12/6.a.

IN THE MATTER OF THE APPLICATION OF JEROME LEIBOWITZ, POA FOR BARBARA LEIBOWITZ /ESTATE OF JEFFREY LEIBOWITZ -PETITIONER FOR A ZONING RECLASSIFICATION ON PROPERTY LOCATED ON THE SOUTHWEST SIDE OF REISTERSTOWN ROAD, 125'+/- SOUTHEAST OF BRIGHTSIDE AVENUE 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. R-97-137 (Out of Cycle)

* * * * * * * * * *

O P I N I O N

This case comes before the Board of Appeals based on a Petition for Reclassification filed to change the present zoning of 674 Reisterstown Road from D.R. 5.5 to B.L. The Baltimore County Council by unanimous Resolution 62-96, at its August 5, 1996 meeting, had approved the Planning Board's certification that the zoning reclassification petition filed by Jerome Leibowitz, as Power of Attorney for Barbara Leibowitz, for the parcel of land located at 674 Reisterstown Road, and situated in the Second Councilmanic District, should be exempted from the regular cyclical procedures of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

Pursuant to Section 2-356(i), this Board is charged with the responsibility of conducting a public hearing to hear testimony and evidence to support the reclassification request in accordance with the provisions of Section 2-356(j)(2) of the Baltimore County Code.

The subject property is located at the southwest side of Reisterstown Road, 125 feet (m/l), southeast of the centerline of Brightside Avenue, known as 674 Reisterstown Road and consists of approximately 5,710 (m/l) sq. ft. (0.1311 acre); and is presently zoned D.R. 5.5.

Leslie M. Pittler, Esquire, represented the Petitioner. Peter Max Zimmerman, People's Counsel for Baltimore County, participated in these proceedings.

Mr. Jerry Leibowitz testified on behalf of the Petitioner. He is handling the property for his brother's estate. The property has been zoned for residential usage for a substantial number of years. Petitioner's Exhibit No. 1 reflects a Contract of Sale to Sylvia Wilner of the property and alleges that the property is zoned "Business Local." Petitioner's Exhibit No. 2 was admitted showing a Boundary Survey dated May 18, 1968, specifying B.L. zoning. Petitioner's Exhibit No. 3 reflects three Code violations issued by the Baltimore County Department of Permits & Development Management also referencing a B.L. zoning.

Petitioner's Exhibit No. 4 clearly indicates that the property is zoned B.L. by the Maryland Department of Taxation for assessment purposes. Petitioner's Exhibit No. 5 was admitted showing an appraisal of the subject property by Tilson & Becker, Real Estate Appraisers, as of November 14, 1995 with the property zoned B.L. (p. 6). Mr. Leibowitz testified that this firm is no longer in business. He further stated that the present retail business was placed on the market for sale after his brother's death in November 1995.

Mr. Leibowitz testified that his mother, the owner of the New York Outlet, had originally purchased the property in December 1978; and was under the impression that it was zoned B.L.; and that

impression had always been carried through the subsequent years. His brother had become the sole owner/stockholder in the New York Outlet, and his mother, who is now 83 years of age, maintained the business, but her advanced age and a reduction in revenue caused the property to be placed on the market for sale in the summer of 1995. He further stated that placing the property on the market had uncovered the present D.R. 5.5 zoning, which caused further inquiry to Pat Keller, Director, Office of Planning (Petitioner's Exhibit No. 6). Mr. Leibowitz stated that there has been interest in the property by perspective purchasers, but not as a residence; its current D.R. 5.5 zoning was hindering any possible sale. Its only potential is as a commercial property.

On cross-examination by Mr. Zimmerman, Mr. Leibowitz stated that he was not a part of the business, the heavily commercial aspects of the Reisterstown Road corridor encompassing the property; and clearly the property was commercial and, in no sense, residential in nature.

Testimony clearly demonstrated that the business had been commercial for 28 years, and that there were no residences fronting along Reisterstown Road. Petitioner's Exhibit No. 7, which was also admitted into evidence, represented site data prepared by KCI Technologies, Inc. There are no residences on the subject side of Reisterstown Road, with the rear of the property having a residence, bank, and the Pikesville Armory.

Mr. Jeffrey Long also testified in support of the reclassification. He is a Planner II with the Planning department

and has testified many times before this Board in previous reclassification matters. He explained the out-of-cycle process, and the recommendation to change the zoning made before the Planning Board. The County Council unanimously approved the Planning Board's out-of-cycle certification on August 5, 1996. He further stated that this property was within the Pikesville Revitalization area; and its highest and best use was as a commercial property, and it could not possibly function as a residence. He reviewed Petitioner's Exhibits No. 8, No. 9, No. 10 and No. 11, and testified that originally the zoning on the property had been designated for "public use" as part of the Pikesville Armory (1955 Map, 1971 Map); and in 1976, there was no longer any "public use zoning" category, and there was no doubt in his mind but that an error was present in designating the property D.R. 5.5, which was the designation of the Pikesville Armory in the rear of the property, with the property continuing to be shown as part of the Pikesville Armory. The 1,000-scale map continues to show the property as B.L. Mr. Long stated that only four properties with frontage on Reisterstown Road close to the subject property have residential zoning (the Druid Ridge Cemetery, Pikesville Armory, a portion of the Pomona Village, and the subject property).

He further testified that the Petitioner's property is the only one of its physical type zoned residential from I-695 to the City line; and that the rezoning to B.L. is consistent with the Master Plan (p. 92). The property had never been raised as a

Comprehensive Zoning Map issue, since his department was not aware of the inconsistency with the zoning. The Planning Office was recommending the reclassification of the property to B.L. zoning. He stated that there would be no adverse impact in the area if the reclassification were granted.

On cross-examination by Mr. Zimmerman, Mr. Long testified that several decades ago the property was included in the "public use zone" as part of the Pikesville Armory in 1955; and, as of 1976, with the same zoning line in place, the "public use zone" designation had become D.R. 5.5. Thus, the Armory and the small subject site were now zoned D.R. 5.5. This D.R. 5.5 zoning does not contemplate commercial usage, although the property has been utilized and thought to be B.L. since 1955 by both the owners and the Planning Office. Mr. Long stated that it was essential to rezone the property to B.L. to be in harmony with the Master Plan, and the Pikesville Revitalization Plan, which is to encourage new business in the Pikesville area, along with the goals of the community conservation efforts. He stated that the error pre-dated the Comprehensive Zoning Map Process; and did not fit in with the zoning /line drafting correction criteria; that is, technical drafting error, so that the reclassification process was the proper course of action to pursue.

This Board may reclassify property only if it finds "...that there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification was in error"

[Baltimore County Code, Section 2-356(j)(1)]. Additionally, if the Board does find change or error, the Board must then determine whether the reclassification is warranted by that change or error; and must also consider a list of factors which the Board must consider in reaching a decision [Baltimore County Code, Section 2-356(j)(2)]. In the case at bar, it is alleged by the Petitioner that the zoning classification established long before 1955 was in error.

The burden of proof is on the Petitioner to show that the zoning was established in error. There must be demonstrated, at the time of the public hearing, that specific facts were not readily visible or discernible at the time of the Comprehensive Zoning, and by adducing testimony on the part of those preparing the plan, that the then-existing facts were not taken into account. Clearly the testimony offered at the hearing by Mr. Leibowitz and Mr. Long was demonstrative that the subject property should never have been classified as D.R. 5.5, since there is no question but that the immediate area is heavily commercial by nature. The Planning Board and the Planning Office support the reclassification; and People's Counsel has no strong opposition to the reclassification. The Board's file does not reflect any opposition to the reclassification; and no protestants appeared at the Board's hearing.

The testimony and evidence more than satisfied the requirements of Section 2-356(j)(2) relative to any impact on the community if the reclassification were granted. Absolutely no

impact was noted in any of the testimony or evidence submitted at the public hearing. Additionally, the testimony and evidence clearly indicate that the property has long had the inappropriate zoning; and that the approval of the reclassification petition will accord the subject property with the B.L. zoning that is the proper zoning based on the overwhelming factual testimony and evidence produced at the hearing to warrant the requested change.

O R D E R

IT IS THEREFORE, this 6th day of December, 1996 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification from D.R. 5.5 to B.L. be and the same is hereby **GRANTED.**

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Charles L. Marks, Acting Chairman

Margaret Worrall

Margaret Worrall

Harry E. Buchheister Jr.

Harry E. Buchheister, Jr.

12/6/96

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

December 6, 1996

Leslie M. Pittler, Esquire
Suite 610, 29 W. Susquehanna Avenue
Towson, MD 21204

RE: Case No. R-97-137
Jerome Leibowitz, POA for Barbara Leibowitz; Estate of Barry M. Leibowitz

Dear Mr. Pittler:

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.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the Maryland Rules and Procedure. If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Charlotte E. Radcliffe for
Kathleen C. Bianco
Legal Administrator

Enclosure

cc: Jerome Liebowitz
KCI Technologies, Inc.
James Earl Kraft
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
Arnold Jablon, Director /PDM
Virginia W. Barnhart, County Attorney

R-97-137

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at 674 Reisterstown Road

This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an DR 5.5 zone to an BL zone, for the reasons given in the attached statement; and (2) for a Special Exception under the Zoning Regulations of Baltimore County, to use the herein described property for:

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

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

I, or we, agree to pay expenses of above Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

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.

Contract Purchaser/Lessee:

(Type or Print Name)

Signature

Address

City State Zipcode

Attorney for Petitioner:

Leslie M. Pittler

(Type or Print Name)

Leslie M. Pittler

Signature

29 W. Susquehanna Ave, Ste. 610

Address Phone No.

Towson, MD 21208

City State Zipcode

(410) 823-4455

OK to P.C. 9/25/96

Legal Owner(s):

Executrix of Estate of

Barbara Leibowitz - BARRY M. Leibowitz

(Type or Print Name)

Barbara Leibowitz Executrix of Estate of Barry M. Leibowitz

Signature

(Type or Print Name)

Signature

Address Phone No.

City State Zipcode

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

JEREY LEIBOWITZ

Name

3510 GARDENVIEW RD 494-8377

Address Phone No.

21208

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING

unavailable for Hearing

the following dates Next Two Months

ALL OTHER

REVIEWED BY: DATE

R-97-137

STATEMENT IN SUPPORT OF RECLASSIFICATION

A: That subject property seems to have had a zoning designation as R6 as far back as 1955. R6 is the equivalent of DR 5.5.

B: That the 1971 Zoning Maps of Baltimore County show no zoning classification the subject property.

C: That from 1976 to the present the Zoning Maps of Baltimore County again showed the property zoned as DR 5.5.

D: That on the 21st day of March, 1968, there was a contract of sale pertaining to the subject property wherein the sellers represented to the Buyers that the subject property "... is presently zoned Business Local as shown on the plat". That the plat in question was dated March 18, 1968.

E: That the subject property according to the commercial division of the State Department of Assessments & Taxation is zoned BL and has been at least since 1982/1983.

F: That the subject property has been considered commercial by the Office of Planning since consideration of the Pikesville Plan.

G: That a review of the zoning designations from the Baltimore City line to the Beltway indicates that the only appropriate zoning for the subject site is a commercial zoning designation.

H: That the use of the site for the past 28 years has been commercial.

I: That it is obvious that in spite of the actual zoning the considered zoning of the subject property has been commercial.

J: That had the Office of Planning realized that the subject property was not zoned BL, it would have made the property an issue on the 1996 Baltimore County Comprehensive Zoning Map process and would have asked for BL zoning for the site.

K: It is thus clear the subject site should be reclassified due to error and mistake rule.

R-97-137

KCI TECHNOLOGIES

DESCRIPTION
NO. 674 REISTERSTOWN ROAD
ELECTION DISTRICT NO. 2, BALTIMORE CO., MD

This description is for the reclassification of the property from "DR-5.5" to "BL"

BEGINNING FOR THE SAME at a point on the southwest side of Reisterstown Road (66′ wide), said point of beginning being South 36 degrees 59 minutes 10 seconds East 100.33′ from the southeast right-of-way line of Brightside Avenue (50′ wide); with its intersection with the southwest right-of-way line of Reisterstown Road (66′ wide); thence binding on the southwest right-of-way line of Reisterstown Road

1) South 36 degrees 59 minutes 10 seconds East 64.18′ to the property of the State of Maryland, thence binding on said line

2) South 75 degrees 00 minutes 20 seconds West 145.52′; thence

3) North 32 degrees 18 minutes 10 seconds West 20.67′, thence

4) North 57 degrees 41 minutes 50 seconds East 10.00′ more or less to intersect the existing "BL/DR 5.5" zone line shown on Baltimore County Zoning Map NW7-E, thence binding on said zoning line and on the northwest line of said property,

5) North 57 degrees 41 minutes 50 seconds East 123.69′ more or less to the place of beginning.

Comprising a total of 0.1311 acres, more or less (5,710 sq. ft. more or less).

[redacted]

Case # R-97-137
6/4 Reisterstown Road
SW/S Reisterstown Road, 125' +/- SE of c/l Brightside Avenue
3rd Election District
2nd Councilmanic
Legal Owner(s):
Barbara Leibowitz, Extrix Estate Barry M. Leibowitz
Reclassification Petition: to change the property's zoning from D.R. 5.5 to B.L.
HEARING: Wednesday, October 23, 1996 at 10:00 A.M. in Room 48, Old Courthouse, 400 Washington Avenue, Towson.

ROBERT O. SCHUETZ,
Chairman
County Board of Appeals

10/060 Oct. 3 C88141

CERTIFICATE OF PUBLICATION

TOWSON, MD., 10/3, 1996

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 10/3, 1996.

THE JEFFERSONIAN,

A. Henriksen

LEGAL AD. - TOWSON

[redacted]

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

No. 023375

OUT-OF-CYCLE RECLASSIFICATION
item #143 #R-97-137

DATE 9/26/96 ACCOUNT 001-6181

AMOUNT $ 500.00

RECEIVED FROM: Leslie M. Pittler

#072 - RECLASSIFICATION
674 Reisterstown Road

FOR:

03A91#0382MICHRC $500.00
BA C002:40PM09-26-96

VALIDATION OR SIGNATURE OF CASHIER

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

Post-it® Fax Note 7671 | Date | # of pages ▶
To PATUYENT | From GWEN
Co./Dept LEGAL | Co. ZONING
Phone # | Phone # 887-3391
Fax # | Fax # " -2824

TO: JEFFERSONIAN
FOR: OCTOBER 3, 1996 ISSUE

PLEASE FOWARD BILLING TO:

LESLIE M. PITTLER, ESQ.
29 W. SUSQUEHANNA AVENUE, #610
TOWSON, MD 21204

823-4455

CASE NUMBER: R-97-137
674 Reisterstown Road
SW/S Reisterstown Road, 125'+/- SE of c/l Brightside Avenue
3rd Election District - 2nd Councilmanic
Legal Owner(s): Barbara Leibowitz, Exitrix Estate Barry M. Leibowitz

Reclassification Petition to change the property's zoning from D.R.-5.5 to B.L.

HEARING: WEDNESDAY, OCTOBER 23, 1996 AT 10:00 A.M. IN ROOM 48, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON.

ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

Kathi
I forgot to include this in your "stuff" fo the reclass.
Sophia

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
(410) 887-3180

September 30, 1996

NOTICE OF HEARING

CASE NUMBER: R-97-137
674 Reisterstown Road
SW/S Reisterstown Road, 125'+/- SE of c/l Brightside Avenue
3rd Election District - 2nd Councilmanic
Legal Owner(s): Barbara Leibowitz, Exitrix Estate Barry M. Leibowitz

Reclassification Petition to change the property's zoning from D.R.-5.5 to B.L.

HEARING: WEDNESDAY, OCTOBER 23, 1996 AT 10:00 A.M. IN ROOM 48, OLD COURTHOUSE, 400 WASHINGTON AVENUE, TOWSON.

Robert O. Schuetz

ROBERT O. SCHUETZ, CHAIRMAN
COUNTY BOARD OF APPEALS

cc: Jerry Leibowitz
Leslie M. Pittler, Esq.

10/23/96 -Hearing concluded before the Board. Open deliberation immediately following conclusion of hearing this date. Petition for Reclassification GRANTED by unanimous decision of Board. Written Opinion /Order to be issued; appellate period to run from date of written Order. C.W.B.

6/11/97

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director **DATE:** June 11, 1997
Permits & Development Management

FROM: Charlotte E. Radcliffe
County Board of Appeals

SUBJECT: Closed File: Case No. R-97-137
JEROME LEIBOWITZ, POA for
BARBARA LEIBOWITZ / ESTATE OF
JEFFREY LEIBOWITZ
3rd E; 2nd C

As no further appeals have been taken regarding the subject case, we are hereby closing the file and returning same to you herewith.

Attachment (Case File No. R-97-137)

8/7/96

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

Inter-Office Correspondence

TO: Arnold Jablon, Director **DATE:** August 7, 1996
Department of Permits & Development Management

FROM: Kathleen C. Bianco
County Board of Appeals

SUBJECT: Out-of-Cycle Exemption-
Request for Reclassification /674 Reisterstown Road filed by Jerome Leibowitz, Power of Attorney for Barbara Leibowitz -Property Owner
Second Councilmanic District
Approval by County Council August 5, 1996
Date for Hearing before the Board - 10/23/96 @ 10:00 a.m.

Pursuant to Section 2-356(i), the Board has scheduled the subject out-of-cycle reclassification petition for hearing on Wednesday, October 23, 1996 at 10:00 a.m. in Room 49, Old Courthouse.

This petition for reclassification was approved for hearing out of cycle by the County Council at its August 5, 1996 meeting (a copy of Resolution 62-96 is attached for your information and file).

I have copied Gwen on this memorandum so that the necessary advertising and posting can be accomplished by your office and notices sent to the appropriate parties reflecting the hearing date of October 23, 1996.

Should you have any questions, please call me at extension 3180.

kathi

cc: Carl Richards, Jr. /PDM
Gwen Stephens /PDM
Jeffrey Long /Planning
Office of People's Counsel
The Honorable Kevin Kamenetz
Baltimore County Council

file copy

Gwen: Please call me with the case number for this out-of-cycle so I can complete my docket entry. Also, please send me a copy of the notice when it is sent to the parties regarding this hearing date.

Thanks

kathi

Lisa Rittler

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: September 27, 1996

TO: Baltimore County Zoning Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Supervisor (887-3391)

SUBJECT: Out-of-Cycle Documented Zoning Reclassification Petition
Case Number R-97-137
Legal Owner: Barbara Leibowitz, Exitrix of Estate of Barry M. Leibowitz
Address: 674 Reisterstown Road
Description: SW/S Reisterstown Road, 125' +/- SE of centerline 3rd Brightside Avenue
2nd Election District; 2nd Councilmanic District

THE ABOVE REFERENCED PETITION HAS BEEN EXEMPTED FROM THE REGULAR CYCLICAL BI-YEARLY ZONING RECLASSIFICATION PROCEDURE BY CERTIFICATION OF THE BALTIMORE COUNTY PLANNING BOARD ON JUNE 21, 1996 AND BY RESOLUTION NO. 62-96 OF THE BALTIMORE COUNTY COUNCIL DATED AUGUST 5, 1996 (ATTACHED). PURSUANT TO SECTION 2--356(I) OF THE BALTIMORE COUNTY CODE, THE COUNTY BOARD OF APPEALS HAS SET A VERY EARLY HEARING DATE OF WEDNESDAY, OCTOBER 23, 1996. YOU ARE REQUESTED TO EXPEDITE YOUR REVIEW AND FORWARD YOUR COMMENTS TO THIS OFFICE UNDER THE ABOVE REFERENCE PRIOR TO THE HEARING DATE. IF YOU NEED ADDITIONAL MATERIALS TO COMPLETE YOUR COMMENTS, YOU SHOULD CONTACT THE ENGINEER, ATTORNEY, OR MYSELF IMMEDIATELY.

WCR:scj
Revised 11/1/95

10/16/96

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

INTER-OFFICE CORRESPONDENCE

TO: Robert O. Schuetz, Chairman
Baltimore County Board of Appeals

DATE: October 16, 1996

FROM: Arnold F. 'Pat' Keller, III, Director
Office of Planning

SUBJECT: CASE NO. R-97-137
BARBARA LEIBOWITZ, EXECUTRIX OF THE ESTATE OF
BARRY M. LEIBOWITZ - 674 REISTERSTOWN ROAD

At its regularly scheduled monthly meeting on June 21, 1996, the Baltimore County Planning Board voted in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the Petition for Zoning Reclassification of the subject property was manifestly required.

The County Council unanimously approved a Resolution approving the Planning Board's certification on August 25, 1996.

Enclosed herewith is a copy of the report of the Office of Planning.

Arnold F. 'Pat' Keller, III

AFK:JL:bjs

Enclosure

R97-137.96/PZONE/CYCLE

10/16/97

CASE NO. R-97-137

PETITIONER:

Barbara Leibowitz, Executrix of the Estate of Barry M. Leibowitz

REQUESTED ACTION:

Reclassification to a BL (Business Local) zone

EXISTING ZONING:

DR 5.5

LOCATION:

Southwest side of Reisterstown Road, 125 feet southeast of the center line of Brightside Avenue (674 Reisterstown Road)

AREA OF SITE:

5,710 square feet

ZONING OF ADJACENT PROPERTY/USE:

North:	BL	- Commercial
South:	DR 5.5	- Maryland National Guard Armory
East:	DR 2	- Suburban Club of Baltimore County
West:	DR 5.5	- Single-family, detached dwellings

SITE DESCRIPTION:

The site is improved with a two-story frame structure which has housed a succession of retail uses since 1968.

WATER AND SEWERAGE:

The area is served by public water and sewer, and designated as W-1, S-1 (existing service area) according to the Master Water and Sewer Plan.

TRAFFIC AND ROADS:

The site has direct access to Reisterstown Road, a major arterial.

ZONING HISTORY:

The site has been zoned DR 5.5 since 1976.

MASTER PLAN/COMMUNITY PLANS:

The property is designated "Institutional" on both the 1995 Proposed Land Use Map, and the existing land use map contained within the Pikesville Revitalization District Plan. The site's relatively small land area and its contiguity to the Maryland National Guard Armory resulted in an apparent classification misidentification.

PROPOSED VS. EXISTING ZONING:

The regulations governing DR zoning may be found in Section 1B01.1A of the Baltimore County Zoning Regulations (BCZR). Section 203 of the BCZR contains regulations covering the BL zone.

OFFICE OF PLANNING'S RECOMMENDATIONS:

The subject site has been marketed, sold, taxed, and utilized as a commercial property since, at least, 1968. As the site is located within the area of the Pikesville Revitalization Plan, it is of critical importance that there be a viable use of the property to insure proper maintenance.

An analysis of the Reisterstown Road corridor between the City line and I-695 indicates there are three other properties with residential frontage along Reisterstown Road. The Pomona development has significant frontage along Reisterstown Road; however, that residential frontage contains a parking area for the commercial component of the development and the remaining area is dedicated open space (with no development potential).

The Suburban Club of Baltimore also has residentially zoned property fronting on Reisterstown Road. Future redevelopment of this site is not anticipated.

As with the two above-mentioned properties, the Maryland National Guard Armory (zoned DR 5.5) has frontage on Reisterstown Road. Again, as is the case with the Suburban Club of Baltimore, redevelopment is not anticipated particularly due to the site's historical significance.

These three examples indicate that no residentially zoned and occupied structure exists along Reisterstown Road between the City line and the Beltway. Therefore, use of the subject site as a residence (its only permitted use) would be incompatible with the existing commercial, institution and office uses located along this portion of Reisterstown Road.

Clearly, it would not be in the public interest to allow this property to remain vacant until the 2000 Comprehensive Zoning Map Process.

Our analysis indicates no viable residential use of the property exists; therefore, it would not be in the public interest to allow this property to remain vacant until the zoning is examined as part of the next Comprehensive Zoning Map Process.

Based upon a review of the information provided and analysis conducted, staff supports the applicant's request.

MISTAKE/CHANGE/ERROR:

It is the position of the Office of Planning that the Baltimore County Council erred when the Comprehensive Zoning Maps were last approved, in that compatibility issues and the site's long standing land use were not considered in order to appropriately reclassify the property.

Arnold F. 'Pat' Keller, III
Director, Office of Planning

AFK:JL:bjs

ZONING ADVISORY COMMITTEE
MEETING OF SEPTEMBER 30, 1996

Case Number:	R-97-137
Item Number:	143
Legal Owner:	Barbara Leibowitz, Exitrix of Estate of Barry M. Leibowitz
Contract Purchaser:	N/A
Location:	SW/S Reisterstown Road, 125' +/- SE of centerline Brightside Avenue (#674 Reisterstown Road)
Existing Zoning:	D.R.-5.5
Proposed Zoning:	B.L.
Area:	5,710 (+/-) Square Feet
District:	3rd Election District 2nd Councilmanic District
Attorney:	Leslie M. Pittler

Baltimore County
Planning Board

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3495
Fax: (410) 887-5862

July 19, 1996

Hon. Kevin Kamenetz
Chairman, Baltimore County Council
County Courthouse
Towson, MD 21204

Re: Certification on Reclassification
Petition - 674 Reisterstown Road

Dear Councilman Kamenetz:

At a regularly scheduled meeting on July 18, 1996, the Baltimore County Planning Board voted, in accordance with Section 2-356(i) of the County Code, to certify to the County Council that early action upon the petition for zoning reclassification of the property at 674 Reisterstown Road is manifestly required in the public interest.

Enclosed is the report on this matter by the Office of Planning, as accepted by the Planning Board. The Planning staff will be pleased to assist the Council in the consideration of this matter.

Sincerely,

Arnold F. "Pat" Keller, III
Secretary

AFK/TD/rh

Enclosure

cc: Members, Baltimore County Council
Merreen E. Kelly, Administrative Officer
Thomas Peddicord, Legislative Counsel/Secretary
Brian Rowe, County Auditor
Virginia W. Barnhart, County Attorney
Patrick Roddy, Assistant County Attorney
Robert O. Schuetz, Chairman, Board of Appeals
P. David Fields, Director, Community Conservation
Arnold Jablon, Director, Permits & Development Management
Peter Max Zimmerman, People's Counsel
Jerome Leibowitz, Petitioner

674RSTRS.TD/PZONE/TXTRLH

OCT 23 1996
10:00 a.m.

8/05 CC

Rec'd 7-24-96 - Leo Pittler - Counsel

PO Box 1428
Brooklandville MD 21022

6/21/96

Baltimore County
Office of Planning

401 Bosley Avenue
Towson, Maryland 21204
(410) 887-3211
Fax: (410) 887-5862

TO: Baltimore County Planning Board DATE: June 21, 1996

FROM: Arnold F. "Pat" Keller, III
Director
Office of Planning

SUBJECT: REQUEST FOR CERTIFICATION - 674 REISTERSTOWN ROAD

The attached letter from Jerome Leibowitz, as power of attorney for Barbara Leibowitz, requests certification by the Planning Board for out of cycle action on a zoning petition for reclassification of the subject property from DR 5.5 to B.L.

Section 2-356(i) of the Baltimore County Code authorizes the Planning Board to certify to the County Council that expedited scheduling of a reclassification hearing by the Board of Appeals "is manifestly required in the public interest or because of emergency." Neither the certification by the Planning Board nor a concurrence by the County Council would constitute an opinion on the merits of the petition; the effect is simply to take the petition out of the normal cycle zoning schedule for an earlier hearing.

The subject request for certification has been reviewed by planning staff and without taking a position on the merits of the case, we recommend to the Board that certification for early action upon this zoning classification petition is required.

Pat Keller

Arnold F. "Pat" Keller, III

AFK:JL:lw
PKREIST/PZONE/TXTLLF

Attachment

County Council of Baltimore County

Court House, Towson, Maryland 21204
(410) 887-3196
Fax (410) 887-5791

August 7, 1996

Robert O. Schuetz, Chairman
Baltimore County Board of Appeals
400 Washington Avenue - Room 49
Towson, Maryland 21204

Dear Mr. Schuetz:

Attached please find a copy of Resolution 62-96 to approve the Planning Board's certification that the zoning reclassification petition filed by Jerome Leibowitz, as power of attorney for Barbara Leibowitz, for the parcel of land located at 674 Reisterstown Road and situated in the Second Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

This Resolution was unanimously approved by the County Council at its August 5, 1996 meeting and is being forwarded to you for appropriate action.

Sincerely,

Thomas J. Peddicord, Jr.
Legislative Counsel/Secretary

TJP:dp
Enclosure

R06296.WPD

8/5/96

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 1996, Legislative Day No. 15

Resolution No. 62-96

Mr. Kevin Kamenetz, Councilman

By the County Council, August 5, 1996

A RESOLUTION of the Baltimore County Council to approve the Planning Board's certification that the zoning reclassification petition filed by Jerome Leibowitz, as power of attorney for Barbara Leibowitz, for the parcel of land located at 674 Reisterstown Road and situated in the Second Councilmanic District, should be exempted from the regular cyclical procedure of Section 2-356(c) through (h), inclusive, of the Baltimore County Code, 1988, as amended.

WHEREAS, the Planning Board, by Resolution dated June 21, 1996, has certified that early action on the Petition for Zoning Reclassification filed by Jerome Leibowitz, as power of attorney for Barbara Leibowitz, requesting a reclassification of the above described property for the purpose of correcting an error in the zoning classification of the project, is manifestly required in the public interest; and

WHEREAS, the County Council of Baltimore County, in accordance with the provisions of Section 2-356(i), may approve said certification and exempt the Petition for Zoning Reclassification from the regular procedures of Section 2-356.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Jerome Leibowitz, as power of attorney for Barbara Leibowitz, be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

TJP:ml
R06296.WPD

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, that the certification by the Planning Board that early action on the zoning reclassification petition filed by Jerome Leibowitz, as power of attorney for Barbara Leibowitz, be and the same is hereby approved; and

BE IT FURTHER RESOLVED, that the Board of Appeals shall schedule a public hearing on said Petition in accordance with Section 2-356(i) of the Baltimore County Code.

TJP:ml
R06296.WPD

ZONING ADVISORY COMMITTEE AGENDA
DISTRIBUTION MEETING OF SEPTEMBER 30, 1996

$ Distributed at Meeting
* Agenda Only
+ Agenda and Petition
& Agenda and Plat
# Agenda, Petition and Plat

Distribution:

#	Board of Appeals (Kathi Bianco); MS #2013
*	Zoning Commissioner's Office (Lawrence Schmidt); MS #2112
#	PDM, Zoning Review H.O. Hearing File (Gwendolyn Stephens)
#	PDM, Zoning Review Work File (Roslyn Eubanks)
*	PDM, Project Management (David Flowers)
*	PDM, Code Enforcement (Helene Kehring)
*	PDM, Zoning Review (John Alexander)
$&	PDM, Development Plans Review (Robert W. Bowling)
$*	Planning Office Director (Pat Keller)
#	Planning Office (Jeffrey Long)
*	Recreation and Parks (Jean Tansey); MS #52
#	DEPRM (Bruce Seeley) - 2 plats
*	DEPRM, Air Quality Management (Jerry Siewierski); MS #3404
&	State Highway Administration, Access Permits Division (David N. Ramsey)
&	PDM, Building Plans Review (Lt. Robert Sauerwald); MS #1102F
*	Economic Development Commission, Business Develop. (Robert Hannon); MS #2M07
*	Highways (Tim Burgess); MS #1003
*	Community Development (David Fields); MS #1102M
+	People's Counsel (Peter Zimmerman); MS #2010
*	Honorable McIntire, County Council, District 3; MS #2201
#	IF CRITICAL AREA, Maryland Office of Planning (Bill Carroll)
#	IF ELDERLY HOUSING, Community Development; MS #1102M
#	IF FLOODPLAIN, Department of Natural Resources (John Joyce)

The attached information is being forwarded to you for comment. Your comments should reflect any conflicts with your office or department's code, standards or regulations. Development representatives that attend the meeting should be prepared to submit their agency's response as either "no comment", "written comment" or "more review time required" before the hearing date. If no written response is received by the committee before this hearing date, it is assumed that your agency has "no comment". All written comments must reference the ZAC item number or case number. All comments received will be compiled and included in the zoning/development file for review and consideration by the hearing officer during the course of the upcoming zoning/development hearing.

If your agency or section is not represented at the meeting, you should return your written comments to the Department of Permits and Development Management (PDM), Room 111, County Office Building, 111 West Chesapeake Avenue, Towson, MD 21204 (Mail Stop #1105), Attention: Roslyn Eubanks. If you have any questions regarding these zoning petitions, please contact either Sophia Jennings or Carl Richards at 887-3391 (FAX - 887-5708).

Revised 9/17/96

BARBARA LEIBOWITZ, EXITRIX OF ESTATE OF BARRY M. LEIBOWITZ, Petitioner
/Legal Owner SW/s Reisterstown Road
125'+/- SE of c/l Brightside Avenue
(674 Reisterstown Road)
0.1311 acre +/-

R-97-137
(Out-of-Cycle)

3rd Election District
2nd Councilmanic District

From D.R. 5.5 to B.L.

June 21, 1996	Planning Board Meeting and recommendation for early action.
August 5	Approved by County Council.
September 25	Petition for Reclassification from D.R. 5.5 to B.L. filed by Leslie M. Pittler, Esquire, on behalf of Petitioner.

---

*Leslie M. Pittler, Esquire Suite 610, 29 W. Susquehanna Avenue Towson, MD 21204	Counsel for Petitioner
Jerome Leibowitz, POA for Barbara Leibowitz, Exitrix for Estate of Barry M. Leibowitz 3510 Gardenview Road Baltimore, MD 21208	Legal Owner /Petitioner
KCI Technologies, Inc. 10 North Park Drive Hunt Valley, MD 21030	Engineer

James Earl Kraft /Bd of Education
People's Counsel for Baltimore County
Pat Keller
Jeffrey Long
Lawrence E. Schmidt
Arnold Jablon, Director /PDM

June 18, 1996

Mr. Pat Keller
Director-Office of Planning
401 Bosley Avenue
Towson, MD 21204

RE: 674 Reisterstown Road
Pikesville, MD 21208

Dear Mr. Keller:

As per my conversation with Adele Cass of Councilman Kaminitz's office, I am formally filing for an emergency "Out of Cycle" hearing to re-zone the above mentioned property.

This property has been zoned residential for numerous years. In 1968, this property was sold by Allan L. Berman and Overlea Shopping Center to Sylvia Wilner. At that time, Mrs. Wilner was owner of a dress shop at this location. As you can see by the contract of sale, it is clearly noted zoned "business local." In December of 1978, my mother, owner of New York Outlet, purchased 674 Reisterstown Road under the impression that it was "business local" zoned. By 1994, my brother was 100% stockholder in New York Outlet which owned 674 Reisterstown Road. In August 1995, my brother was diagnosed with an inoperable brain tumor. My mother (now 83 years old), has maintained the business, however, due to her age it has become increasingly more difficult and generates no revenue.

In the summer of 1995, the property was listed to be sold. At this time we were still under the impression that the property was zoned "business local." In November of 1995, my brother died of brain cancer.

We have now been made aware that through further examination, my sister in law's property is not zoned "business local" and the various businesses have functioned there as businesses under what to was referred to as "non-conforming use-retail."

Due to my brother's death and the subsequent financial hardship on my sister in law, it is necessary to sell this property. All potential buyers and individuals that are considering leasing this property insist on "BL Zoning." It is for this reason we are requesting this emergency out of cycle hearing.

As you can see by the enclosed documentation, we received a code violation from the Department of Permits and Development Management. Please note that this organization referred to this property as "BL."

If you can go to the trouble of checking our tax records, we have been taxed as property "BL" zoned, but unfortunately 674 is not "BL" zoned.

My sister in law "must" sell this property so she can generate not only additional income, but to make the necessary repairs requested by Baltimore County. We have had several potential leasers and buyers in the last six weeks. Each would maintain this location in a far better fashion than we can as an inoperable drapery store.

Thanks very much for considering our request. We look forward to your response at your earliest convenience.

Sincerely,

Jerome Leibowitz
(as power of attorney for
Barbara Leibowitz)

10/23/96

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF: Jerome Leibowitz, POA for Barbara Leibowitz, PR for Estate of Barry M. Leibowitz -Legal Owner /Case No. R-97-137

DATE : October 23, 1996 /at conclusion of hearing

BOARD /PANEL : Charles L. Marks (CLM)
Margaret Worrall (MW)
Harry E. Buchheister, Jr. (HEB)

SECRETARY : Kathleen C. Bianco
Legal Administrator

Those present included Leslie M. Pittler, Esquire, on behalf of Petitioner; and Peter Max Zimmerman, People's Counsel for Baltimore County.

PURPOSE --to deliberate issues in Case No. R-97-137, petition for reclassification.

CLM: The Board of Appeals for Baltimore County will hold this public deliberation as required by the open meetings law relative to the hearing concluded in Case No. R-97-137, which is a petition to change the property's zoning from D.R. 5.5 to B.L.

The reclassification of the property is pursuant to the Baltimore County Code Section 2-356(j)(1); and that section sets forth two tests in order for the Board to consider reclassification, the first of which is substantial change in the character of the neighborhood; and did the County Council err in assigning the last classification. There was no testimony offered basically as to character change in the neighborhood because there has not been any. Based on the testimony and evidence produced, it is obvious that this section of Baltimore County is commercially zoned, and D.R. 5.5 appears to be in error.

This is a relatively easy deliberation for me because I find that everything has been properly done to bring it before the Board relative to the Planning Board's approval and approval by County Council. The function of this Board is to conduct a hearing; there were no protestants at the hearing.

Based on the evidence and testimony produced, and the fact that there does not appear to be opposition on the part of People's Counsel, or any other protestants which did appear, that this property should have been reclassified some time ago

from the present D.R. 5.5 to B.L.

Testimony at the hearing and evidence produced at the hearing from Petitioner and Jeffrey Long makes it plain to me that the B.L. zoning of this property would have no adverse effect on the community; proper zoning on portion of land in question should be considered B.L.

Therefore, I would find that the Petition for Reclassification from D.R. 5.5 to B.L. should be granted.

MW: I agree with my Chairman that it should be reclassified from D.R. 5.5 to B.L.

HEB: I likewise agree.

CLM: It seems as though the Board is in agreement with the reclassification. I would just like to note for the record that the Board will issue a formal Opinion and Order very shortly, and any appeal must be taken in accordance with the Maryland Rules of Procedure.

I thank everyone for attending. I thank Petitioner's Counsel and People's Counsel for the excellent presentation of the merits of this case.

As there is nothing further to deliberate or discuss, this meeting is adjourned.

****

Respectfully submitted,

Kathleen C. Bianco

Kathleen C. Bianco
Legal Administrator

1/1/64

Contract of Sale

Approved by the Maryland Association of Real Estate Boards

Edna G. Rock

PHONE MULBERRY 5-2080

Realtor

927 ST. PAUL STREET.

BALTIMORE 2, MD.

Cat Eye #1

This Agreement of Sale, made this 21 day of March, 1968, by and between Allan L. Berman and Overlea Shopping Center, Inc., Seller, whose address is 216 E. Lexington Street, Baltimore, Maryland, 21202 and Sylvia Wilner, Purchaser, whose address is .....

Witnesseth, that the Seller does hereby bargain and sell unto the said Purchaser, and the latter does hereby purchase from the former, the following described property, situate in Baltimore County, Maryland, being a 0.1311 acre parcel as described by ~~xxxx~~ metes and bounds in a description prepared by Matz, Childs and Associates dated May 1, 1967, and as shown on the plat dated March 18, 1968, both attached hereto as Exhibit "1", in fee simple.

Sellers represent that the property is presently zoned "Business Local" as shown on the plat.

Sellers agree that Buyer, at her risk and expense, may have immediate possession of the property to make renovations prior to closing. If Buyer fails to close, Buyer shall restore the property to its original condition.

with improvements thereon ~~xxxxxxx~~ (including heating, plumbing and lighting fixtures, ~~stoves, refrigerators, awnings, screens, storm doors and windows, window shades, venetian blinds, shades,~~ and all trees, shrubs and plants; as now installed on the premises, ~~except as follows:~~

at and for the price of Thirty-Two Thousand ~~Five Hundred~~ Dollars ($32,~~000.00~~), of which Five Hundred Dollars ($500.00) have been paid in the form of cash deposit prior to the signing hereof, and the balance to be paid as follows: in cash at the date of settlement.

Sellers agree to replace or satisfactorily repair the existing heating system in the premises. Sellers further agree to join in any agreement reached between Buyer and Mr. Donut respecting the privilege of Buyer, her customers and employees, to use the parking lot of the adjacent premises leased to Mr. Donut for access to the property sold hereunder and for parking. Sellers do not warrant that Mr. Donut will grant such Right to Buyer and any Expense or consideration Requested by Mr. Donut For This Privilege shall be carried by the Buyer.

PLEASE INITIAL →

SB·W

(Over)

PLEASE INITIAL → S.B W. JHB

* The parties agree that the language contained in the attached Exhibit 2 must be included in the Deed to the Buyer restricting Buye use of the premises as described in Exhibit 2.

Settlement to be on or before April 21, 1968

And upon payment as above provided of the unpaid purchase money, a deed for the property containing covenants of special warranty and further assurances shall be executed at the Purchaser's expense by the Seller, which shall convey the property to the Purchaser. Title to be good and merchantable, free of liens and encumbrances except as specified herein and except: Use and occupancy restrictions of public record which are generally applicable to properties in the immediate neighborhood or the subdivision in which the property is located, and publicly recorded easements for public utilities and any other easements which may be observed by an inspection of the property.

If the Purchaser shall fail to make settlement as herein agreed, the deposit herein provided for may be forfeited at the option of the Seller; in the event of any such forfeiture of the deposit, the Realtor shall be entitled to one-half thereof as a compensation for his services, said amount not to exceed the amount of the full commission, as hereafter specified.

~~Assessment~~, rent, water rent, taxes (including Metropolitan District or County Sanitary Commission charges for sewer and water, if any) and all other public charges on an annual basis against the premises shall be apportioned as of date of settlement, at which time possession shall be given, unless otherwise agreed upon herein. Cost of all documentary stamps required by law, recordation tax and transfer tax, where required by law, shall be divided equally between the parties hereto.

It is agreed that the Seller shall cause the fire and casualty insurance policies now in force on the above described property to be endorsed at once so as to protect all parties hereto, as their interests may appear, and continue said insurance in force during the life of this contract; the amount of fire insurance now in effect is $ ..... If Buyer takes possession before closing, Buyer shall place such insurance and endorse it to benefit Buyer, Seller and Mortgagee. The herein described property is to be held at the risk of the ~~Seller~~ Buyer until legal title has passed or possession given.

PLEASE INITIAL → S.B W. JHB

The principals to this contract mutually agree that it shall be binding upon their respective heirs, executors, administrators or assigns; that this contract contains the final and entire agreement between the parties hereto, and that they shall not be bound by any terms, conditions, statements, warranties or representations, oral or written, not herein contained; time being of the essence of this agreement.

The Seller recognizes Charles Greenblatt, Realtor as the Realtor negotiating this contract and agrees to pay to said Realtor a brokerage fee for services rendered amounting to 6 % of the sales price, ~~plus one-half of the amount of the annual ground rent, if any;~~ and the party making settlement is hereby authorized and directed to deduct the aforesaid brokerage fee from the proceeds of sale and pay same to Realtor. The entire deposit shall be held by the Realtor as agent for Seller in a special agency account until settlement hereunder is made.

Witness the hands and seals of the parties hereto the day and year first above written.

Executed in .....

Witness — As to Seller's Signature — Seller's Signature (SEAL)

Witness — As to Seller's Signature — Seller's Signature (SEAL)

Witness — As to Buyer's Signature — Buyer's Signature (SEAL)

Witness — As to Buyer's Signature — Buyer's Signature (SEAL)

Exhibit 2, to an Agreement of Sale between Allan L. Berman, et al, Sellers, and Sylvia Wilner, Buyer, for property at Reisterstown Road near Brightside Avenue.

The Deed to be executed by Sellers, as grantors, to Buyers, as grantees, shall contain the following language.

PLEASE INITIAL → S.B.W.

"(a) For a period of forty-five (45) years accounting from the date of execution hereof, or for the period during which any of the present leases between Sellers and Mr. Donut, McDonald's or Burger-Chef remain in effect, either under the current term or any renewal or extension thereof, whichever period is the lesser, grantee, for herself, her heirs, executors, personal representatives successors and assigns, covenants that the herein described 0.1311 acre parcel of land and improvements thereon (as presently construct or, as altered or reconstructed) shall not be used, nor shall grante permit its use by others, in whole or in part, for the purpose of the sale, at wholesale or retail, of food or food products, or, for the operation of a restaurant or bakery, or, for a drive-in hamburge shop or donut shop, or, any other business similar to that of a McDonald's Restaurant, a Burger-Chef Restaurant or a Mr. Donut Shop.

(b) For a period of forty-five (45) years accounting from the date of execution hereof, or for the period during which any of the present leases between Sellers and Mr. Donut, McDonald's or Burger-Chef remain in effect, either under the current term, or any renewal or extension thereof, whichever period is the lesser, grantee, for herself, her heirs, executors, personal representatives successors and assigns, covenants that she will not build, erect, pl or maintain any improvements, structures or signs upon the 0.1311 acre parcel (as presently constructed or as altered or reconstructed which would materially interfere with the visability of passengers in approaching automobiles travelling on adjoining highways within one hundred (100) feet of that new building, premises and main sign presently erected on the 0.30 of an acre parcel of land which is adjacent to and immediately to the north of the 0.1311 acre parcel conveyed hereby.

(c) The covenants contained in paragraphs (a) and (b) above shall be deemed covenants running with the land and shall be binding upon the grantee and her heirs, executors, personal represen tatives, successors and assigns and shall inure to the benefit of th grantors and to their respective heirs, executors, personal represen tatives, successors and assigns".

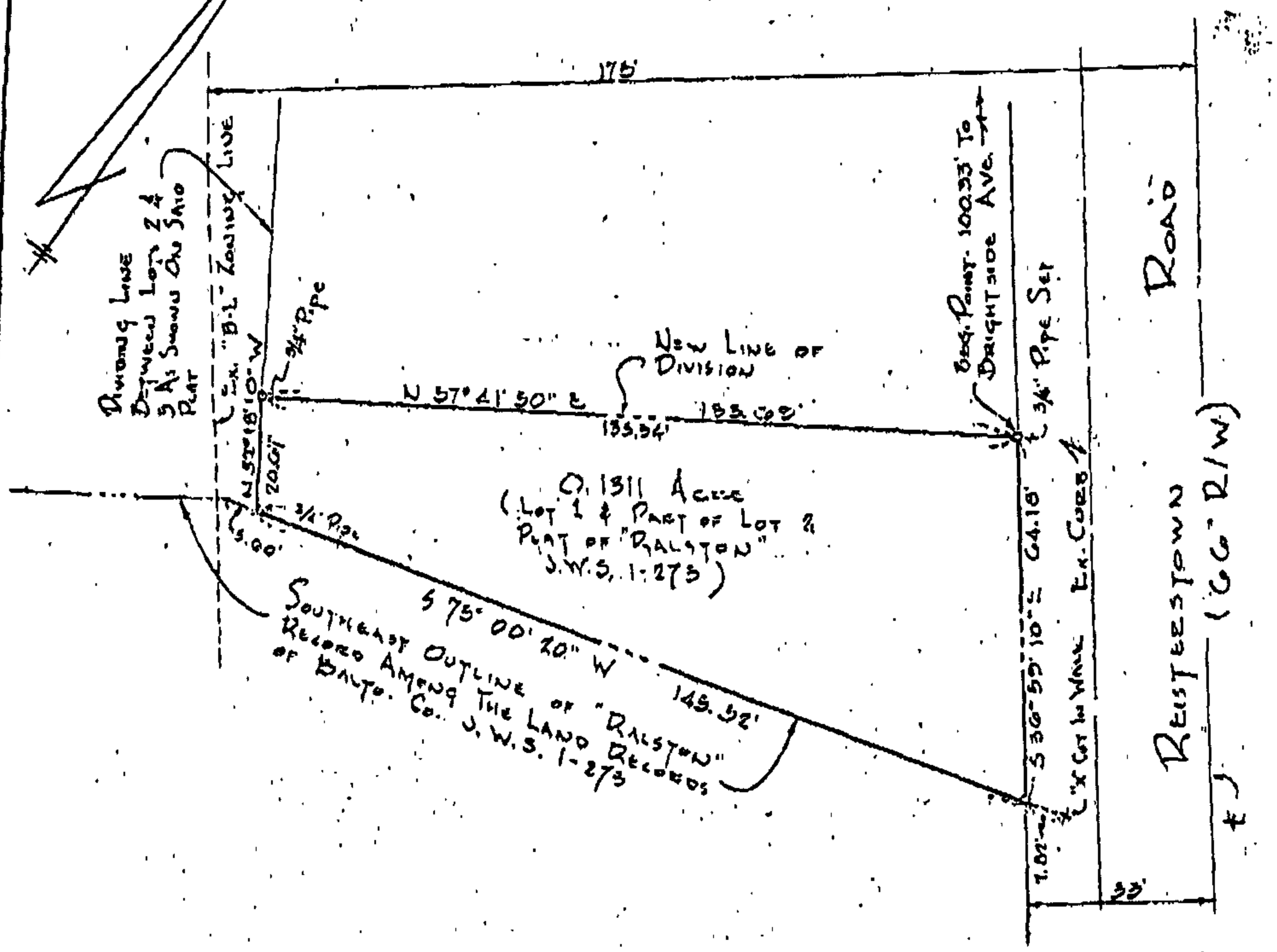
Sylvia Wilner

Buyers

Witness for Buyer

Seller

Witness for Seller



Boundary Survey
Of
0.1311 Acre Parcel
Reisterstown Rd. S.E. Brightside Ave.
Elect. Dist. 3 ... Balto. Co., Md.

STATE OF MARYLAND
RONALD WILLIAM BOYLES
No. 7039
REGISTERED
LAND SURVEYOR

MAYZ, CHILDS & ASSOCIATES
1020 Cromwell Bridge Road, Baltimore, Maryland 21204

Scale: 1" = 50' Issued: 5-18-68

EXHIBIT 1

Pet. Ex. #2

Cat Exh #3

Baltimore County
Department of Permits and Development Management
Bureau of Code Enforcement
111 West Chesapeake Avenue
Towson, Maryland 21204

CODE VIOLATION NOTICE

NAME: SYLVIA CUMMINS BARRY LEIBOWITZ

DATE: 5/22/96

ADDRESS: 674 REISTERSTOWN RD

CITY-ZIP: BALTIMORE, MD 21208

RE: Case No. 96-4139

LOCATION: 674 REISTERSTOWN ROAD
DISTRICT: 3

Dear Ms. CUMMINS & MR. LEIBOWITZ:

In accordance with the Baltimore County Code, Article IV, Section 402. (d), an inspection was conducted of the above location, zoned BL. This inspection revealed violation(s) according to the following code(s):

✓ Baltimore County Zoning Regulations (BCZR), Section 102.1, 101-Durable & Dustless; 409.8, 23c

✓ Building Code of Baltimore County, Maryland, Section 102.1, 119.1

___ Livability Code, Baltimore County, Section 18-68.

✓ Other Sec 7-70 (Maintenance) B.C.C.

The following correction(s) is/are required:

(1) REAR PARKING LOT NOT A DURABLE AND DUSTLESS SURFACE DUE TO POTHOLES. REPAIR OR RESURFACE POTHOLES.

(2) MISSING RAKE/FASCIA BOARDS AT THE ROOF LINE. INSTALL

(3) DEFECTIVE/LEANING CHIMNEY. REPAIR OR REPLACE.

The above violation(s) must be corrected on or before JUNE 22, 1996 or further legal action will proceed, in which you may be subject to a civil penalty. Should you need further clarification, please contact JEFF PERLOW / JIM SHEA, Code Inspector, at (410) 887-3351.

CARD NO.	ZONING	03/3-67 / 03-29-0842782	DIST. 03	MAP 078	BLOCK 8	PARCEL 00448	USE 06	4080 AREA 00007	CARD NUMBER 5042
STATE STAMP / CONSIDERATION	CAPITALIZED G.R. / CHECKED BY	STATE STAMP none	CONSIDERATION 000	CAPITALIZED G.R. 000	CHECKED BY eme	STATE STAMP 0	CONSIDERATION 0	CAPITALIZED G.R. 0	CHECKED BY nas

TRANS

LEIBOWITZ SYLVIA
674 REISTERSTOWN RD
BALTIMORE MD 21208
NC

TRANSFER NO. 1856C | TRANSFER DATE 03/02/79 | LIBER 5994 | FOLIO 0539

FROM NEW YORK CUTLET INC

HOUSE NO. 674 | LOTS | 0.1311 AC

GROUP 1

CUMMINS, SYLVIA
Unit 615, 7 Slade Avenue
Baltimore, Md. 21208

TRANSFER NO. 74567 1984-85 | TRANSFER DATE 8-12-83 | LIBER 5994 | FOLIO 539

NAME OF DEVELOPMENT
D RALSTON
SWS REISTERSTOWN RD
LT 1 PT 2

CUMMINS, Sylvia/ Leibowitz, Barry
674 Reisterstown Road
Baltimore, Md ~~21209~~ 21208
NC

TRANSFER NO. 46250 1986-87 | TRANSFER DATE 11-18-85 | LIBER 7035 | FOLIO 96

PLAT | BOOK-FOLIO UI 275 | BLOCK NO. | SECTION

0100 FT SE OF BRIGHTSIDE RGA

(Pet. Exh #4)

VALUATION SUMMARY		82-83FV	1983-84 FCV	1986-87 FV.	89-90 FCV.	1992-93	1995-96			
Land		37,630	46560	57100	85650	85650	85650			
Buildings (other)		19,000	25190	29430	38970	39980	62240			
TOTAL	25,840	56,630	71750	86530	124620	125630	147890			
Assessed By			43	48	48	45	78			
Date			7-29-82	9-5-85	7/7/88	8-12-91	8-19-94			
Date of Notice			DEC 3 '82	DEC 9 '85	DEC 5 1988	12-27-91	12-94			
New Owner Notice										
Protested			DEC 07 '82							
Date of Hearing			"83"							
Final Notice			APR 15 '83							
Higher Appeal										
Assessment Changed			58798	38884	40724 RC	44162 GHS	mm			
Posted By			EE	[illegible]						

CERTIFIED TRUE COPY
BY Kathryn L. Yaksrof
DATE 10/22/96

LAND VALUATION

Acres / Sq. Ft.	✓ 5710 ⌀	Class			Full Value Rate	1986-87 FV.	Full Value Rate	89-90 FCV	Full Value Rate	1995-96 1992-93
64.18/ 20.67 X 145.52/133.69		Prime			10.00	57100	15.00	85650	15	85650
Eff. Width 48'	Eff. Depth 139'	Secondary								
Depth Factor 97%	Cor. Inf. Vac.	Tertiary								
Front Inf.	Alley Inf.	Other								✓
TOTAL VALUE						57100		85650		85650

Remarks:

Pet. Exh #5

Zoning

The subject property is zoned BL (Business-Local), a commercial zoning classification within Baltimore County. Permitted uses in this zone include restaurants, banks, building and loan associations, office buildings, a variety of retail stores to include department, drug store, dry cleaning, food store, hardware, sporting goods, appliance and the like. Other uses are permitted by special exception.

Area regulations in a BL zone are as follows:

Front yard; for commercial buildings the front building line shall not be less than 10' from the front property line and not less than 40' from the center line of the street.

Side yard; for commercial buildings none required.

Rear yard; for commercial buildings none required.

Floor area ratio (FAR); the maximum permitted floor area ratio for any site in a BL zone accepting C.C.C & CT District shall be 3.0.

Based on the site plan provided your appraisers the subject meets the minimum requirements as set forth above and it is further assumed that the subject was developed in accordance with local zoning and building codes extant at that time. The subject is considered to be conforming use under the current zoning and generally consistent with uses in the immediate neighborhood. For greater detail on setbacks, permitted uses, etc. the reader is referred to the Baltimore County Zoning Ordinances Section 230.

Att Barbara Goldberg 1-72

Cit Exh #6

June 18, 1996

Mr. Pat Keller
Director-Office of Planning
401 Bosley Avenue
Towson, MD 21204

RE: 674 Reisterstown Road
Pikesville, MD 21208

Dear Mr. Keller:

As per my conversation with Adele Cass of Councilman Kaminitz's office, I am formally filing for an emergency "Out of Cycle" hearing to re-zone the above mentioned property.

This property has been zoned residential for numerous years. In 1968, this property was sold by Allan L. Berman and Overlea Shopping Center to Sylvia Wilner. At that time, Mrs. Wilner was owner of a dress shop at this location. As you can see by the contract of sale, it is clearly noted zoned "business local." In December of 1978, my mother, owner of New York Outlet, purchased 674 Reisterstown Road under the impression that it was "business local" zoned. By 1994, my brother was 100% stockholder in New York Outlet which owned 674 Reisterstown Road. In August 1995, my brother was diagnosed with an inoperable brain tumor. My mother (now 83 years old), has maintained the business, however, due to her age it has become increasingly more difficult and generates no revenue.

In the summer of 1995, the property was listed to be sold. At this time we were still under the impression that the property was zoned "business local." In November of 1995, my brother died of brain cancer.

We have now been made aware that through further examination, my sister in law's property is not zoned "business local" and the various businesses have functioned there as businesses under what to was referred to as "non-conforming use-retail."

Due to my brother's death and the subsequent financial hardship on my sister in law, it is necessary to sell this property. All potential buyers and individuals that are considering leasing this property insist on "BL Zoning." It is for this reason we are requesting this emergency out of cycle hearing.

As you can see by the enclosed documentation, we received a code violation from the Department of Permits and Development Management. Please note that this organization referred to this property as "BL."

If you can go to the trouble of checking our tax records, we have been taxed as property "BL" zoned, but unfortunately 674 is not "BL" zoned.

My sister in law "must" sell this property so she can generate not only additional income, but to make the necessary repairs requested by Baltimore County. We have had several potential leasers and buyers in the last six weeks. Each would maintain this location in a far better fashion than we can as an inoperable drapery store.

Thanks very much for considering our request. We look forward to your response at your earliest convenience.

Sincerely,

Jerome Leibowitz
(as power of attorney for
Barbara Leibowitz)

R-97-137

N 27,000

CLARENDON AVE

91-10-A

66' R/W

DITCH

BRIGHTSIDE AVENUE

50' R/W

BL

138.69'

145.52'

20.67'

64.18'

REISTERSTOWN

SUBJECT SITE

D.R. 5.5

95-64 A

RO

IRVING PLACE

96-319-SPH

96-320-SPH

95-416A

95-216-A

BL-CS-1

BL

AVENUE

89-303-A

(SHEET NW-7-F)

N 26,000

LAWN

PARKING AREA

OR-1

RO

TERRACE

ROAD

SLADE

LINDEN

EAST SUDBROOK PARK

D.R. 5.5

ZONING MAP NW 7-E
SCALE: 1" = 200'

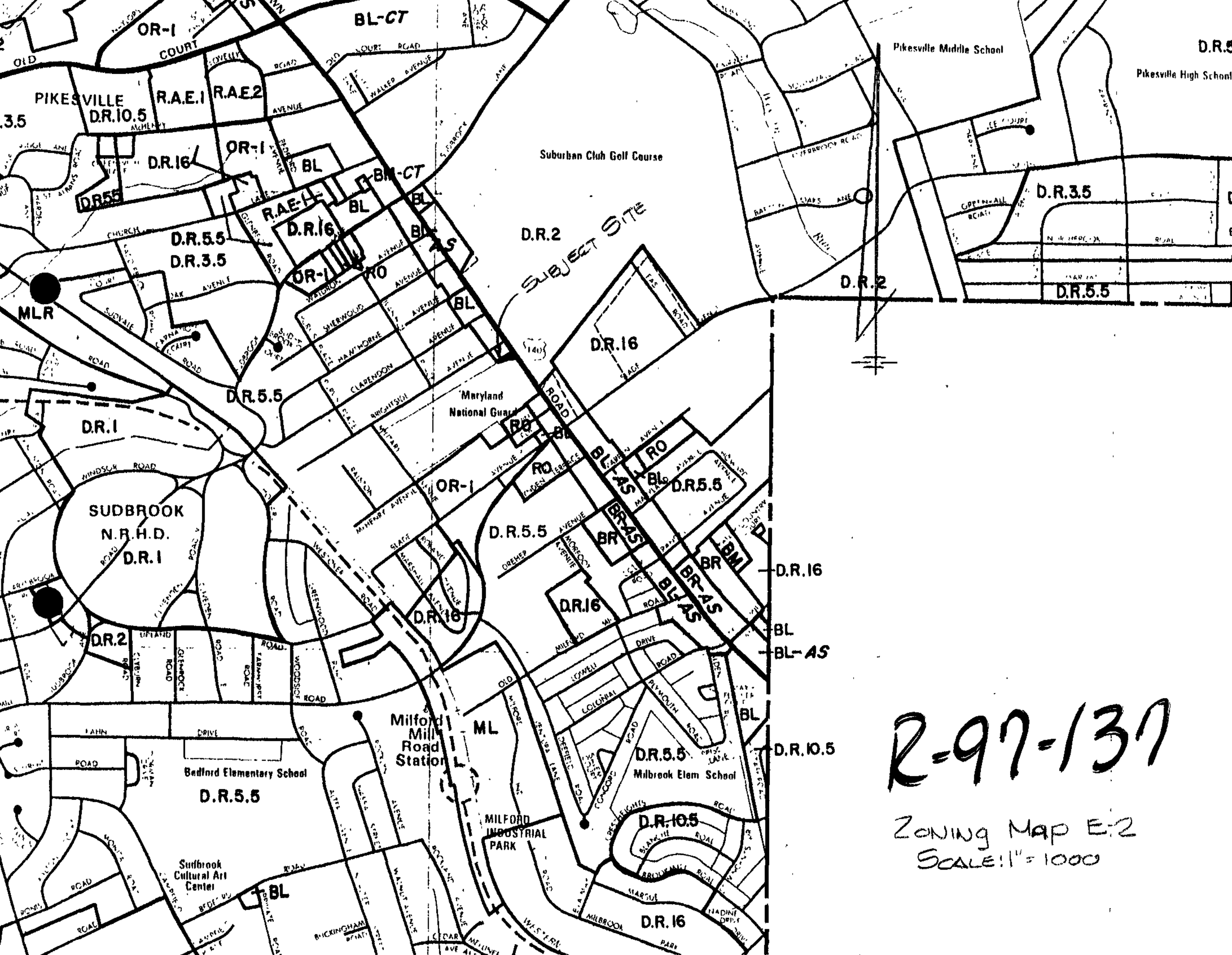
AVENUE

N 25,000

D.R. 5.5

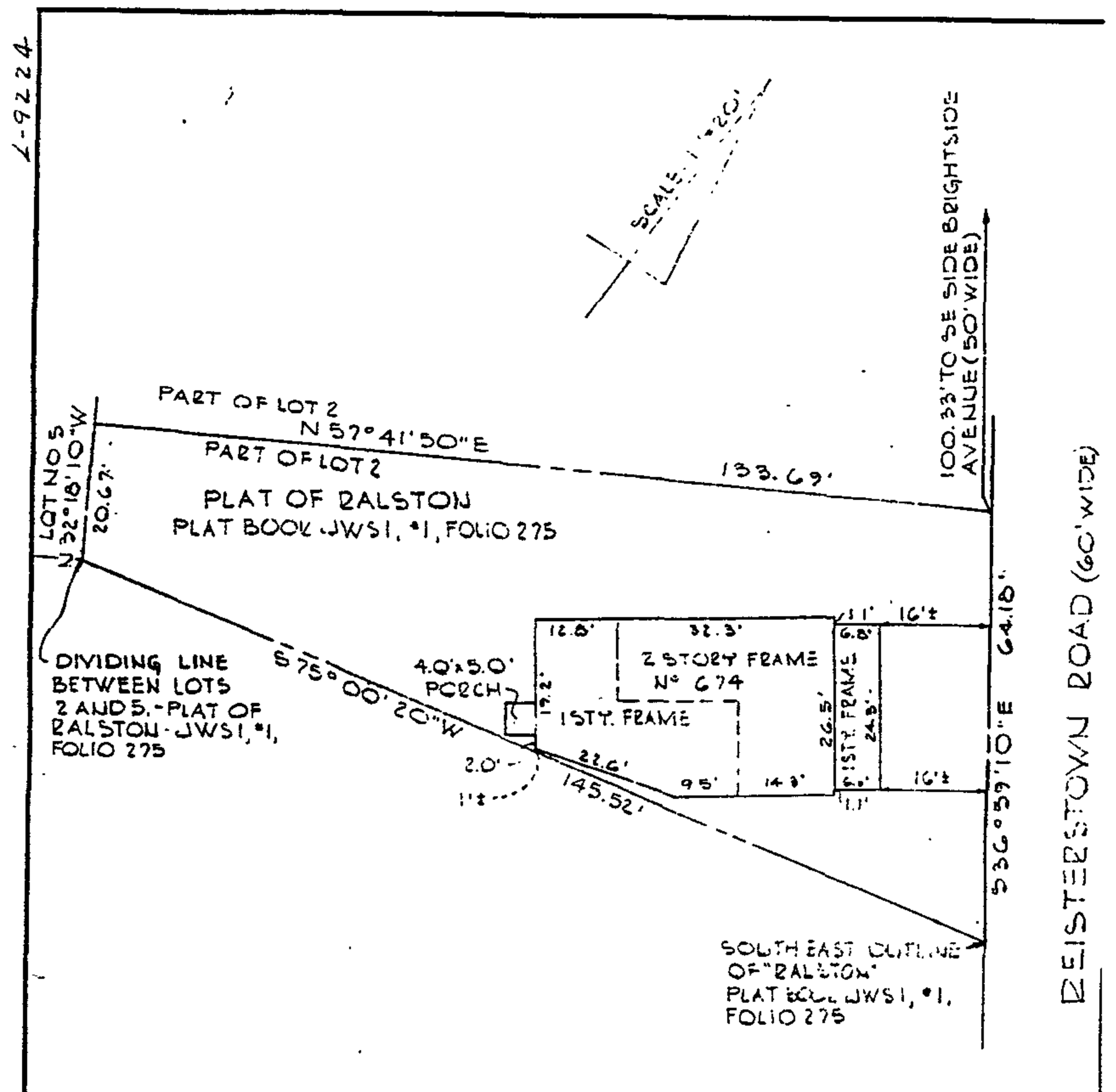
DREHER

BR



R-97-137

Zoning Map E-2
Scale: 1" = 1000



This is to certify that I have surveyed the property known as N° 674 REISTERSTOWN ROAD, BALTIMORE COUNTY, MARYLAND.

for the purpose of locating the improvements thereon, and the improvements are located as shown.

Signed this 15th day of December 1978

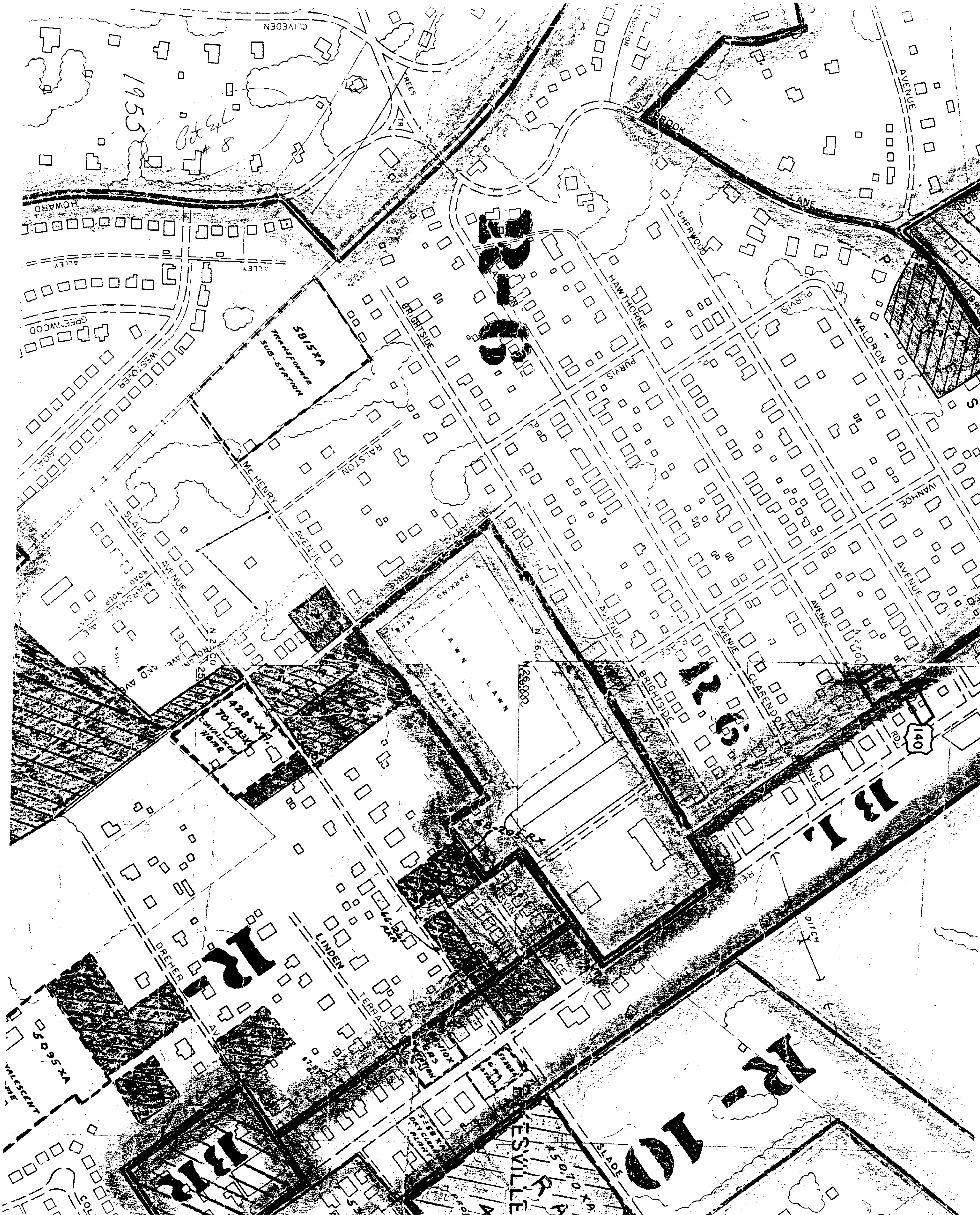
PURDUM AND JESCHKE
ENGINEERS AND LAND SURVEYORS
1023 NORTH CALVERT ST.
BALTIMORE, MARYLAND 21202

Engineer and Land Surveyor

This plat is not intended for use in the establishment of property lines.

E.K. J.L.

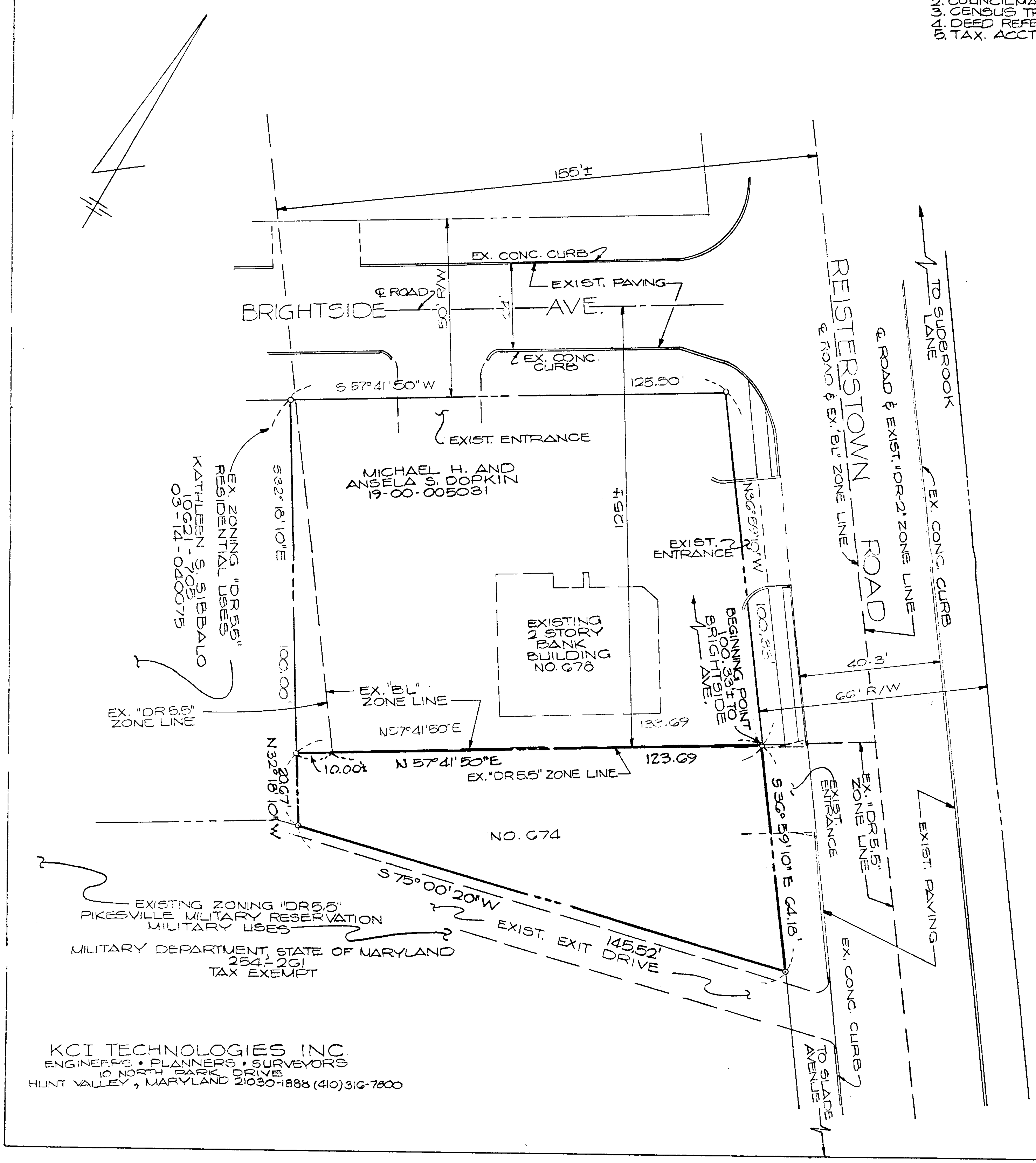
6-35


1955
Pet Exh # 8
CLIVEDEN
TREES
HOWARD
ALLEY
ALLEY
GREENWOOD
WESTOVER
ROAD
5815XA
TRANSFORMER
SUB-STATION
Mc HENRY
RALSTON
SLADE
AVENUE
MARSHALL
AVENUE
BRIGHTSIDE
HAWTHORNE
SHERWOOD
PURVIS
PURVIS
WALDRON
IVANHOE
AVENUE
AVENUE
AVENUE
CLARENDON
LANE
SUDBROOK
R-6
R-6
PARKING
LAWN
LAWN
PARKING AREA
N 25,000
N 26,000
4286-X
CONVALESCENT
HOME
B-L
140
RD.
REIS
DITCH
R-10
SLADE
5095 XA
CONVALESCENT
DREHER
LINDEN
TERRACE
R-A
5-258 XA
DRY CLEANING
PLANT
#5070 XA

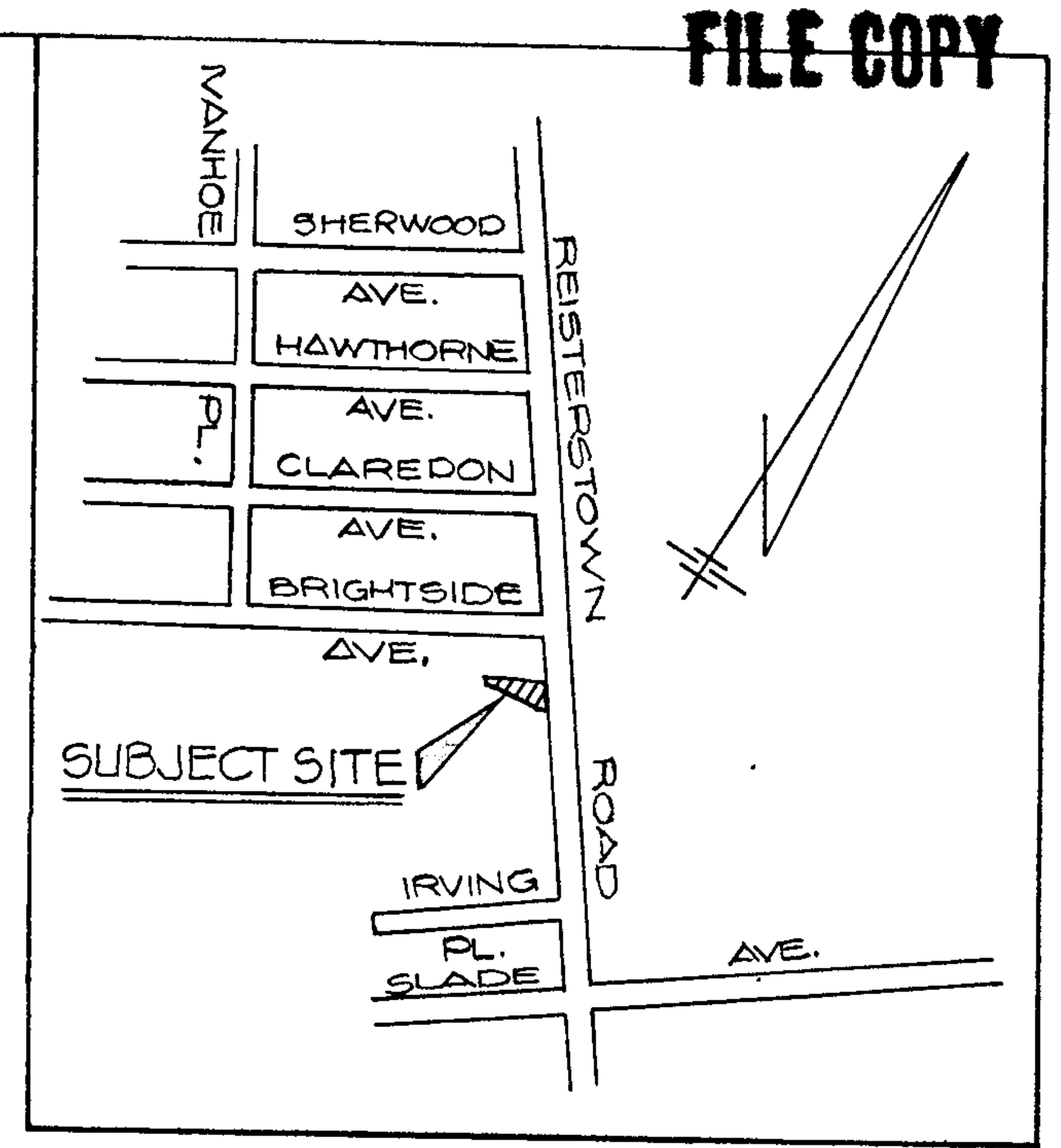
FILE COPY

SITE DATA

1. ELECTION DISTRICT NO. 3
2. COUNCILMANIC DISTRICT NO. 2
3. CENSUS TRACT 4034.02
4. DEED REFERENCE: 7035'-96
5. TAX. ACCT. NO. 03-23-054282



KCI TECHNOLOGIES INC.
ENGINEERS • PLANNERS • SURVEYORS
10 NORTH PARK DRIVE
HUNT VALLEY, MARYLAND 21030-1888 (410) 316-7800



LOCATION PLAN

SCALE: 1" = 500'

GENERAL NOTES

1. AREA OF PROPERTY: 0.1311 AC. (5,710.72 SQ. FT. ±): GROSS SITE = 0.18 AC. ± (7,636.12 SQ. FT. ±), NET AREA = 0.1311 AC.
2. EXISTING ZONING OF PROPERTY "DR 5.5"
3. PROPOSED ZONING OF PROPERTY "BL"
4. PUBLIC WATER & SANITARY SEWER MAINS ARE EXISTING WITHIN REISTERSTOWN ROAD.
5. THE PROPERTY IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
6. THE PROPERTY IS NOT IN A 100 YEAR FLOOD PLAIN.
7. THE PROPERTY IS NOT WITHIN A MORATORIUM AREA OR IN AN AREA WHERE A FAILURE OF BASIC SERVICES EXIST.

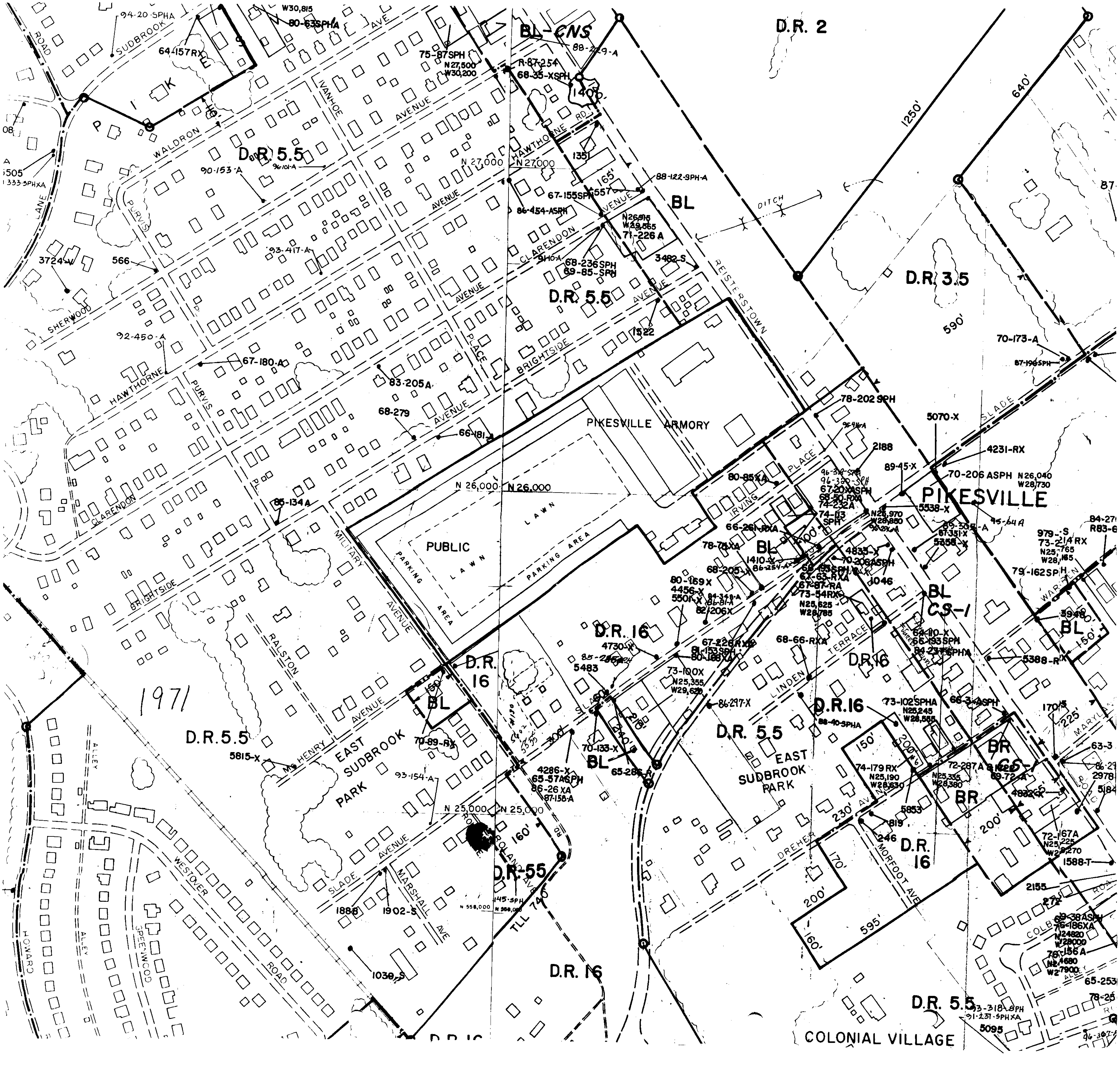
STATE OF MARYLAND REGISTERED PROPERTY LINE SURVEYOR
9.11.96

UNDOCUMENTED

PLAT TO ACCOMPANY PETITION FOR RECLASSIFICATION OF PROPERTY AT 674 REISTERSTOWN ROAD

ELECTION DISTRICT 3 — BALTIMORE COUNTY, MD.
SCALE: 1" = 20' — SEPTEMBER 9, 1996

Pet. Exh. # 7



D.R. 2
BL-CNS
D.R. 5.5
D.R. 3.5
BL
PIKESVILLE ARMORY
PIKESVILLE
PUBLIC
LAWN
PARKING AREA
D.R. 16
BL CS-1
BR CS-1
BR
EAST SUDBROOK PARK
1971
COLONIAL VILLAGE
SUDBROOK
WALDRON
IVANHOE
AVENUE
HAWTHORNE
CLARENDON
BRIGHTSIDE
SHERWOOD
PURVIS
MILITARY
RALSTON
REISTERSTOWN
SLADE
IRVING
PLACE
LINDEN TERRACE
DREHER
MORFOOT AVE
MARSHALL
WESTOVER ROAD
HOWARD
GREENWOOD
ALLEY
ROLAND
WARREN
MC HENRY
LANE
ROAD
DITCH
1250'
640'
590'
165'
150'
200'
230'
170'
595'
160'
225'
TLL 740
N 27,000
N 26,000
N 25,000

1976

BL-CNS

D.R. 2

14

HAWTHORNE RD.

N 27,000

BL

DITCH

CLARENDON AVENUE

D.R. 5.5

BRIGHTSIDE AVENUE

D.R. 3.5

78-202 SPH
N 26250
W 29000

PIKESVILLE ARMORY

PIKESVILLE

PLACE

N 26,000

LAWN

PARKING AREA

BL

78-75XA
N25725
W29180

73-214-R
D.R. 16

BL
CS-1

80-169X
N 25540
W 29450

D.R. 16

D.R. 16
73-54-RX

80-168XA
N25500
W29430

74-179RX

D.R. 5.5

EAST
SUDBROOK
PARK

D.R. 16

BR
CS-1

BR

N 25,000

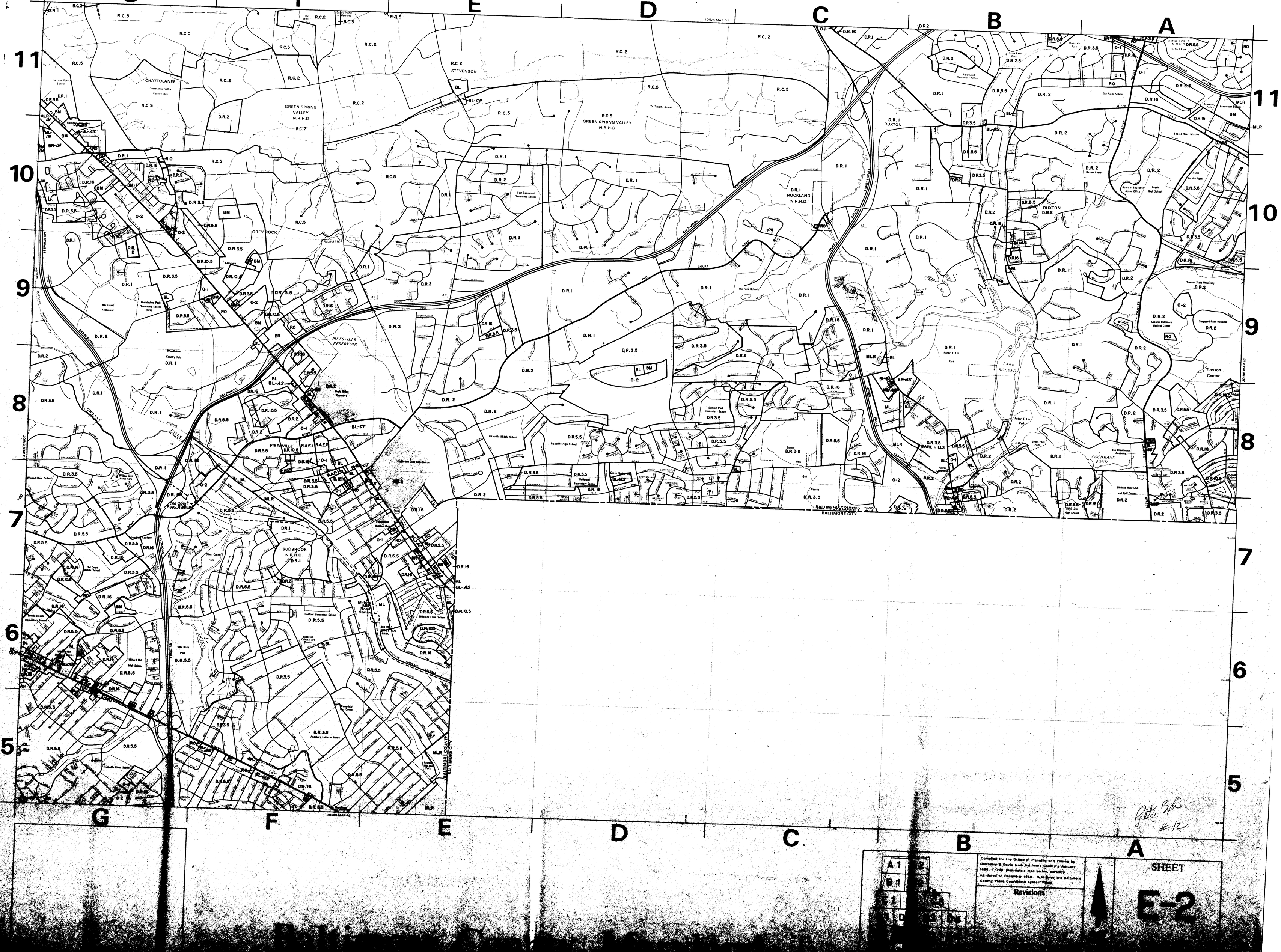
D.R. 55

D.R. 16

D.R.
16

COLONIAL VILLAGE

D.R. 5.5


CHATTOLANEE
GREEN SPRING VALLEY N.R.H.D.
STEVENSON
GREY ROCK
PIKESVILLE RESERVOIR
SUDBROOK N.R.H.D.
ROCKLAND N.R.H.D.
RUXTON
BARE HILLS
LAKE ROLAND
COCHRANS POND
Towson Center
BALTIMORE COUNTY
BALTIMORE CITY
JOHNS MAP P2
JOHNS MAP P3
Compiled for the Office of Planning and Zoning by Dewberry & Davis from Baltimore County's January 1988, 1"=200' planimetric map series, partially up-dated to December 1989. Grid lines are Baltimore County Plane Coordinate system lines.
Revisions
SHEET
E-2