 degrees 14 minutes 49 seconds East 47.73 feet,
(79) North 80 degrees 21 minutes 52 seconds East 47.72 feet,
(80) North 80 degrees 07 minutes 24 seconds East 47.50 feet,
(81) North 78 degrees 48 minutes 48 seconds East 47.47 feet,
(82) North 76 degrees 39 minutes 30 seconds East 47.51 feet,
(83) North 77 degrees 58 minutes 01 seconds East 47.87 feet,
(84) North 75 degrees 17 minutes 42 seconds East 48.14 feet,
(85) North 68 degrees 21 minutes 46 seconds East 48.09 feet,
(86) North 64 degrees 10 minutes 20 seconds East 48.12 feet,
(87) North 61 degrees 03 minutes 16 seconds East 48.15 feet,
(88) North 59 degrees 00 minutes 20 seconds East 48.21 feet,
(89) North 51 degrees 43 minutes 47 seconds East 48.23 feet,
(90) North 49 degrees 26 minutes 20 seconds East 48.10 feet,
(91) North 48 degrees 49 minutes 22 seconds East 48.03 feet,
(92) North 48 degrees 37 minutes 01 seconds East 61.25 feet,
(93) North 36 degrees 40 minutes 36 seconds East 36.25 feet,
(94) North 38 degrees 24 minutes 45 seconds East 50.12 feet,
(95) North 47 degrees 54 minutes 01 seconds East 50.23 feet,
(96) North 43 degrees 16 minutes 34 seconds East 100.01 feet,
(97) North 40 degrees 25 minutes 06 seconds East 28.68 feet,
(98) North 38 degrees 35 minutes 18 seconds East 35.48 feet,
(99) North 38 degrees 49 minutes 56 seconds East 39.16 feet,
(100) North 42 degrees 25 minutes 10 seconds East 52.66 feet,
(101) North 49 degrees 07 minutes 27 seconds East 52.61 feet,
(102) North 55 degrees 36 minutes 26 seconds East 52.61 feet,
(103) North 58 degrees 36 minutes 27 seconds East 52.54 feet,
(104) North 60 degrees 57 minutes 11 seconds East 52.48 feet,
(105) North 63 degrees 11 minutes 15 seconds East 52.45 feet,
(106) North 63 degrees 53 minutes 48 seconds East 52.55 feet,
(107) North 67 degrees 07 minutes 02 seconds East 52.65 feet,
(108) North 71 degrees 05 minutes 47 seconds East 52.70 feet,
(109) North 74 degrees 44 minutes 51 seconds East 52.73 feet,
(110) North 74 degrees 55 minutes 50 seconds East 52.90 feet,
(111) North 86 degrees 28 minutes 58 seconds East 52.99 feet,
(112) North 87 degrees 26 minutes 37 seconds East 52.64 feet,
(113) South 88 degrees 27 minutes 28 seconds East 52.53 feet,
(114) South 88 degrees 10 minutes 50 seconds East 52.25 feet,
(115) South 85 degrees 10 minutes 46 seconds East 52.17 feet,
(116) South 81 degrees 50 minutes 54 seconds East 52.10 feet,
(117) South 79 degrees 30 minutes 26 seconds East 52.00 feet,
(118) South 77 degrees 30 minutes 40 seconds East 31.07 feet,
(119) South 74 degrees 21 minutes 11 seconds East 70.70 feet,
(120) South 77 degrees 30 minutes 08 seconds East 100.01 feet,
(121) South 78 degrees 01 minutes 03 seconds East 100.03 feet,
(122) South 81 degrees 26 minutes 41 seconds East 100.34 feet,
(123) South 78 degrees 42 minutes 16 seconds East 100.06 feet,
(124) South 71 degrees 50 minutes 30 seconds East 100.36 feet,

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(125) South 71 degrees 33 minutes 56 seconds East 69.28 feet,
(126) South 76 degrees 19 minutes 49 seconds East 31.00 feet,
(127) South 76 degrees 35 minutes 07 seconds East 50.00 feet,
(128) South 76 degrees 07 minutes 37 seconds East 50.00 feet,
(129) North 84 degrees 34 minutes 45 seconds East 19.01 feet,
(130) South 88 degrees 56 minutes 37 seconds East 63.19 feet,
(131) South 82 degrees 58 minutes 01 seconds East 19.58 feet,
(132) South 78 degrees 12 minutes 00 seconds East 96.21 feet,
(133) South 79 degrees 14 minutes 47 seconds East 57.94 feet,
(134) South 79 degrees 05 minutes 43 seconds East 38.85 feet,
(135) South 89 degrees 28 minutes 03 seconds East 48.41 feet,
(136) South 86 degrees 29 minutes 37 seconds East 48.36 feet,
(137) South 84 degrees 35 minutes 03 seconds East 97.84 feet,
(138) North 83 degrees 06 minutes 50 seconds East 73.14 feet,
(139) South 89 degrees 31 minutes 37 seconds East 24.58 feet,
(140) North 72 degrees 18 minutes 18 seconds East 61.05 feet,
(141) North 72 degrees 07 minutes 35 seconds East 37.07 feet,
(142) North 72 degrees 45 minutes 56 seconds East 29.08 feet,
(143) North 78 degrees 51 minutes 32 seconds East 67.68 feet,
(144) North 76 degrees 34 minutes 10 seconds East 38.08 feet,
(145) North 75 degrees 14 minutes 38 seconds East 19.70 feet,
(146) North 78 degrees 54 minutes 14 seconds East 41.22 feet,
(147) North 73 degrees 43 minutes 08 seconds East 100.01 feet,
(148) North 59 degrees 31 minutes 46 seconds East 102.79 feet,
(149) North 72 degrees 40 minutes 22 seconds East 47.00 feet,
(150) North 78 degrees 50 minutes 28 seconds East 53.28 feet,
(151) North 80 degrees 37 minutes 18 seconds East 17.15 feet,
(152) North 81 degrees 36 minutes 29 seconds East 84.23 feet,
(153) North 81 degrees 22 minutes 23 seconds East 51.77 feet,
(154) North 73 degrees 32 minutes 19 seconds East 25.66 feet,
(155) North 75 degrees 12 minutes 32 seconds East 25.66 feet,
(156) North 64 degrees 38 minutes 22 seconds East 53.03 feet,
(157) North 57 degrees 12 minutes 40 seconds East 56.67 feet,
(158) North 64 degrees 44 minutes 25 seconds East 17.59 feet,
(159) South 79 degrees 26 minutes 00 seconds East 91.75 feet,
(160) South 87 degrees 05 minutes 15 seconds East 103.67 feet,
(161) North 87 degrees 36 minutes 23 seconds East 103.25 feet,
(162) South 83 degrees 20 minutes 42 seconds East 30.30 feet to intersect the line that divides Baltimore County from Baltimore City thence binding on said line and running through the above mentioned railroad right-of-way,
(163) South 60 degrees 39 minutes 50 seconds East 315.85 feet to intersect the southern right-of-way line of the Catonsville Short Line Railroad, thence binding on the above mentioned railroad right-of-way the following one-hundred eighty-seven (187) courses and distances,
(164) North 79 degrees 01 minutes 58 seconds West 18.21 feet,
(165) North 57 degrees 39 minutes 29 seconds West 11.04 feet,

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(166) North 61 degrees 53 minutes 11 seconds West 49.71 feet,
(167) North 69 degrees 46 minutes 07 seconds West 49.07 feet,
(168) North 82 degrees 54 minutes 29 seconds West 48.74 feet,
(169) North 82 degrees 54 minutes 40 seconds West 48.61 feet,
(170) North 82 degrees 29 minutes 47 seconds West 97.36 feet,
(171) North 89 degrees 19 minutes 09 seconds West 97.39 feet,
(172) South 73 degrees 08 minutes 39 seconds West 99.51 feet,
(173) South 70 degrees 20 minutes 23 seconds West 81.99 feet,
(174) North 78 degrees 45 minutes 53 seconds West 16.06 feet,
(175) North 81 degrees 29 minutes 30 seconds West 50.16 feet,
(176) North 86 degrees 43 minutes 46 seconds West 49.84 feet,
(177) South 76 degrees 17 minutes 53 seconds West 24.18 feet,
(178) South 69 degrees 51 minutes 50 seconds West 24.29 feet,
(179) South 46 degrees 35 minutes 15 seconds West 54.02 feet,
(180) South 78 degrees 15 minutes 52 seconds West 82.90 feet,
(181) South 87 degrees 06 minutes 41 seconds West 17.54 feet,
(182) South 85 degrees 52 minutes 47 seconds West 54.39 feet,
(183) South 78 degrees 30 minutes 24 seconds West 47.22 feet,
(184) South 80 degrees 02 minutes 30 seconds West 100.78 feet,
(185) South 67 degrees 46 minutes 26 seconds West 100.40 feet,
(186) South 71 degrees 39 minutes 33 seconds West 41.01 feet,
(187) South 73 degrees 29 minutes 54 seconds West 19.70 feet,
(188) South 74 degrees 25 minutes 03 seconds West 40.49 feet,
(189) South 81 degrees 17 minutes 48 seconds West 72.22 feet,
(190) South 77 degrees 20 minutes 11 seconds West 30.75 feet,
(191) South 72 degrees 31 minutes 52 seconds West 39.28 feet,
(192) South 54 degrees 34 minutes 18 seconds West 72.14 feet,
(193) South 83 degrees 25 minutes 49 seconds West 26.27 feet,
(194) South 84 degrees 42 minutes 11 seconds West 78.81 feet,
(195) North 78 degrees 58 minutes 17 seconds West 106.83 feet,
(196) North 88 degrees 30 minutes 27 seconds West 51.74 feet,
(197) South 81 degrees 32 minutes 06 seconds West 53.09 feet,
(198) North 84 degrees 26 minutes 01 seconds West 41.70 feet,
(199) North 75 degrees 24 minutes 06 seconds West 62.88 feet,
(200) North 77 degrees 57 minutes 42 seconds West 103.60 feet,
(201) North 89 degrees 12 minutes 21 seconds West 21.47 feet,
(202) North 81 degrees 03 minutes 09 seconds West 61.93 feet,
(203) North 71 degrees 56 minutes 11 seconds West 18.06 feet,
(204) North 74 degrees 31 minutes 26 seconds West 50.04 feet,
(205) North 71 degrees 47 minutes 05 seconds West 50.18 feet,
(206) North 73 degrees 00 minutes 31 seconds West 31.06 feet,
(207) North 74 degrees 07 minutes 39 seconds West 69.07 feet,
(208) North 74 degrees 28 minutes 00 seconds West 100.08 feet,
(209) North 74 degrees 24 minutes 34 seconds West 100.08 feet,
(210) North 74 degrees 34 minutes 52 seconds West 100.07 feet,
(211) North 77 degrees 57 minutes 37 seconds West 100.02 feet,
(212) North 80 degrees 45 minutes 40 seconds West 100.25 feet,
(213) North 80 degrees 09 minutes 36 seconds West 69.52 feet,

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(214) North 81 degrees 03 minutes 23 seconds West 28.40 feet,
(215) North 86 degrees 15 minutes 48 seconds West 47.50 feet,
(216) North 84 degrees 04 minutes 14 seconds West 47.16 feet,
(217) North 80 degrees 40 minutes 24 seconds West 47.57 feet,
(218) South 86 degrees 04 minutes 05 seconds West 47.46 feet,
(219) South 80 degrees 31 minutes 07 seconds West 47.42 feet,
(220) South 81 degrees 07 minutes 38 seconds West 46.96 feet,
(221) South 75 degrees 40 minutes 42 seconds West 46.93 feet,
(222) South 80 degrees 01 minutes 20 seconds West 46.66 feet,
(223) South 76 degrees 02 minutes 26 seconds West 46.69 feet,
(224) South 76 degrees 42 minutes 06 seconds West 46.95 feet,
(225) South 71 degrees 08 minutes 10 seconds West 46.97 feet,
(226) South 69 degrees 13 minutes 36 seconds West 47.12 feet,
(227) South 67 degrees 54 minutes 27 seconds West 47.38 feet,
(228) South 60 degrees 04 minutes 04 seconds West 47.32 feet,
(229) South 61 degrees 17 minutes 29 seconds West 47.53 feet,
(230) South 61 degrees 36 minutes 06 seconds West 48.06 feet,
(231) South 56 degrees 04 minutes 52 seconds West 48.10 feet,
(232) South 53 degrees 03 minutes 39 seconds West 48.31 feet,
(233) South 43 degrees 49 minutes 32 seconds West 35.99 feet,
(234) South 43 degrees 26 minutes 15 seconds West 32.81 feet,
(235) South 32 degrees 31 minutes 14 seconds West 29.09 feet,
(236) South 44 degrees 32 minutes 08 seconds West 100.07 feet,
(237) South 42 degrees 18 minutes 07 seconds West 50.00 feet,
(238) South 43 degrees 33 minutes 45 seconds West 50.01 feet,
(239) South 37 degrees 08 minutes 11 seconds West 37.15 feet,
(240) South 39 degrees 17 minutes 28 seconds West 66.60 feet,
(241) South 45 degrees 57 minutes 12 seconds West 52.47 feet,
(242) South 49 degrees 49 minutes 41 seconds West 52.54 feet,
(243) South 61 degrees 06 minutes 03 seconds West 52.75 feet,
(244) South 58 degrees 53 minutes 14 seconds West 52.22 feet,
(245) South 61 degrees 40 minutes 04 seconds West 52.15 feet,
(246) South 68 degrees 11 minutes 03 seconds West 52.17 feet,
(247) South 68 degrees 39 minutes 57 seconds West 51.87 feet,
(248) South 63 degrees 31 minutes 11 seconds West 52.20 feet,
(249) South 68 degrees 23 minutes 52 seconds West 52.29 feet,
(250) South 74 degrees 54 minutes 17 seconds West 52.27 feet,
(251) South 79 degrees 32 minutes 50 seconds West 52.26 feet,
(252) South 84 degrees 04 minutes 59 seconds West 52.22 feet,
(253) South 87 degrees 31 minutes 40 seconds West 52.11 feet,
(254) South 87 degrees 33 minutes 27 seconds West 51.95 feet,
(255) South 89 degrees 14 minutes 02 seconds West 51.99 feet,
(256) North 87 degrees 12 minutes 58 seconds West 52.03 feet,
(257) North 81 degrees 27 minutes 53 seconds West 52.03 feet,
(258) North 77 degrees 48 minutes 01 seconds West 51.94 feet,
(259) North 77 degrees 40 minutes 13 seconds West 51.81 feet,
(260) North 76 degrees 59 minutes 20 seconds West 51.92 feet,
(261) North 72 degrees 53 minutes 06 seconds West 51.98 feet,

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(262) North 69 degrees 53 minutes 05 seconds West 52.04 feet,
(263) North 65 degrees 43 minutes 41 seconds West 66.47 feet,
(264) North 66 degrees 19 minutes 21 seconds West 35.73 feet,
(265) North 63 degrees 39 minutes 08 seconds West 65.00 feet,
(266) North 61 degrees 47 minutes 22 seconds West 35.02 feet,
(267) North 59 degrees 03 minutes 39 seconds West 37.70 feet,
(268) North 62 degrees 42 minutes 12 seconds West 60.65 feet,
(269) North 71 degrees 06 minutes 47 seconds West 69.46 feet,
(270) North 70 degrees 08 minutes 53 seconds West 27.81 feet,
(271) North 77 degrees 18 minutes 49 seconds West 8.33 feet,
(272) North 75 degrees 24 minutes 46 seconds West 88.71 feet,
(273) North 78 degrees 36 minutes 01 seconds West 96.83 feet,
(274) North 83 degrees 16 minutes 37 seconds West 96.77 feet,
(275) South 86 degrees 03 minutes 31 seconds West 43.85 feet,
(276) South 89 degrees 31 minutes 51 seconds West 52.94 feet,
(277) South 87 degrees 18 minutes 13 seconds West 96.03 feet,
(278) South 83 degrees 34 minutes 46 seconds West 95.93 feet,
(279) South 79 degrees 08 minutes 25 seconds West 95.90 feet,
(280) South 76 degrees 18 minutes 41 seconds West 96.02 feet,
(281) South 72 degrees 42 minutes 18 seconds West 65.43 feet,
(282) South 76 degrees 57 minutes 34 seconds West 6.80 feet,
(283) South 71 degrees 29 minutes 09 seconds West 24.12 feet,
(284) South 70 degrees 58 minutes 31 seconds West 48.40 feet,
(285) South 68 degrees 21 minutes 43 seconds West 48.50 feet,
(286) South 64 degrees 40 minutes 47 seconds West 97.30 feet,
(287) South 56 degrees 17 minutes 45 seconds West 97.33 feet,
(288) South 49 degrees 40 minutes 17 seconds West 63.26 feet,
(289) South 51 degrees 42 minutes 28 seconds West 33.97 feet,
(290) South 50 degrees 57 minutes 55 seconds West 44.70 feet,
(291) South 32 degrees 29 minutes 55 seconds West 53.86 feet,
(292) South 28 degrees 34 minutes 18 seconds West 51.66 feet,
(293) South 38 degrees 08 minutes 28 seconds West 45.66 feet,
(294) South 28 degrees 58 minutes 02 seconds West 34.69 feet,
(295) South 26 degrees 56 minutes 22 seconds West 29.77 feet,
(296) South 38 degrees 37 minutes 06 seconds West 30.96 feet,
(297) South 32 degrees 37 minutes 03 seconds West 30.05 feet,
(298) South 52 degrees 56 minutes 58 seconds West 24.75 feet,
(299) South 30 degrees 09 minutes 33 seconds West 43.11 feet,
(300) South 38 degrees 55 minutes 55 seconds West 100.37 feet,
(301) South 38 degrees 18 minutes 21 seconds West 100.28 feet,
(302) South 45 degrees 19 minutes 36 seconds West 101.98 feet,
(303) South 36 degrees 42 minutes 27 seconds West 100.11 feet,
(304) South 29 degrees 53 minutes 55 seconds West 100.26 feet,
(305) South 35 degrees 44 minutes 06 seconds West 100.05 feet,
(306) South 37 degrees 55 minutes 02 seconds West 22.05 feet,
(307) South 36 degrees 48 minutes 21 seconds West 78.09 feet,
(308) South 28 degrees 28 minutes 50 seconds West 65.30 feet,
(309) South 32 degrees 03 minutes 11 seconds West 35.02 feet,

Description - 28.98 Acres
HSM Job No.: 40367
May 17, 1991
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(310) South 32 degrees 30 minutes 33 seconds West 19.01 feet,
(311) South 37 degrees 37 minutes 26 seconds West 92.18 feet,
(312) South 33 degrees 52 minutes 11 seconds West 39.00 feet,
(313) South 30 degrees 07 minutes 36 seconds West 50.12 feet,
(314) South 29 degrees 19 minutes 44 seconds West 100.34 feet,
(315) South 38 degrees 33 minutes 05 seconds West 58.18 feet,
(316) South 23 degrees 29 minutes 45 seconds West 42.72 feet,
(317) South 34 degrees 01 minutes 00 seconds West 45.00 feet,
(318) South 40 degrees 02 minutes 11 seconds West 55.31 feet,
(319) South 40 degrees 24 minutes 26 seconds West 100.63 feet,
(320) South 31 degrees 19 minutes 33 seconds West 100.11 feet,
(321) South 28 degrees 18 minutes 22 seconds East 100.50 feet,
(322) South 23 degrees 48 minutes 46 seconds West 25.40 feet,
(323) South 32 degrees 06 minutes 27 seconds West 75.04 feet,
(324) South 35 degrees 44 minutes 06 seconds West 100.05 feet,
(325) South 31 degrees 52 minutes 09 seconds West 24.02 feet,
(326) South 34 degrees 46 minutes 14 seconds West 76.01 feet,
(327) South 38 degrees 35 minutes 26 seconds West 100.32 feet,
(328) South 36 degrees 15 minutes 00 seconds West 100.08 feet,
(329) South 37 degrees 38 minutes 09 seconds West 52.61 feet,
(330) South 38 degrees 47 minutes 31 seconds West 52.73 feet,
(331) South 41 degrees 35 minutes 58 seconds West 52.87 feet,
(332) South 45 degrees 10 minutes 15 seconds West 53.04 feet,
(333) South 48 degrees 51 minutes 14 seconds West 53.23 feet,
(334) South 51 degrees 41 minutes 15 seconds West 53.52 feet,
(335) South 53 degrees 23 minutes 06 seconds West 54.06 feet,
(336) South 54 degrees 50 minutes 52 seconds West 54.89 feet,
(337) South 61 degrees 18 minutes 39 seconds West 27.44 feet,
(338) South 70 degrees 00 minutes 09 seconds West 27.36 feet,
(339) South 80 degrees 55 minutes 58 seconds West 55.07 feet,
(340) South 76 degrees 28 minutes 55 seconds West 54.04 feet,
(341) North 89 degrees 55 minutes 13 seconds West 54.55 feet,
(342) North 89 degrees 17 minutes 29 seconds West 53.49 feet,
(343) North 87 degrees 56 minutes 04 seconds West 52.88 feet,
(344) North 87 degrees 04 minutes 28 seconds West 52.56 feet,
(345) North 88 degrees 37 minutes 04 seconds West 52.81 feet,
(346) North 87 degrees 34 minutes 55 seconds West 53.46 feet,
(347) North 87 degrees 21 minutes 10 seconds West 54.65 feet,
(348) North 80 degrees 27 minutes 35 seconds West 54.83 feet,
(349) North 73 degrees 09 minutes 20 seconds West 21.89 feet,
(350) North 67 degrees 09 minutes 56 seconds West 35.96 feet to intersect the eastern side of Bloomsbury Avenue (30' wide) thence with the eastern side of Bloomsbury Avenue and running through the Catonsville Short Line Railroad right-of-way,
(351) North 00 degrees 52 minutes 00 seconds West 111.33 feet to the southeastern corner of the intersection of Bloomsbury Avenue and Asylum Lane, thence binding on the northern right-of-way line of the above mentioned railroad the following five (5) courses and

MICROFILMED

Description - 28.98 Acres
HSM Job No.: 40367
May 17, 1991
Page 9 of 9

92-173-SPH

distances,
(352) South 67 degrees 04 minutes 39 seconds East 145.00 feet,
(353) South 74 degrees 47 minutes 30 seconds East 145.59 feet,
(354) South 88 degrees 16 minutes 23 seconds East 48.87 feet,
(355) North 83 degrees 23 minutes 10 seconds East 97.49 feet,
(356) North 74 degrees 50 minutes 59 seconds East 77.61 feet to intersect the southern side of Asylum Lane, thence running across Asylum Lane,
(357) North 22 degrees 16 minutes 45 seconds East 30.98 feet to the point of beginning.

CONTAINING 28.98 acres of land, more or less.

Saving and excepting from the above described parcel any and all parcels which may have been conveyed out for streets, roads, highways or any other purpose.

This description was prepared from Catonsville Shortline Railroad Plats dated 1883 and is intended for zoning purposes. This description in no way represents a field survey of the parcel described nor makes any statement as to the party or parties in whom title may be vested.

JAM/sut

NOLAN C. HATHCOCK
No. 613

MICROFILMED

92-173-SPH

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 1st — Date of Posting October 28, 1991
Posted for: Special Hearing
Petitioner: Caton and Loudon Railway Company, Inc.
Location of property: E/S Bloomsbury Avenue, N Holmes Avenue Caton-Loudon Railway right-of-way to City Line
Location of Signs: East side of Bloomsbury Avenue, approx. 300' East of Spring Grove Lane
Remarks:
Posted by S. J. Arata (Signature) — Date of return: November 1, 1991
Number of Signs: 1

MICROFILMED

[illegible]

Case Number: 92-173-SPH
E/S Bloomsbury Avenue, N Holmes Avenue
Caton-Loudon Railroad right-of-way to City line
1st Election District
1st Councilmanic
Petitioner(s):
Caton & Loudon Railway Company, et al
Hearing Date: Wednesday, November 20, 1991 at 10:30 a.m.

Special Hearing: to approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwellings units on Parcel A.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
[illegible] October 31.

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/31, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/31, 1991.

THE JEFFERSONIAN,

S. Zeke Orlan
Publisher

$65.34

MICROFILMED

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

887-3353

DATE: 11-5-91

COPY

Caton and Loudon Railway Company
Suite 275 Commercenter East
1777 Reisterstown Road
Baltimore, Maryland 21208

ATTN: HOWARD L. CHERTKOF

RE:
Case Number: 92-173-SPH
E/S Bloomsbury Avenue, N Holmes Avenue
Caton-Loudon Railroad right-of-way to City Line
1st Election District - 1st Councilmanic
Petitioner(s): Caton & Loudon Railway Company, et al
HEARING: WEDNESDAY, NOVEMBER 20, 1991 at 10:30 a.m.

Dear Petitioner(s):

Please be advised that $ 90.34 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID. ALSO, THE ZONING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Lawrence E. Schmidt
Lawrence E. Schmidt
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

cc: Julius Lichter, Esq.

MICROFILMED

CERTIFICATE OF PUBLICATION

10/31, 1991

THIS IS TO CERTIFY, that the annexed advertisement was published in the ARBUTUS TIMES, a weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 10/31, 1991.

ARBUTUS TIMES

S. Zeke Orlan
Publisher

$65.34

[illegible]

Case Number: 92-173-SPH
E/S Bloomsbury Avenue, N Holmes Avenue
Caton-Loudon Railroad right-of-way to City line
1st Election District
1st Councilmanic
Petitioner(s):
Caton & Loudon Railway Company, et al
Hearing Date: Wednesday, November 20, 1991 at 10:30 a.m.

Special Hearing: to approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwellings units on Parcel A.

LAWRENCE E. SCHMIDT
Zoning Commissioner of Baltimore County
AJ/10/332 October 31.

MICROFILMED

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account Number: R-001-6150

MICROFILMED

Please Make Checks Payable To: Baltimore County

Cashier Validation

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account Number: R-001-6150

MICROFILMED

Please Make Checks Payable To: Baltimore County $25.00

Cashier Validation

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account Number: R-001-6150

MICROFILMED

04A04#0068MICHRC $150.00
BA C010:07AM02-24-92

(FLORENCE APPEAL)

Please Make Checks Payable To: Baltimore County

Cashier Validation

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

92-173-SPH

District 1 — Date of Posting February 29, 1992
Posted for: [illegible]
Petitioner: E. Robert Chertkof, et al
Location of property: E/S Bloomsbury Ave, N of Holmes Ave. at Caton Loudon R.R.
Location of Signs: E/S Bloomsbury Ave. in front of subject property
Remarks:
Posted by S. J. Arata (Signature) — Date of return: March 6, 1992
Number of Signs: 1

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date AP APPEAL [illegible] 1/17/92 on BEHALF OF PETITIONERS BY JULES LICHTER

Account Number: R-001-6150

LICHTER

Please Make Checks Payable To: Baltimore County $125.00

Cashier Validation

MICROFILMED

Baltimore County
Zoning Commisioner
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

receipt

Date

Account Number: R-001-6150

92-173

04A04#0083MICHRC $90.34
BA C012:37PM11-15-91

Please Make Checks Payable To: Baltimore County

Cashier Validation

MICROFILMED

CAS[illegible]O. 92-CV-10254
IN THE MATTER OF THE APPLICATION OF E. ROBERT CHERTKOF, ET AL v.

RECEIVED FROM THE COUNTY BOARD OF APPEALS EXHIBITS, BOARD'S RECORD EXTRACT & TRANSCRIPT FILED IN THE ABOVE-ENTITLED CASE, AND ZONING COMMISSIONER'S FILE & EXHIBITS.

Gloria Butte
Clerk's Office

Date: Jan. 8, 1993

Form CA4

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

Irene Summers – 887-2660
Civil Assignment Commissioner

[illegible] – 887-[illegible]
Jury Assignments—Civil
General Settlement Conferences

– 887-[illegible]
Non-Jury Assignments—Civil
Special Settlement Conferences

TO:

March 4, 1993

David B. Fishman, ESq.
Nancy E. Paige, Esq.

Michael P. Tanczyn, ESq.

Phyllis Cole Friedman, ESq.
Pete Max Zimmerman, ESq.

County Board of Appeals

CORRECTED NOTICE TO INCREASE TIME ESTIMATE FOR TRIAL.

RECEIVED
COUNTY BOARD OF APPEALS
93 MAR -8 PM 2:29

RE: Non Jury 92 CV 10254 Matter of E. Robert Chertof

HEARING DATE: Wednesday, April 21, 1993, @ 9:30 a.m.

ON THE FOLLOWING: Appeal: 2 1/2 Hours

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement if reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

CIRCUIT COURT FOR BALTIMORE COUNTY
ASSIGNMENT OFFICE
COUNTY COURTS BUILDING
401 Bosley Avenue
P.O. Box 6754
Towson, Maryland, 21285-6754

[illegible]

[illegible] – 887-[illegible]
Jury Assignments—Civil
General Settlement Conferences

– 887-[illegible]
Non-Jury Assignments—Civil
Special Settlement Conferences

TO:

February 2, 1993

DAVID B. FISHMAN, ESQ.
NANCY E. PAIGE, ESQ.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MICHAEL P. TANCZYN, ESQ.

PHYLLIS COLE FRIEDMAN, ESQ.
PETE MAX ZIMMERMAN, ESQ.

RECEIVED
COUNTY BOARD OF APPEALS
93 FEB -3 AM 11:19

RE: NON JURY 92CV-10254 IN THE MATTER OF E. ROBERT CHERTOF VS. PEOPLE COUNSEL, BALTO. CO. MD.

HEARING DATE: WEDNESDAY, APRIL 21, 1993 @ 9:30 A.M.

ON THE FOLLOWING: APPEAL 1 Hour

Please see the below notations.

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to conform calendars. Claim of not receiving notice will not constitute reason for postponement.

If the above Hearing Date is not agreeable to any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS PRIOR TO 30 DAYS OF TRIAL should be directed to the attention of Irene Summers. POSTPONEMENTS WITHIN 30 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments-Joyce Grimm-887-3497.

SETTLEMENTS: If a settlement if reached prior to the hearing date, the Assignment Office must be notified immediately. All settlements must be put on the record if no order of satisfaction is filed prior to trial.

Baltimore County Government
Office of Zoning Administration
and Development Management
Office of Planning & Zoning

111 West Chesapeake Avenue
Towson, MD 21204

COPY

887-3353

OCTOBER 22, 1991

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

Case Number: 92-173-SPH
E/S Bloomsbury Avenue, N Holmes Avenue
Caton-Loudon Railroad right-of-way to City Line
1st Election District - 1st Councilmanic
Petitioner(s): Caton & Loudon Railway Company, et al
HEARING: WEDNESDAY, NOVEMBER 20, 1991 at 10:30 a.m.

Special Hearing to approve the transfer of density from the railroad property to a parcel of land adjoining said property and all owned and/or controlled by the same parties to allow for the clustering of 96 dwellings units on Parcel A.

Lawrence E. Schmidt
Lawrence E. Schmidt

Zoning Commissioner of
Baltimore County

cc: Caton and Loudon Railway Company
Julius W. Lichter, Esq.

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

March 12, 1992

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-173-SPH
E. ROBERT CHERTKOF, ET AL
E/s Bloomsbury Ave., N of Holmes
Avenue at Caton/Loudon Railroad
1st Election District;
1st Councilmanic District
SPH-density transfer Parcel B to A/
clustering 83 dwelling units.

12/18/91 - Z.C.'s Order GRANTING
Petition with restrictions.

ASSIGNED FOR: THURSDAY, JULY 2, 1992 AT 10:00 a.m.

cc: Mr. Paul L. Erickson - Protestant/Appellant
Retirement & Health Serv. Corp.
Ms. Nan Florence, Vice Pres. - " "
South Rolling Road Comm. Assoc.
Julius W. Lichter, Esquire - Counsel for Petitioner/Appellant
Mr. E. Robert Chertkof - " "
Caton and Loudon Railway Co.
Mr. Richard H. Cassell
Mr. and Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. and Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
Mr. Robert C. Hoerl
People's Counsel for Baltimore County
P. David Fields
Public Services
Lawrence E. Schmidt
Timothy M. Kotroco
W. Carl Richards, Jr.
Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Mr. Richard Decker
Ms. Caroline Alder
Phylene Raven
Lee Cimino
Ms. Paula Dennis
Dr. Kurt Sfiffert
Mr. Dale Mauerhan

LindaLee M. Kuszmaul
Legal Secretary

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

MAR 13 1992

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

March 12, 1992

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 RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-173-SPH
E. ROBERT CHERTKOF, ET AL
E/s Bloomsbury Ave., N of Holmes
Avenue at Caton/Loudon Railroad
1st Election District;
1st Councilmanic District
SPH-density transfer Parcel B to A/
clustering 83 dwelling units.

12/18/91 - Z.C.'s Order GRANTING
Petition with restrictions.

ASSIGNED FOR: THURSDAY, JULY 2, 1992 AT 10:00 a.m.

cc: Mr. Paul L. Erickson - Protestant/Appellant
Retirement & Health Serv. Corp.
Ms. Nan Florence, Vice Pres. - " "
South Rolling Road Comm. Assoc.
Julius W. Lichter, Esquire - Counsel for Petitioner/Appellant
Mr. E. Robert Chertkof - " "
Caton and Loudon Railway Co.
Mr. Richard H. Cassell
Mr. and Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. and Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
Mr. Robert C. Hoerl
People's Counsel for Baltimore County
P. David Fields
✓Public Services
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Docket Clerk - Zoning
Arnold Jablon, Director of Zoning Administration

Mr. Richard Decker
Ms. Caroline Alder
Phylene Raven
Lee Cimino
Ms. Paula Dennis
Dr. Kurt Sfiffert
Mr. Dale Mauerhan

LindaLee M. Kuszmaul
Legal Secretary

Yes ✓ or No —

Printed on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

April 30, 1992

NOTICE OF REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-173-SPH
E. ROBERT CHERTKOF, ET AL
E/s Bloomsbury Ave., N of Holmes
Avenue at Caton/Loudon Railroad
1st E; 1st C
SPH-density transfer Parcel B to A/
clustering 83 dwelling units.
12/18/91 - Z.C.'s Order GRANTING
Petition with restrictions.

which was scheduled to be heard on July 2, 1992 has been **REASSIGNED** at the request of Counsel for Protestant/Appellant South Rolling Road Community Association and has been:

REASSIGNED FOR: FRIDAY, JUNE 26, 1992 AT 10:00 a.m.

cc: Mr. Paul L. Erickson - Protestant/Appellant
Retirement & Health Serv. Corp.
Michael P. Tanczyn, Esquire - Counsel for South Rolling Road Comm. Assoc.
Ms. Nan Florence, Vice Pres. - Protestant/Appellant
South Rolling Road Comm. Assoc.
Julius W. Lichter, Esquire - Counsel for Petitioner/Appellant
Mr. E. Robert Chertkof - " "
Caton and Loudon Railway Co.
Mr. Richard H. Cassell
Mr. and Mrs. Roger Graft
Mr. Larry Wilt
Ms. Janice Kraus
Mr. and Mrs. Paul Pohuski
Mr. Charles B. Reisenweber
Mr. John Reese
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People's Counsel for Baltimore County
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W. Carl Richards, Jr.

LindaLee M. Kuszmaul
Legal Secretary

Printed on Recycled Paper

County Board of Appeals of Baltimore County
OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

RECEIVED
APR 30 1992
BUREAU OF PUBLIC SERVICES

Hearing Room -
Room 48, Old Courthouse
400 Washington Avenue

April 30, 1992

NOTICE OF REASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH RULE 2(b). NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE UNLESS IN FULL COMPLIANCE WITH RULE 2(c), COUNTY COUNCIL BILL NO. 59-79.

CASE NO. 92-173-SPH
E. ROBERT CHERTKOF, ET AL
E/s Bloomsbury Ave., N of Holmes
Avenue at Caton/Loudon Railroad
1st E; 1st C
SPH-density transfer Parcel B to A/
clustering 83 dwelling units.
12/18/91 - Z.C.'s Order GRANTING
Petition with restrictions.

which was scheduled to be heard on July 2, 1992 has been **REASSIGNED** at the request of Counsel for Protestant/Appellant South Rolling Road Community Association and has been:

REASSIGNED FOR: FRIDAY, JUNE 26, 1992 AT 10:00 a.m.

cc: Mr. Paul L. Erickson - Protestant/Appellant
Retirement & Health Serv. Corp.
Michael P. Tanczyn, Esquire - Counsel for South Rolling Road Comm. Assoc.
Ms. Nan Florence, Vice Pres. - Protestant/Appellant
South Rolling Road Comm. Assoc.
Julius W. Lichter, Esquire - Counsel for Petitioner/Appellant
Mr. E. Robert Chertkof - " "
Caton and Loudon Railway Co.
Mr. Richard H. Cassell
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Docket Clerk - Zoning
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Mr. Dale Mauerhan
P. David Fields
Lawrence E. Schmidt
W. Carl Richards, Jr.

LindaLee M. Kuszmaul
Legal Secretary

Yes ✓ or No —

Printed on Recycled Paper