Process, and in that one case, the Board denied the reclassification. [*Toll House, Inc.*, 95 CV 0871]

Rejecting Petitioner's arguments based on the testimony of Councilman Mintz, Judge Hinkel said that, "whether Mr. Mintz' testimony is even admissible into evidence is questionable." [page 16] No matter how worthwhile or beneficial, what the Board has been requested to do is "correcting an administrative mistake." [Petitioner's Brief, page 6] There is no question but that the Council was aware of "then existing facts, projects or trends [relative to the subject site] which were reasonably foreseeable of fruition in the future." It was clearly the Councilman's responsibility, or that of the Planning Board, or that of the Planning Office, or that of the community group to follow through and make sure that, at the time of the Council's vote, "the Council's action was presumed initially on a misapprehension."

The road to change is always subject to good intentions. That was obviously the case here. However, to permit this type of clerical or administrative mistake to be the basis for reclassification represents dangerous quicksand for this Board. If that were the intent of the County Council, perhaps that body would best be the body to assume reclassification requests. However, the intermingling of that body politic after the exhaustive role of the statutory comprehensive map rezoning process may be more than that body wishes to assume. Conversely, if the consideration of an administrative mistake or clerical error is to be a factor for this Board to consider, the Baltimore County Council can easily amend the current legislation and provide this body with such authority. Lacking that, this Board member elects to proceed with caution and respectfully dissents.

BY: _____
Charles L. Marks

Date: April 15, 2002

IN THE MATTER OF THE APPLICATION OF MAUD D. & LEE R JONES –LEGAL OWNERS; JOHN F. OWINGS, JR., CP (JONES PROPERTY) FOR A ZONING RECLASSIFICATION ON PROPERTY LOCATED ON THE NW/S OLD TOLLGATE ROAD, COR N/S TOLLGATE ROAD; ALSO 1730' E C/L RITTERS LANE (24 OLD TOLLGATE ROAD) 4th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. CR-02-070 (Out of Cycle, 2001)

* * * * * * * * *

MAJORITY OPINION

This case comes to the Baltimore County Board of Appeals based on a Petition for Reclassification on a Documented Site Plan submitted by the Petitioner. The Petitioner seeks to reclassify 24 Old Tollgate Road, Owings Mills, Maryland, from its present zoning of D.R. 3.5 to D.R. 10.5 to accommodate no more than 90 units in either three or four-story buildings. The property was designated as Issue 3-148 during the 2000 Comprehensive Zoning Map Process (CZMP). The Planning Board voted to retain the existing D.R. 3.5 zoning. Following the adoption of the 2000 Comprehensive Maps, the Planning Board voted 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 an emergency" (*Baltimore County Code* § 2-356[i]). The Baltimore County Office of Planning recommended to the Planning Board that certification for early action upon the zoning reclassification was required.

On January 18, 2001, the Baltimore County Planning Board did vote to recommend to the County Council that zoning reclassification was manifestly required in the public interest. On February 20, 2001, the County Council approved the Planning Board's certification by County Council Resolution 23-01.

The Board heard the merits of the case on February 6, 2002 in public session. Lawrence M. Hammond, Esquire, represented the Petitioner; and Peter Max Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that Office. Both Mr. Hammond and Mr. Zimmerman made brief introductory remarks.

Statement of Facts

Mr. John F. Owings, Jr., and Mr. and Mrs. Lee R. Jones are the Petitioners. They are requesting reclassification of the real property located at 24 Old Tollgate Road. The present zoning is D.R. 3.5. Mr. Owings is the contract purchaser and he would like to develop the property in the form of a clustered residential condominium community, which would be restricted to senior citizens aged 55 and older, with a density unit factor of 95. The present zoning of D.R. 3.5 permits the construction of single-family homes.

Testimony of Witnesses

Mr. William Duvall, a registered professional engineer, was the first witness for the Petitioner; and was accepted as an expert in his field. Mr. Duvall described the subject property on which the rezoning was being requested. Approximately 10 acres is involved out of 15 total acres. Presently existing on site is an improved single-family home. The majority of the site is wooded. The subject site has direct access to Old Tollgate Road and Tollgate Road, which serve as local roads for the community. The proposed facility would be limited to individuals 55 years of age and older. Petitioner's Site Plan (Petitioner's Exhibit No. 1) was reviewed in detail. Four separate buildings are proposed (as shown on the plan in lavender color incorporated by a courtyard). Ninety-six units are contemplated. The revised zoning would permit 103 condominium units.

The stormwater management facility would be on-site and situated underground. There would be passive open spaces, with a small tot lot. The entrance would be from Old Tollgate Road. It would not be a gated community. A fence would exist between the proposed community and the existing high school. Parking meets Baltimore County regulations. Mr. Duvall stated that, under the existing zoning of D.R. 3.5, 53 to 60 single-family units could be built; and if so, a majority of the wooded area would cease to exist. If the present plan were approved, it was the Developer's intention to create additional plantings and buffers.

The witness also reviewed the contemplated Concept Plan (Petitioner's Exhibit No. 2). The site is B.M. to the north, and D.R. 3.5 to the south, east and west (to the west is Owings Mills High School). If approved by the Board, the Petitioner would actually proceed with a formalized Development Plan

On cross-examination by Mr. Zimmerman, Mr. Duvall indicated that he had been working on this project for about a year and his office had been involved in the Comprehensive Zoning Map Process. He was questioned concerning the open land to be turned over to the local community group and that the site plan made no reference to same. He also indicated that the site plan had been changed from an originally proposed three building facility to the present site plan calling for four separate buildings. Mr. Zimmerman entered into evidence People's Counsel Exhibit No. 1, Planning comments dated September 19, 2001; and in part, the feasibility of the stormwater management facility being proposed. He indicated that the stormwater management facility was designed to save as many trees as possible.

Mr. Joseph Cronyn also testified on behalf of the Petitioner. He is with the consulting firm of Lipman, Frizzell, and Mitchell, LLC, Columbia, Maryland. Mr. Cronyn qualified as a senior consultant with over 24 years in real estate and related fields. His credentials were

documented on page 5 of Petitioner's Exhibit No. 3 (Senior Demographic Trends – Northwest Market Area and Baltimore County). Mr. Cronyn has testified on such matters before the Circuit Court for Baltimore County and other jurisdictions, and was accepted as an expert in the area of real estate economics and demographics. He reviewed in considerable detail the results of a study he had conducted which resulted in the September 25, 2001 report (Petitioner's Exhibit No. 3). He also discussed his findings concerning how the number of senior households is growing, the economics of senior housing, the methodology used to analyze senior demographic trends, population trends, household trends, senior incomes, and the conclusions that he had reached based on his study. His conclusions are stated on page 3 of the study:

1. The growth of the senior population and households has been significantly greater than the growth of the population in general.

2. The study's defined Pikesville /Owings Mills /Reisterstown Market Area has been even more dramatically outpacing the tremendous growth in the general population which has been fostered by the Owings Mills Growth Area.

3. The area's senior population (55 +) grew one and one-half times faster than the total population and is projected to grow almost three times as fast as the total population through 2006.

4. Lower senior household incomes require a need for affordable living facilities which would be accommodated by the suggested type of facility on this site to seniors with modest incomes and limited equity to invest in a condominium unit suited to their age needs.

Mr. Cronyn did acknowledge that his study was not specifically based on year 2000 figures, because much of the data came from 1996 numbers since the 2000 census figures did not become available until the Fall of 2001. Mr. Cronyn stated his experience that led him to believe that

senior citizens generally prefer to have one-floor living accommodations with no property responsibilities relative to maintenance. Condominium living is preferred with a heavy demand for buildings with elevators.

Mr. Zimmerman, on cross-examination, raised several questions concerning the Baltimore County Master Plan (People's Counsel Exhibit No. 2), estimates of senior population available in the 1990 census, the Comprehensive Zoning Map Process (People's Counsel Exhibit No. 3), and Planning Office data relative to Issue 3-148. He acknowledged that the 1990 census figures had been available to the Baltimore County Planning Office, as well as to any economist. He also acknowledged that there were a large number of apartments in the immediate area that had been developed over the last 20 years, but did not have an exact number. He did acknowledge that some senior citizens might prefer to remain in their single-family homes rather than relocate to condominium living, but that he merely wished to provide an alternative to that option. The maximum price for the individual units in the community would be in the area of $100,000. There would be no subsidized support for the condominium and the project was a commercial, for-profit facility. Mr. Cronyn indicated he was hired in August 2001, before the reclassification petition was filed, but did not participate in the Comprehensive Zoning Map Process.

Mr. Jeffrey Long, of the Baltimore County Office of Planning, also testified. He was familiar with the property. Petitioner's Exhibit No. 4 (letter from Councilman McIntire, was submitted), to which Mr. Zimmerman objected. Mr. Long indicated that the Office of Planning would support the reclassification request with an open or documented site plan.

Mr. John F. Owings, Jr., also testified. He is the contract purchaser of the property. He opined that the original plans called for three 4-story buildings, but was refined after the

community meeting reflected local residents considered height to be an important issue; and so he went to four separate buildings consisting of three stories each. He described that the project, if approved, would consist of two phases. He discussed the materials to be used, security factors, and recreational facilities to be available for all residents in one of the buildings. He also described the 24 units in each of the four buildings, all of which have elevators and separate foyers. The stormwater management facility was described as originally postured in the open space, but later changed to save as many trees as possible. He reviewed the two architectural renderings, "A" and "B," (Petitioner's Exhibits 5 and 6) and the Restricted Covenants Agreements that were being proposed (Petitioner's Exhibit No. 7) and one that had been executed (Petitioner's Exhibit No. 8). He opined that one-third of the total property would remain D.R. 3.5. There was no intent to remove the conservancy area. He described his meeting with the Tollgate Community Group and efforts to work with them and the overall community goals in accordance with the contemplated project.

On cross-examination, Mr. Owings stated that the condominiums would only be sale, but owners could lease the units thereafter.

Mr. Philip Filner, a retired chemist, testified at length concerning negotiations with the Petitioner and the community groups. He had been in conversation with the Petitioner for 2 years. The community groups were concerned that if the Jones', who are quite elderly, passed away, the property could be sold and single-family homes developed; and the local Tollgate community groups wanted to preserve the site as close as possible as a wooded area. They looked upon the property as a "treasure" as it related to the community. They would prefer to keep it "green," "wooded," and in as pristine a condition as possible. The condominium members would all be accepted as members of the local Tollgate Community Association. Mr.

Filner explained there had been total community support for the project and the petition being proposed.

Mr. Zimmerman questioned the witness concerning the geographics of the Tollgate community which Mr. Filner explained consisted of 550 single-family homes. Some townhouses did exist in the general area, but most were single-family properties. Mr. Filner opined that there is very limited green space in the area except for the high school, and that existing on the Jones' property. Tollgate community homes were smaller type single-family dwellings, consisting of blue-collar families, well maintained and cared for. Approximately 150 to 200 families belong to the Tollgate Community Group. These families were well aware of what was transpiring with the contemplated projects and were regularly informed by a general newsletter distributed to all residents in the area. He acknowledged that he had "unofficially" participated in the 2000 Comprehensive Zoning Map Process.

Upon conclusion of Mr. Filner's testimony, Mr. Zimmerman offered a number of exhibits to be reviewed by the Board members which were accepted without objection. These included:

People's Counsel	No. 5	BC Council Minutes
	No. 6	Final Log Oct 19, 2000 CZMP
	No. 7	ADC Road Map
	No. 8	Zoning Map
	No. 9	Pikesville Zoning Map 1000 scale
	No. 10	Bill No. 122-78
	No. 11	Bill No. 46-79
	No. 12	Modification of "Change-Mistake" Zoning Rule

Statement of the Law

The Board may grant a reclassification of zoning on property if a petitioner can show either substantial change in the character of the neighborhood where the property is located or that the last classification was established in error. *Baltimore County Code* § 2-356(j)(1) – (2).

The issue before the Board was whether the Baltimore County Council erred during the 2000 Comprehensive Zoning Map Process (CZMP).

There is a strong presumption of correctness in the comprehensive rezoning by the County Council. *Anne Arundel County v. A-Pac, Ltd.*, 67 Md. App. 122 (Md. Ct. Spec. App. 1986); *Boyce v. Sembly*, 25 Md. App. 43, 49 (Md. Ct. Spec. App. 1975). Therefore, "...strong evidence of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting a reclassification is arbitrary and capricious." *Boyce*, 25 Md. App. at 50. Further, if the Board does find change or error, the Board must then determine whether the reclassification is warranted by that change or error. *Baltimore County Code* § 2-356(j)(2); see also *People's Counsel v. Beachwood*, 107 Md. App. at 659. The *Baltimore County Code* sets forth a list of factors the Board must consider in making this determination. *[Baltimore County Code* § 2-3356(j)(2)].

In the case at bar, it is alleged by the Petitioner that the 2000 zoning classification was established in error. There are two ways to establish error:

> Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect.

Boyce v. Sembly, 25 Md. App. 43, 51 (Md. Ct. Spec. App. 1975) (citations omitted); *People's Counsel v. Beachwood*, 107 Md. App. at 645. In *Beachwood*, the Maryland Court of Special Appeals set forth what is not mistake or error, and in *White v. Spring*, that court described what is zoning mistake or error. *White v. Spring*, 109 Md. App. at 697-98.

> The finding of a mistake or error is not so much concerned with the logical validity or merit of ultimate conclusion-drawing as it is with the adequacy and accuracy of the factual premises that underlie the conclusion-drawing. A conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.

People's Counsel v. Beachwood, 107 Md. App. at 645; for further analysis, see *White v. Spring*, 109 Md. App. at 697-99.

> It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific facts were not readily visible or discernible at the time of the comprehensive zoning, by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account, or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself recognized as existing at the time of the comprehensive zoning. Because facts occurring subsequent to a comprehensive zoning were not in existence at the time, and, therefore could not have been considered, there is no necessity to present evidence that such facts were not taken into account by the council at the time of the comprehensive zoning. Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not fairly debatable.

Boyce v. Sembly, 25 Md. App. at 52 (citations omitted).

The Majority finds that, in accordance with § 2-356(j)(1) of the *Baltimore County Code*, that the last classification of the Jones Property to D.R. 3.5 was in error. The Majority likens this case to a case of drafting error as cited by the People's Counsel in its Brief. The decisions of *Boyce v. Sembly*, 25 Md.App. 43, and *Howard County v. Dorsey*, 45 Md.App. 692 discuss the concept of zoning "mistake" or "error." In the *Boyce* case at pages 50-51, the Court stated:

> ...A perusal of cases particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive zoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. (Citations omitted.)...Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect.

Neither of these concepts takes into consideration a human error on the part of the Councilman who fully intended to vote to reclassify a piece of property, but through some inadvertence overlooked the matter and failed to vote to reclassify the property as he initially intended.

The evidence in this case indicated that William L. Duvall, President of W. L. Duvall, Inc., a professional engineering firm, who was accepted as an expert in civil engineering, had prepared a documented site plan for the 10 acres of property which was asked to be rezoned to D.R. 10.5. Mr. Duvall indicated that his organization had been involved in the Comprehensive Zoning Map Process (CZMP) with respect to this particular property. During the CZMP, it was proposed that three 4-story buildings containing condominiums would be erected on the property. This was subsequently changed after discussion with the Planning Office to erect four 3-story buildings which would give more open space and less parking area. Mr. Duvall testified that certain open space would be turned over to the citizens' group and that certain rooms in the condominium buildings would be made available to the citizens' group for holding of meetings and various functions. It was planned that the condominiums would be utilized by elderly individuals, over 55, and would provide affordable low-cost housing to these individuals. Mr.

Duvall stated that Dwight Little of his office was involved in the 2000 Comprehensive Zoning Map Process on behalf of the owners of the property.

The Petitioners presented Joseph Cronyn, who presented a study on the demographic trends in Baltimore County, and specifically in the northwest market area. While it is true that these studies can be manipulated to generally meet specific criteria, there does not appear to be any question that the elderly population in Baltimore County is growing at a faster rate than the rest of the population. In the northwest area of Owings Mills, the trends indicate a higher increase in the elderly population in this area than in the overall increase in the elderly in the rest of the County.

John F. Owings, Jr., the contract purchaser of the Jones Property, testified that he and Mr. and Mrs. Jones had executed restrictive covenants with Tollgate Action Group, Inc., the local community association, with jurisdiction adjacent to the property in question. Mr. Owings stated that the conservation property amounted to approximately 7 ½ acres. The Tollgate Group, as well as the condominium owners, would have access to a tot lot and a mulch trail and a greenhouse in the area. The Association would also have access to two meeting rooms in the condominiums to conduct meetings and other business as they see fit. In return for the granting of the conservation area, the Tollgate Action Group indicated that they would support the request of the owner and Owings to rezone the approximately 10.8 acres from D.R. 3.5 to D.R. 10.5.

This testimony was confirmed by Mr. Philip Filner, a director of the Tollgate Homeowners Association, who indicated that he had been working on this matter and involved with the property for at least two years. He also indicated that he had informally, unofficially participated in the 2000 Baltimore County zoning map process. The Tollgate Action Group was a spin-off of the Tollgate Homeowners Association and had approximately 150 active members.

Petitioners introduced two declarations of restrictive covenants. The first was from Lee. R. Jones and Maud D. Jones to the Tollgate Action Group and was dated October 18, 2000. The second declaration of restrictive covenants was between Lee R. Jones, Maud D. Jones, and John F. Owings, contract purchaser, and the Tollgate Action Group, Inc. It was dated December 15, 2001. Both restrictive covenants definitely contemplate that the property in question would be rezoned from D.R. 3.5 to D.R. 10.5.

People's Counsel introduced the Comprehensive Zoning Map Process Application dated January 18, 2000. The applicant information indicated that the applicant was the County Council, and one must assume that this would be Councilman McIntire from the Third Councilmanic District. The property information indicated the owners of the property as Lee and Maud Jones, and that there were 13.97 acres in question. The reclassification information showed the existing zoning of the 13.97 acres to be D.R. 3.5 and that the requested zoning for the 13.97 acres was D.R. 3.5. There was no need to create an issue to keep the zoning of the property the same. It would appear from the very beginning of the application there was an error in the requested zoning. The minutes of the Baltimore County Council for October 10, 2000, indicated that, when Bill 00-89, covering the Comprehensive Zoning Maps for the Third District, was called, Councilman McIntire moved to accept the Planning Board's recommendation on 117 issues, including Issue 3-148 covering the specific property. The Baltimore County 2000 Comprehensive Zoning Map Issues entered by the People's Counsel as People's Counsel Exhibit 6 shows that, with respect to Issue 3-148, concerning the property in question, the existing zoning was D.R. 3.5, the requested zoning was D.R. 3.5, the Planning Board's recommendation was D.R. 3.5, and the County Council decision was D.R. 3.5. This contradicts the declaration of restrictive covenants which was entered into evidence as Petitioner's Exhibit 8 from Lee R.

Jones and Maud D. Jones to the Tollgate Action Group, which indicated that Mr. and Mrs. Jones were seeking to have the 10.8 acres of the property rezoned from D.R. 3.5 to D.R. 10.5.

It appears that this rezoning had been discussed with Councilman McIntire who apparently initiated Issue No. 3-148 in the 2000 Comprehensive Zoning Map Process. When the property remained zoned D.R. 3.5, Councilman McIntire took the unusual step of initiating a letter to the Baltimore County Planning Board dated January 9, 2001, in which he admitted that he had intended to vote to rezone the property to D.R. 10.5, but that the matter had "simply slipped through the cracks" and that while he intended to change the zoning to permit the agreed-upon use, he simply failed to make the change. (Petitioner's Exhibit 4)

Subsequent to receiving Councilman McIntire's letter, the Planning Board voted, in accordance with § 2-356(i) of the BCC to certify to the County Council that early action upon the petition for zoning reclassification of the subject property was manifestly required (People's Counsel Exhibit No. 1). In its attached Memorandum, the Planning Board recommended the change in zoning provided the owners met a certain number of recommended changes in the design of the development plan.

Jeffrey Long, Section Chief of Development and Review for the Baltimore County Office of Planning, testified before the Board with respect to this matter and indicated that the Planning Board had received Councilman McIntire's letter which prompted its action with respect to the memorandum for reclassification. He indicated that it was clear that the County Council admitted error and that the Council generally followed the Councilmanic courtesy of voting for changes in zoning as recommended by the Councilman in the specific district involved.

There was no testimony with respect to the involvement in the 2000 CZMP by the owners of the property or the contract purchaser. Mr. Duvall, the civil engineer, testified that his

office did participate and Mr. Filner, on behalf of Tollgate Association, indicated that he had unofficially participated in the process. There is no evidence to show that the owners of the property, or the contract purchaser, were notified of the fact that Issue 3-148 did not propose to change the zoning of the property. There is nothing in the record that shows that the owners or the contract purchaser were alerted to the fact that an error was made in the issue and that the Council was not going to vote to change the zoning.

The Majority finds that the extraordinary step taken by Councilman McIntire to send a letter to the Planning Board admitting that an error was made in failing to rezone the property to D.R. 10.5 is perhaps the only way to show error where an oversight has taken place at the Council level. While the Board ordinarily does not give such letters much weight, since the Councilman is not available to testify, the Majority considers this matter to warrant an exception. The community and the Petitioner obviously felt that Councilman McIntire was going to vote to rezone the property to D.R. 10.5. Thereafter, neither the owners nor the community followed the issues closely and did not notice the error. When it was realized that the property was not rezoned, the only way to show the oversight by the Council was through the letter by Councilman McIntire. The Majority considers that it is sufficient evidence of error to warrant rezoning the property.

The Majority also finds that the population trends of senior citizens moving onto the Owings Mills area supports the reclassification and that there is adequate and present proposed transportation and water supply facilities, sewerage and solid waste disposal facilities, to support the change in zoning. In addition, the schools in the area would probably not be very much affected by the change since the contemplated use is condominiums for the elderly.

The recreational facilities and other public facilities are compatible with uses generally allowed under the prospective reclassification with the present and projected development or character of the surrounding area. The Majority has considered the pertinent recommendation of the Planning Board, and its recommendation of the change in zoning provided certain design aspects of the project were changed, and therefore, it considers the change to D.R. 10.5 is warranted.

ORDER

THEREFORE, IT IS ORDERED, by the Baltimore County Board of Appeals, this 15th day of April, 2002, that the Petition for Reclassification from D.R. 3.5 to D.R. 10.5 in Case No. CR-02-070 be and the same is hereby **GRANTED**, pursuant to the Documented Site Plan submitted as Petitioner's Exhibit #1.

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*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Lawrence S. Wescott

C. Lynn Barranger

IN THE MATTER OF THE APPLICATION OF MAUD D. & LEE R JONES –LEGAL OWNERS; JOHN F. OWINGS, JR., CP (JONES PROPERTY) FOR A ZONING RECLASSIFICATION ON PROPERTY LOCATED ON THE NW/S OLD TOLLGATE ROAD, COR N/S TOLLGATE ROAD; ALSO 1730' E C/L RITTERS LANE (24 OLD TOLLGATE ROAD) 4th ELECTION DISTRICT 3rd COUNCILMANIC DISTRICT	* * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. CR-02-070 (Out of Cycle, 2001)

* * * * * * * * *

DISSENTING OPINION

This is one of those reclassification cases that, because of the circumstances and totality of the testimony and evidence taken at the public hearing, would appear to justify a majority decision without dissent. The amended Documented Site Plan reflects a projected 95 condominium units as opposed to 103 units as permitted under a zoning of D.R. 10.5. Under the present D.R. 3.5 zoning, approximately 55 to 60 single-family units could be built at considerable sacrifice to much of the wooded area called for preservation under the proposed site plan. There is considerable, if not total, community support, along with the enthusiastic support of the local Councilman, Baltimore County Office of Planning, and the Planning Board. There do not appear to be any negative factors in the reclassification request. However, as an administrative board, we are required to consider the facts in relationship to the applicable law. It is easy to find ways to justify a reclassification for good and beneficial causes. However, unpopular is the denial of such reclassifications because the reclassification fails to meet the standards imposed by statutory and case law. Additionally, while impressive, the Petitioner's Exhibit No.3, the Senior Market Study, is not unlike the one submitted in the recently *Pennrose* case by this Board. According to the testimony of Mr. Cronyn, the senior consultant who

completed the assignment, much of the statistical population data was used on the basis of 1996 Census figures, since, according to his testimony, the 2000 Census tapes were not available when his report was completed in September 2001. As People's Counsel and the Board are aware, the need for senior citizen housing is not a new revelation. The need has been known to the County Executive, the Baltimore County Council, the Planning Board, Office of Planning, and County Government in general for years and has been the subject of prior Master Plans. That need could easily be identified in almost any market area study of the County. The fact that it exists in the "northwest market area" identified by the Petitioner as the Market Study Area, is not unusual or glaring. The condition exists throughout the County for senior citizen housing; and the trend is that it will continue to increase in future years. As the Brief of People's Counsel suggests, "the need [for senior housing] is well known, along with other needs in the County.... It is not a reason to find mistake. It is up to the County Council to justify when, and to what extent, high density senior housing should be permitted." The real question presented in this case is the legal standard imposed on the Board as to what constitutes "mistake or error."

The first presumption is that there is the strong presumption in favor of the legislation rezoned under the Comprehensive Zoning Map Process, as long as it is reasonable and fairly debatable. The degree of reasonableness must be considered as of the time of the decision-making process and not second-guessing by this Board. It requires that this Board exercise restraint and avoid substituting its judgement for that of the elected County Council, less the electorate consider the Board's decision inflicting questions of legislative competency. The term "error" as it is used in zoning law does include the failure to take into account projects or trends reasonably foreseeable of fruition in the future. But in order to establish error, there must be evidence to show that such developments were not, in fact, or could not have been, taken into

account so that the Council's action was presumed a misapprehension. In the instant case, Councilman McIntire had intended to change the site zoning during the 2000 Comprehensive Zoning Map Process. Indeed, the site was listed as an issue filed by the Councilman to change the zoning of the subject property from D.R. 3.5 to D.R. 3.5. Obviously, the change should have been to D.R. 10.5. The community was under the impression that the zoning was to be changed. Ten days before the County Council final vote on October 20, 2000, a "Declaration of Restrictive Covenants" was executed between Mr. and Mrs. Jones and the Tollgate Action Group, Inc., to process part of the property as a wooded area with certain rights available to the community group. One could go on and on relative to the probability that it was the intention of the Councilman to change the zoning, and that it was "mistake" or "error" that was not done. Such a conclusion runs contrary to the established law that to incur a "mistake" or "error" recognizes that the existing zoning is inconsistent with the zoning of the surrounding area, or that a landowner is deprived of a reasonable use of his property. There is no question but that the subject site is suitable for single-family residential development, and is not out of character, surrounded by D.R. 3.5 zoning.

While commendatory in their desire to preserve the wooded area, and highly desirable to the community and the interests of Baltimore County, there is no economic shortfall other than the advanced age of the owners and personal immediate economic benefit if the rezoning occurs now rather than in the year 2004. While the rezoning is certainly "warranted" as it benefits the senior citizen population, the local community, and the interests of Baltimore County, these factors alone do not warrant the intrusion of the Board to correct errors of mistake or decision mistakes. Historically, the Board, with one exception, has not permitted testimony by Council members or what Council members said or thought during the Comprehensive Zoning Map

Process, and in that one case, the Board denied the reclassification. [*Toll House, Inc.*, 95 CV 0871]

Rejecting Petitioner's arguments based on the testimony of Councilman Mintz, Judge Hinkel said that, "whether Mr. Mintz' testimony is even admissible into evidence is questionable." [page 16] No matter how worthwhile or beneficial, what the Board has been requested to do is "correcting an administrative mistake." [Petitioner's Brief, page 6] There is no question but that the Council was aware of "then existing facts, projects or trends [relative to the subject site] which were reasonably foreseeable of fruition in the future." It was clearly the Councilman's responsibility, or that of the Planning Board, or that of the Planning Office, or that of the community group to follow through and make sure that, at the time of the Council's vote, "the Council's action was presumed initially on a misapprehension."

The road to change is always subject to good intentions. That was obviously the case here. However, to permit this type of clerical or administrative mistake to be the basis for reclassification represents dangerous quicksand for this Board. If that were the intent of the County Council, perhaps that body would best be the body to assume reclassification requests. However, the intermingling of that body politic after the exhaustive role of the statutory comprehensive map rezoning process may be more than that body wishes to assume. Conversely, if the consideration of an administrative mistake or clerical error is to be a factor for this Board to consider, the Baltimore County Council can easily amend the current legislation and provide this body with such authority. Lacking that, this Board member elects to proceed with caution and respectfully dissents.

BY: _____
Charles L. Marks

Date: April 15, 2002

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

April 15, 2002

Lawrence M. Hammond, Esquire
465 Main Street
Reisterstown, MD 21136

RE: *In the Matter of: Jones Property; Maud D. & Lee R. Jones –Legal Owners; John F. Owings, Jr., - C.P.*
Case No. CR-02-070

Dear Mr. Hammond:

Enclosed please find a copy of the final Majority Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter. Also enclosed is a copy of Mr. Marks' dissenting opinion.

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 of Procedure*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all Petitions for Judicial Review filed from this decision should be noted under the same civil action number.** 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,

Kathleen C. Bianco /ths

Kathleen C. Bianco
Administrator

Enclosure

c: Lee R. and Maud D. Jones /Legal Owners
John F. Owings, Jr. /CP /Petitioner
William L. Duvall /W.L. Duvall, Inc.
Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

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DEPT. OF PERMITS AND DEVELOPMENT MANAGEMENT

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3/6/02

RE: PETITION FOR RECLASSIFICATION 24 Old Tollgate Road, NW/S Old Tollgate Rd, Cor. N/S Tollgate, also 1730' E of c/l S. Ritters Ln 4th Election District, 3rd Councilmanic	* * *	BEFORE THE COUNTY BOARD OF APPEALS FOR
Legal Owner: Lee R. Jones Contract Purchaser: John F. Owings, Jr. Petitioner(s)	* * *	BALTIMORE COUNTY Case No. CR-02-70

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

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PEOPLE'S COUNSEL'S MEMORANDUM

This is an unusual case. In opening statement, we referred to the heavy burden on a petitioner to prove "mistake" in a piecemeal rezoning case. The Board has recently applied this test to deny petitions in Painters Mill Venture, Case No. CR-01-435, and Pennrose Properties, Case No. CR-02-120.

On the face of it, there is nothing unreasonable about DR-3.5 zoning here. It has existed on the subject site for many years and is identical to the zoning of surrounding properties.

The desirability of a proposed site plan is not a ground for a finding of mistake. See Code Section 2-356(n) and the 1977 Planning Board Report which discusses the documented site plan option in the cycle rezoning process. The need for senior housing is likewise not a reason to find mistake. This need is well-known, along with other needs in the county. It is up to the County Council to judge where, and to what extent, high-density senior housing should be provided.

The unusual question in this case is whether, under all of the circumstances, there was a miscommunication in the mapping of the DR-3.5 zone, tantamount to a drafting

error. While we do not concede mistake, the question arises as to whether this case is analogous to a map correction case. We caution, however, that a finding of miscommunication has the potential to open the door for unfounded claims in future cases. Because of this danger, we must take a strong position in defense of the comprehensive zoning map.

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2002 a copy of the foregoing Entry of Appearance was mailed to Lawrence Hammond, Esq., 465 Main Street, Reisterstown, MD 21136, attorney for Petitioner(s).

PETER MAX ZIMMERMAN

1/8/02

RE: PETITION FOR RECLASSIFICATION NW/S Old Tollgate Road, Cor. N/S Tollgate Road also 1730' E centerline S. Ritters Lane 4th Election District-3rd Councilmanic District	*	**BEFORE THE**
	*	**COUNTY BOARD OF APPEALS**
	*	**FOR**
Legal Owners: Maud D & Lee R. Jones	*	**BALTIMORE COUNTY**
Petitioner: John F. Owings, Jr.	*	**Case No.: CR-02-070**

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

Petitioner's Post-Hearing Memorandum

I. Introduction

This matter comes before the County Board of Appeals (CBA) pursuant to the provisions of Section 2-356(I) of the Baltimore County Code. On January 18, 2001, the Baltimore County Planning Board voted in accordance with Section 2-356(j) of the Baltimore 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 February 20, 2001.

The subject property is a 9.86 acre parcel of land, which is part of larger tract of land containing 14.77 acres of land, more or less. The fee simple property is owned by Maud D. and Lee R. Jones, by virtue of a Deed dated February 26, 1990, being recorded among the Land Records of Baltimore County in Liber SM No. 8412, folio 450. Mr. and Mrs. Jones have in fact held title to the property since 1951. The existing zone on the entire 14.77 acres is D.R. 3.5. This classification allows as a matter of right, single-family detached, semi detached or duplex dwellings. BCZR 1B00.1, 1B01.1A.1.a.

The requested zoning classification for the subject property is D.R. 10.5. Such a zoning allows for group houses and multifamily buildings. BCZR 1B00.1, 1B01.1.A.d. The Petitioner's request includes a documented site plan. Said site plan indicates that the maximum number of units permitted for the subject property if zoned D.R. 10.5 is 103 units. The Site Plan proposes 95 condominium units. The Petitioner, John F. Owings, Jr., proposes to develop the Subject

02 MAR -8 AM 5:37

Property as age restricted (55 years of age or older) condominiums. The Documented Site Plan demonstrates that a significant number of the existing trees would be retained and that additional deciduous and non-deciduous trees would be planted in order to provide significant screening.

After a brief review of the area where the subject property is located, I will discuss the outcome and events of the 2000 Comprehensive Zoning Map Process (CZMP) and the applicable law. I will demonstrate that the decision of the County Council to retain the exiting zoning designated was an "error" and/or "mistake" in the purest sense of the word as a term of art and from a legal standpoint. I will show that the circumstances that brought this matter before the CBA are of unique nature and distinguishable from the many cases that have come before the Courts over the years, where reclassification was not permitted. I will demonstrate that by granting the Petitioners request the CBA will not be second guessing the County Council, but will in fact rectify an error. I will also recap the testimony of the designated representative of the Tollgate Action Group. A local community organization that strongly supports the Petition for Reclassification. Finally I will discuss the letter of Councilman McIntire to the Baltimore County Planning Board dated January 9, 2001.

The questions presented to the CBA for review are:

1. Is there legally sufficient evidence of legislative mistake or error during the 2000 CZMP?
2. Is the requested zoning warranted?

II. The Area

The subject property is located adjacent to the Tollgate subdivision, in Owings Mills. The subject property is wooded, and the improvements are not readily visible from the adjacent properties. Tollgate is a mature subdivision of modest single family homes. The majority of the homes located in the Tollgate subdivision were constructed in the late 1950's and early 1960's. The subject property fronts Old Tollgate and Tollgate Roads. Adjacent to the Subject Property on the west boundary line is Owings Mills Senior High School. To the north of the Subject

Property is the remaining portion of the Jones Property which is not a part of the Reclassification Petition, and is heavily wooded. This portion of the Jones Property is designated as Forest Conservation Reservation area on the Documented Site Plan filed along with the Petition. On the northeast side of the Jones Property is a parcel titled in the name of the Petitioner, John F. Owings, Jr. That property has a split zoning designation of BM and DR 3.5. Mr. Philip Filner who testified on behalf of the Tollgate Action Group resides on Old Tollgate Road. With the exception of Owings Mills Senior High School, the area immediately adjacent to the Subject Property is residential, with narrow, winding streets.

III. The 2000 CZMP

The subject property was filed as an issue as part of the 2000 Comprehensive Zoning Map Process (CZMP). The subject property was designated as Issue 3-148. The County Council voted to following the recommendation of the Planning Board and retain the existing DR 3.5 zoning.

IV. The Law

The so-called "Maryland Rule" regarding mistake or change has been litigated on countless occasions. Section 2-356 of the Baltimore County Code authorizes the CBA to change a zoning classification. Historically, there has been much debate as to the meaning or mistake or change. Three opinions authored by Judge Rita Davidson have provided the Courts with a firm understanding of what is meant by the terms of art "mistake" or "change". Coppolino v. County Board of Appeals, 23 Md.App.358, 328 A.2d 55 (1974) involves a request for reclassification of residentially zoned property located in Baltimore County. In Coppolino Judge Davidson wrote:

> "While, in recent years, we have had occasion to enunciate a number of important principals applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced."

This opinion being the first of three, echoed the concept that it was not the job of the judiciary to second guess the legislature, but rather to determine if the actions of the legislature were arbitrary and discriminatory or fairly debatable.

In the case of Boyce v. Sembly, 25 Md. App. 43, 334 A2d. 137 (1975) Judge Davidson went further in defining the legal meaning of mistake or error and her opinion stated the following:

> "In order to asses the evidence before the Board, it is necessary to understand the the inherent nature of "mistake" or "error" as they are used in zoning law. A perusal of cases, particularly those in which finding of error was upheld, indicated that the presumption of validity accorded to a comprehensive zoning is overcome error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension."

The last of the three opinions authored by Judge Davidson is Howard County v. Dorsey, 292 Md. 351, 438 A2d. 1339 (1982). Judge Davidson further amplified the definition of "error" or "mistake" and the role of an expert witness in establishing the existence of such an error or mistake.

Taken as a whole, the three opinions of Judge Davidson make it clear that the decision of the legislative body with respect to original or comprehensive zoning must be viewed with great deference, and that Monday morning quarter backing or second guessing of the legislative body by the judicial branch of government is not appropriate. The evidence of mistake or error must be probative, clear and convincing and the burden is an onerous one .

The principals set forth in the landmark opinions of Judge Davidson have been applied to countless cases. The Court of Special Appeals further amplified the concept that it was not the role of the judiciary to second guess the legislative branch of government and that there must be

a fairly debatable issue as to mistake. People's Council v. Beachwood, 107 Md. App 627, 670 A2d 484 (1995).

V. Community Support &Testimony

Mr. Philip Filner, who resides on Old Tollgate Road, and who also serves as the Zoning Chair for the Tollgate Action Group (TAG) testified in support of the reclassification petition. Mr. Filner, on behalf of TAG explained that his organization has had input in the design of the proposed condominium from the onset. Mr. Filner stated that the community was in support of the concept of leaving many of the old trees in place. He was of the opinion that his community would be adversely impacted if the subject property were to be developed as single family homes, as permitted under the present zoning designation. Mr. Filner spoke of restrictive covenants that have negotiated between TAG and the Petitioner, and that members of TAG would have limited access to some of the amenities to be provided as part of the condominium. Most importantly, Mr. Filner spoke of the relationship that exits between the property owners, the developer and the community. Mr. Filner stated that there is a high level of trust between the parties and that the developer has fulfilled every promise made to the community. Mr. Filner and the members of TAG were most pleased with the concept of designating the northern most parcel of the Jones Property as undevelopable, and that it would be incorporated into a large nature preserve. Mr. Filner also testified that a portion of the petitioners property, which lie adjacent to the Jones Property has been conveyed to Tollgate-Havenwood, Inc., a pending IRC Section 501(c)(3) entity, whose board is comprised of members of TAG. Unlike many other case that have come before the CBA, this one is fully supported by the surrounding community, and no one gave evidence at the hearing in opposition to the reclassification.

VI. Councilman McIntire's Letter

On January 9, 2001, Council T. Bryan McIntire wrote a letter to the Baltimore County Planning Board. The letter stated that he had intended to change the zoning during the 2000

CZMP, but the issue had "slipped through the cracks". Essentially a clerical error. While it is unusual for such a letter to become part of the record, the content of the letter distinguishes it from other letters that have been presented to the CBA as evidence. The CBA had the opportunity to review a letter from the same Councilman in Case No. R-01-435. The CBA in its opinion stated that the Board elected to give the letter no weight whatsoever in it deliberation. To paraphrase the letter the Councilman stated that he was not aware of the severe environmental restraints that effected the property and that it is only fair to the property owner that this matter be reconsidered in the out-of -cycle process. Unlike the letter in Case No. R-01-435, the letter from the Councilman in the instant case makes no reference to information that was brought to his attention after the conclusion of the 2000 CZMP. There is no motive to be questioned. The letter is clear that the Councilman had intended to vote in favor of the requested change in zoning. The Councilman took the unusual step, and in a timely fashion to admit that due to a clerical error that he failed to vote as he had intended and consequently, the other member of the County Council, pursuant to the concept of councilmanic curtsey followed suit. Nothing further could be learned from the direct testimony of the Councilman. Clearly this letter does not pose the problems addressed by Chief Judge Wilner in Montgomery County v. Schooley, Md. App. 107, 627 A.2d 69 (1993). The doctrine of legislative privilege is not at issue. There is nothing to debate or question. Councilman McIntire has not be asked to express and opinion or explain the issues that he considered or did not consider during the 2000 CZMP. Fortunately, it is much simpler than that. The Councilman admitted to an error or mistake in the purest form. It had nothing to do with information obtained post 2000 CZMP and had everything to do with correcting an administrative mistake.

VII. Conclusion

The testimony and evidence present to the CBA clearly indicates that reclassification of the subject property is warranted and that a mistake or error did occur during the comprehensive zoning. While the facts of the instant case are somewhat unusual, they do support the assertion

that a "mistake" or "error" did occur with in the context set forth in the three opinions authored by Judge Davidson. The Petitioner has not asked the CBA to engage in Monday morning quarter backing or second guessing. The Courts have been consistent in their prohibition of such actions. The Petitioners have asked the CBA to examine the testimony which he believes clearly and strongly suggests that an error or mistake did occur during the 2000 CZMP and that a ruling in favor of reclassification would not be inconsistent with Maryland Case Law or recent decisions of this very Board. Unfortunately, the Baltimore County Code does not provide another avenue of relief for the type of error that occurred this matter. The only relief available to the Petitioner is provided in Section 2-356 of the County Code. The Petitioner has met the burden set forth in the code and has met the onerous burden that Judge Davidson spoke of. The proposed condominium as set forth on the document site plan is an appropriate and welcome use for the subject property. Not only will it address the needs of an aging community, it will also satisfy the needs and desires of the neighbors. The proposed project will preserve many of the existing trees and provide a nature preserve for the community. This is yet another unusual aspect of this case. While it is true that the Owings Mills area has a significant amount of high density zoning, it provides very little moderately price housing for those aged 55 or older, the very type of housing that we be provided by the Petitioner.

This case is again unusual and easily distinguishable from other cases involving zoning reclassification. What the Petitioner is seeking is the zoning that he should have received during the comprehensive zoning process. To grant the reclassification would not undermine the comprehensive zoning map process, but rather confirm that great deference must be given to the legislative branch of government and that the evidence must be probative and compelling. I believe that the Petitioner has met his burden and he respectfully requests that his Petition for Reclassification be granted.

Lawrence M. Hammond
Hammond & Hammond, L.L.C.
465 Main Street
Reisterstown, Maryland 21136
(410) 833-7576
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2002, a copy of the foregoing Post Hearing Memorandum was mailed, via first class mail, postage prepaid to Peter Max Zimmerman, Esquire, People's Counsel for Baltimore County, Old Court House, Room 47, 400 Washington Avenue, Towson, MD 21204.

Lawrence M. Hammond

Petition for Reclassification

to the Board of Appeals of Baltimore County

for the property located at 24 Old Tollgate Road
which is presently zoned/districted DR 3.5

This Petition shall be filed with the Department of Permits and 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/district status of the herein described property be reclassified,

pursuant to the zoning law of Baltimore County from a DR 3.5 zone/district to a DR 10.5 zone/district, for the reasons given in the attached 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:

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Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above petition(s), advertising, posting, etc. and further agree to and are to be bounded 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:

John F. Owings, Jr.
Name - Type or Print

John F. Owings, Jr.
Signature

P.O. Box 295 — 410.833.1187
Address — Telephone No.

Owings Mills — MD — 21117
City — State — Zip Code

Attorney For Petitioner:

Lawrence M. Hammond
Name - Type or Print

Signature

Hammond & Hammond, L.L.C.
Company

465 Main Street — 410.833.7576
Address — Telephone No.

Reisterstown, MD 21136
City — State — Zip Code

Legal Owner(s):

Lee R. Jones
Name - Type or Print

Signature

Maud D. Jones
Name - Type or Print

Maud D. Jones
Signature

24 Old Tollgate Road — (410)356-3807
Address — Telephone No.

Owings Mills, MD 21117
City — State — Zip Code

Representative to be Contacted:

Lawrence M. Hammond, Esqurie
Name

465 Main Street — 410.833.7576
Address — Telephone No.

Reisterstown, MD 21136
City — State — Zip Code

REV 9/18/98

BRIEF IN SUPPORT OF RECLASSIFICATION OF THE JONES PROPERTY

Mr. John F. Owings, Jr. and Mr. & Mrs. Lee R. Jones (hereinafter collectively referred to as "Petitioners") seek a reclassification of the real property known as 24 Old Tollgate Road (the "Jones Property"). The Jones Property is zoned DR 3.5. Mr. Owings is the contract purchaser. He proposes to develop the property as a clustered residential condominium community, restricted to those aged fifty-five or older. The number of density units for the condominium complex shall ninety-five (95). Under the present zoning, the Jones Property is ripe for single family homes. The site is heavily wooded and a clear cutting would be necessary to construct single family homes. Pursuant to Mr. Owings' proposed use for the Jones Property, clustering would be more compact, allowing for a larger percentage of the trees to remain. Additionally, the remaining portion of the Jones Property, not necessary for the development of the condominium, would be restricted from any further development. To ensure that the remaining portion of the Jones Property will remain undeveloped, Mr. Owings will convey said property to a wildlife conservancy, in concert with a local community organization.

The members of the Tollgate community, who are represented by the Tollgate Action Group (hereinafter referred to as "TAG") oppose single family house development of the Jones Property. Mr. & Mrs. Jones have entered into a Restrictive Covenant Agreement with TAG which shall regulate the proposed development of the Jones Property. The Restrictive Covenant Agreement is contingent on the outcome of this Reclassification Petition.

During the 2000 CZMP, Mr. & Mrs. Jones applied for a change in the zoning of their property from DR 3.5 to DR 10.5 in order to accommodate the wishes of their neighbors and Mr. Owings. The Tollgate community as a whole and Mr. and Mrs. Jones in particular would like to

see the property developed as contemplated by Mr. Owings. In addition to preserving a large majority of the trees, the members of TAG will have limited or conditional access to the active and passive open space provided on the site, as well as any indoor recreational facilities located within any of the condominium buildings.

The Jones Property is located in the Third Councilmanic District. The County Council as a whole and Councilman T. Bryan McIntire, in particular, voted to follow the recommendations of the Planning Board and retain the DR 3.5 zoning. The Petitioners believe that this was clearly a mistake. The Petitioners aver that the mistake was due to the fact that the County Council was not in possession of all pertinent information regarding the Jones Property. The County Council was not aware of the extent that Owings Mills has changed over the last several years, and how those changes have impacted the community. While it is true that Baltimore County, pursuant to its Master Plan, has designated Owings Mills as a growth area, the change is far more dramatic than anticipated. While the change is obvious to the casual observer, recently released census statistics document the true extent of the change which has occurred in Owings Mills over the past several years. Owings Mill, along with Reisterstown, comprise Regional Planning District (PDR) 306. According to figures released by the Baltimore County Office of Planning the population in PDR 306 increased by 23.83% since the 1990 census. Those individuals age Fifty-five and older comprise 13.5% of the population in Owings Mills. Those aged 45-54 make up 12.2% of the Owings Mills population. In Reisterstown, those individuals aged Fifty-five and older comprise 17.6% of the population, and those aged 45-54 make up 13.8 of the local population. The Owings Mills Growth Area has gained approximately Four Thousand (4000) new residential units since 1990. Along with the influx of new residents to the Owings Mills

community, a large percentage of the long-time residents are aging and looking to move from their single family homes, while remaining in the Owings Mills area. Unfortunately, many of these people cannot afford the housing in Owings Mills New Town, nor do they qualify for subsidized senior housing, of which little exists in the Owings Mills area. In neighboring Randallstown, the population has increased by 51.27% since 1990, and those aged Fifty-five (55) or older comprise 21.1% of the total population. While there is ample single family housing in the Greater Owings Mills area, there is little or no affordable housing in Owings Mills that is dedicated to those individuals who are age fifty-five or older. Unlike single family housing, the proposed project as set forth on the Documented Site Plan would have no adverse impact on the school system. Furthermore, the proposed project would not have an adverse impact on existing transportation facilities or utilities. As opposed to single family homes, the targeted market end user of the proposed condominium to be constructed on the Jones Property would not have an adverse effect on traffic along Old Tollgate Road. The project should have a positive impact on the area recreational facilities since the residents and the members of TAG will have limited or conditional access not only to the active and passive open space but they will also enjoy access to the aforementioned wildlife preserve. Additionally, if this Petition for Reclassification is granted, Mr. Owings will be in a position to donate additional property which is contiguous to the Jones Property so that it might be included in the proposed wildlife preserve area. Clearly, the local recreational facilities would benefit from the proposed condominium. A significant number of existing and future residents who are in proximity to the Owings Mills High School would be provided not only with open space and a wooded area for recreational usage, but they will have access to the aforementioned indoor recreational facility.. The proposed project as set forth on the

Documented Site Plan is compatible with uses generally allowable under the DR 10.5 classification. As a result of the layout and design, the proposed clustered development will be adequately screened due in part to the retention of a large majority of the existing trees.

The Petitioners believe that if the County Council had been in possession of all the facts and information regarding the Jones Property, it would have voted in favor of Mr. & Mrs. Jones' request for a change in the zoning of their property from DR 3.5 to DR. 10.5. In fact, Councilman McIntire has stated in retrospect that he wishes that his vote had been cast in favor of Mr. & Mrs. Jones' request.

Mr. & Mrs. Jones are both senior citizens, well into the twilight of their lives. In addition to Mr. Owings, several developers of single family subdivisions have attempted to purchase the Jones Property. If this Petition for Reclassification is denied, Mr. & Mrs. Jones will be left with no alternative except to seek a buyer who would develop the property pursuant to its current zoning designation. Clearly, the Petitioners aver that not only would the public interest best served if this Petition for Reclassification is granted, but the facts support their assertion that the County Council was mistaken by denying the Petition of Mr. and Mrs. Jones to rezone a portion of their property during the 2000 CZMP and that the Greater Owings Mills community has changed in such a significant fashion that a Reclassification from DR 3.5 to DR 10.5 is warranted. Therefore, the Petitioners respectfully request that the zoning for the real property known as 24 Old Tollgate Road be reclassified from DR 3.5 to DR 10.5 pursuant to the specifications as set forth on the Documented Site Plan.

c:\lmh\owings24.add

DESCRIPTION TO ACCOMPANY
RECLASSIFICATION PETITION FOR
9.86 ACRE PARCEL LOCATED NORTH SIDE OF
TOLLGATE ROAD AND WEST SIDE OLD TOLLGATE ROAD
4TH ELECTION DISTRICT, BALTIMORE COUNTY, MARYLAND

BEGINNING for the same in or near the center of Tollgate Road at a point located 1730 feet east of the centerline of South Ritters Lane, said point also being located S 10°27'50" W 30.50 feet from a concrete monument found on the north side of Tollgate Road, said monument being at the southeastern corner of that parcel of land owned by the Board Of Education Of Baltimore County and recorded among the Land Records of Baltimore County in Liber No. 2699, Folio 315, and running thence as now surveyed with all courses being referred to the Baltimore County Metropolitan District Grid, and passing over said concrete monument at a distance of 30.50 feet and binding thereafter on the east side of the aforementioned Board Of Education Property, 1) N 10°27'50" E 625.33 feet to a 60" white oak tree, thence 2) N 06°26'22" E 97.58 feet, thence running across the whole tract of which this parcel is a part thereof, 3) N 83°33'38" E 698.13 feet to intersect the eastern side of said whole tract and to a point in or near the center of paving of Old Tollgate Road, thence running with the outlines of said tract and in the paving of said road to include ownership of portions therein, the following 4 courses and distances, viz: 4) S 12°21'45" W 7.70 feet, thence 5) S 16°01'20" W 236.18 feet, thence 6) S 26°21'17" W 153.56 feet, thence running and leaving the northwest edge of paving after 125 feet, 7) S 33°01'30" W 308.90 feet in all to a point on the south side of Tollgate Road, thence crossing back over the south edge of paving of said road and running in the paved portion thereof and to include ownership therein, 8) S 89°30'04" W 491.53 feet and 9) N 85°35'47" W 23.44 feet to the point of beginning.
Containing 9.86 acres of land, more or less.

BEING a part of that land which by deed dated February 26, 1990 and recorded among the Land Records of Baltimore County in Liber 8412 Folio 450 was conveyed by Lee R. Jones and Maud D. Jones, his wife to Lee R. Jones and Maud D. Jones, his wife.

STATE OF MARYLAND
LEONARD THOMAS BORTNER
No. 10850
REGISTERED
PROFESSIONAL LAND SURVEYOR

4-8-01

NOTICE OF ZONING RECLASSIFICATION AND SPECIAL EXCEPTION

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #CR-02-070
NW/S Old Tollgate Road, Cor. N/S Tollgate Road
also 1730' E centerline S. Ritters Lane
4th Election District — 3rd Councilmanic District
Legal Owner(s): Maud D. & Lee R. Jones, Jones Property
Contract Purchaser: John F. Owings, Jr.
Reclassification: from D.R.3.5 to D.R.10.5
Hearing: Tuesday, September 25, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue.

LAWRENCE S. WESCOTT
Chairman

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations please call (410) 887-3180.
(2) For information concerning the File and/or Hearing, contact this Office at (410) 887-3180.

9/031 Sept. 6 C492223

CERTIFICATE OF PUBLICATION

9/6/, 2001

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 9/6/, 2001.

- [x] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

Date: 9/7/01

RE: Case Number CR 02-070

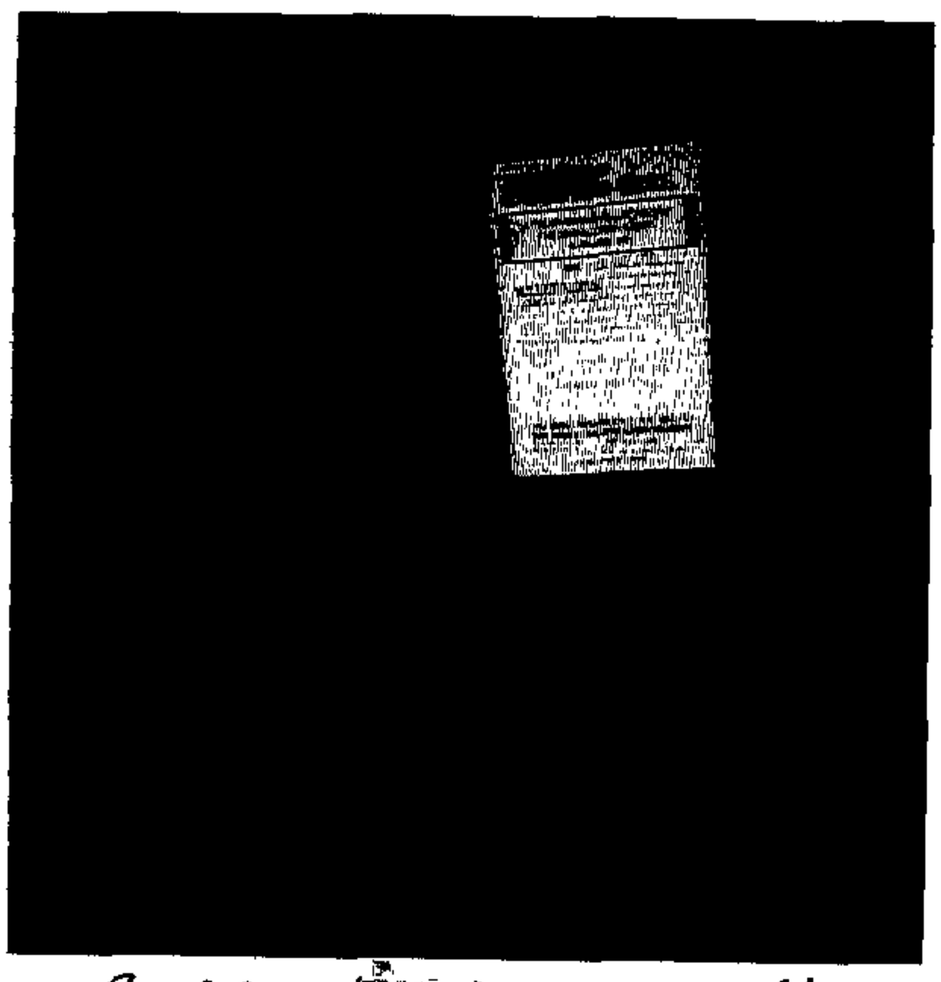
Petitioner: _____

Date of Hearing: _____

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at _____

_____

The sign(s) were posted on 9/7/01
(Month, Day, Year)



CR 02-070
9/7/01

(Signature of Sign Poster)

Gary Freund
(Printed Name of Sign Poster)

Balto. Co. Code Enforcement
(Street Address of Sign Poster)

Towson, MD 21204
(City, State, Zip Code of Sign Poster)

Revised 3/1/01 - SCJ

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 16, 2001

NOTICE OF ZONING RECLASSIFICATION HEARING

The County Board of Appeals of Baltimore County, by authority of the County Charter, Section 602.(e) and Section 603 and the County Code, Section 2-356(d), will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: CR-02-070
NW/S Old Tollgate Road, Cor. N/S Tollgate Road also 1730' E centerline
S. Ritters Lane
4th Election District – 3rd Councilmanic District
Legal Owner: Maud D. & Lee R. Jones, Jones Property
Contract Purchaser: John F. Owings, Jr.

Reclassification from D.R.3.5 to D.R.10.5

HEARING: Tuesday, September 25, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott

Lawrence S. Wescott GDZ
Chairman

WCR: gdz

c: Lawrence M. Hammond, Esquire, Hammond & Hammond L.L.C.,
465 Main Street, Reisterstown 21136
Maud D. & Lee R. Jones, Jones Property, 24 Old Tollgate Road,
Owings Mills 21117
John F. Owings, Jr., Post Office box 295, Owings Mills 21117

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 410-887-3180.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 410-887-3180.

FILE

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

August 16, 2001

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Reclassification from D.R.3.5 to D.R.10.5

HEARING: Tuesday, September 25, 2001 at 10:00 a.m. in Room 48 of the Old Courthouse, 400 Washington Avenue

Lawrence S. Wescott

Lawrence S. Wescott GDZ
Chairman

WCR: gdz

c: Lawrence M. Hammond, Esquire, Hammond & Hammond L.L.C.,
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BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

TO : Arnold Jablon, Director
Department of Permits
& Development Management
Attn: Carl Richards

DATE: October 25, 2001

FROM : Kathleen C. Bianco
County Board of Appeals

SUBJECT: Amended /Documented Site Plan /Case No. CR-02-070 /Jones Property
HEARING ON MERITS ASSIGNED FOR: Wednesday, February 6, 2002 at 10:00 a.m.

In accordance with the appropriate sections of the *Baltimore County Code*, the attached amended Documented Site Plan was submitted to the County Board of Appeals on the record and at a public hearing this date. This amended Documented Site Plan is herewith transmitted to your office for processing pursuant to § 2-356(m) of the Code.

This case will be heard before the Board on the merits of the request on Wednesday, February 6, 2002 at 10:00 a.m. A copy of the Notice of Assignment is attached reflecting this hearing date. Should you require any additional information regarding this matter, please contact this office.

Attachment

cc: Lawrence M. Hammond, Esquire
People's Counsel for Baltimore County
Pat Keller, Planning Director
Jeffrey Long /Planning

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 25, 2001

NOTICE OF ASSIGNMENT /Hearing on Merits

CASE #: CR-02-070
(out of cycle, 2001)

IN THE MATTER OF: ***Maud D. & Lee R. Jones*** *(Jones Property)*
- Legal Owners; ***John F. Owings, Jr.,*** - CP
24 Old Tollgate Road
4th Election District; 3rd Councilmanic District

RE: Petition for Reclassification /Documented Site Plan

ASSIGNED FOR: **WEDNESDAY, FEBRUARY 6, 2002 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioners : Lawrence M. Hammond, Esquire
Petitioners : Lee R. and Maud D. Jones /Legal Owners
John F. Owings, Jr. /CP /Petitioner

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

February 11, 2002

NOTICE OF DELIBERATION

IN THE MATTER OF:
Jones Property /Maud D & Lee Jones – Legal Owners;
***John F. Owings, Jr. - CP* –Petitioner**
Case No. CR-02-070

Having concluded this matter on 2/06/02, public deliberation has been assigned as follows:

DATE AND TIME : THURSDAY, MARCH 21, 2002 at 9:30 a.m.

LOCATION : Hearing Room 48, Basement, Old Courthouse

NOTE: Closing memos are due in this office on Friday, March 8, 2002 (ORIGINAL AND THREE [3] COPIES)

Kathleen C. Bianco
Administrator

c: Counsel for Petitioners : Lawrence M. Hammond, Esquire
Petitioners : Lee R. and Maud D. Jones /Legal Owners
John F. Owings, Jr. /CP /Petitioner

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

FYI copy: C.S.B.

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
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10 CR

*** **HEARING ROOM** – *Room 48* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF **MARCH 18, 2002**

TUESDAY **3/19** **10:00 am** **Case No.: 99-239-A** **/HEARING**
In the Matter of:
Albert J. Bierman – Legal Owner
7947 Pulaski Highway
SE/cor Pulaski Highway and Chesaco Avenue
15th Election; 5th Councilmanic

VAR – Front property line setback of 0' ilo required 15' for existing storage bins

---

WEDNESDAY **3/20** **10:00 am** **Case No.: 01-129-A** **/HEARING**
In the Matter of:
William A. McDaniel, Jr. – Legal Owner
5025 Black Rock Road
S/s Black Rock Road, 4500' W of Grace Rd.
5th Election; 3rd Councilmanic

VAR – To permit 2 existing business ID signs 63 sf and 7 sf ilo permitted 1 sign of 1 sf (actually 69 sf and 12 sf as amended at ZC hearing.

THURSDAY **3/21** **9:30 am** **Case No.: CR-02-070** **/DELIBERATION**
In the Matter of:
Jones Property/Maud D. & Lee Jones – Legal Owners
John F. Owings, Jr. – Contract Purchaser
24 Old Tollgate Road
4th Election; 3rd Councilmanic

10:00 am **Case No.: CR-02-154-A** **/HEARING**
In the Matter of:
Betty Kreeuzburg – Legal Owner - Petitioner
8919 Reisterstown Road
NE/s Reisterstown Rd 540' NW of c/l Mt. Wilson Lane
3rd Election; 2nd Councilmanic

RECLASSIFICATION: From D.R. 3.5 to O-3
VAR – to permit 10' side and rear setbacks from any lot line ilo req'd 20' or equal to height of building, whichever is greater

---

c:	Executive Office	People's Counsel	County Council
	Law Office	Planning Office	Board Members
	Director /PDM	Court Info. Desk	Court Reporter

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cvd

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

*** **HEARING ROOM** – *Room 48* ***
Basement –Old Courthouse
400 Washington Avenue

APPEAL HEARINGS SCHEDULED FOR THE WEEK OF FEBRUARY 4, 2002

TUESDAY **2/05** **10:00 am** **Case No.: CBA-01-105** **/HEARING**
In the Matter of:
McDonald's (Cynthia Brown- Owner)
6005 Liberty Road, Baltimore, MD 21207

RE: False Alarm Fees / Reg # C995985-1

WEDNESDAY **2/6** **9:00 am** **Case No.: R-01-437** **/Deliberation**
In the Matter of:
Jarvis Steel & Lumber Co., Inc.
SW/s Dover Road, approx 600' N of Baublitz Road
4th Election; 3rd Councilmanic

10:00 am **[redacted]** **/HEARING**
In the Matter of:
Jones Property / Maud D. and Lee Jones – Legal Owners
John F. Owings - CP
24 Old Tollgate Road
4th Election; 3rd Councilmanic

RE: Petition for Reclassification – From D.R. 3.5 to D.R. 10.5
DOCUMENTED SITE PLAN

THURSDAY **2/07** **10:00 am** **Case No.: 01-025-SP0H** **/HEARING**
In the Matter of:
Jeanette R. Clark and William F. Clark
NE/c intersection Taylor Ave & Chestnut Avenue
2900 Taylor Avenue
9 th Election; 6th Councilmanic

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c: Executive Office
Law Office
Director /PDM

People's Counsel
Planning Office
Court Info. Desk

County Council
Board Members
Court Reporter

Baltimore County
Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4500

August 21, 2001

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: Gwen Stephens

RE: Property Owner: Maud D. & Lee R. Jones, Jones Property

Location: NW/S Old Tollgate Road

HEARING DATE/TIME: September 25, 2001/10:00 a.m.

Item No.: 070

Dear Ms. Stephens:

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.

8. The Fire Marshal's Office has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS:

070

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

RECEIVED
AUG 24 2001
DEPT OF PERMITS AND
DEVELOPMENT MANAGEMENT

Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 8-23-01

Ms. Ronnay Jackson
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 070
CR 02-070

Dear. Ms. Jackson:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

for Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: R. Bruce Seeley

DATE: September 5, 2001

SUBJECT: Zoning Item CR 2-070
Address 24 Old Tollgate Road

Zoning Advisory Committee Meeting of August 20, 2001

_____ The Department of Environmental Protection and Resource Management has no comments on the above-referenced zoning item.

_____ The Department of Environmental Protection and Resource Management requests an extension for the review of the above-referenced zoning item to determine the extent to which environmental regulations apply to the site.

__X__ The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item:

__X__ Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains (Sections 14-331 through 14-350 of the Baltimore County Code).

__X__ Development of this property must comply with the Forest Conservation Regulations (Section 14-401 through 14-422 of the Baltimore County Code).

_____ Development of this property must comply with the Chesapeake Bay Critical Area Regulations (Sections 26-436 through 26-461, and other Sections, of the Baltimore County Code).

_____ Additional Comments:

Reviewer: Betty Kelley Date: August 30, 2001

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development Mgmt.

DATE: September 18, 2001

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For August 20, 2001
Jones Property
Legal Owners: Maud D. & Lee R. Jones
Case No. CR 02-070
Item No. 070
Hearing Date/Time: September 25, 2001 @ 10 a.m.
District 4C3

The Bureau of Development Plans Review has reviewed the subject zoning item.

If this property is rezoned and submitted for development, it will be subject to Baltimore County Development Regulations adopted February, 1992.

RWB:HJO:jrb

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Lawrence S. Wescott, Chairman
Baltimore County Board of Appeals

DATE: September 19, 2001

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

SUBJECT: Case # CR-02-070
Maud D & Lee R. Jones, Property Owners
John F. Owings, Jr, Contract Purchaser

At its regularly scheduled monthly meeting on January 18, 2001, 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 February 20, 2001.

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

Pat Keller

Arnold F. 'Pat' Keller, III

AFK:JWL:kma

01 SEP 24 AM 4:00
COUNTY BOARD OF APPEALS

CASE NO:
CR 02-070

PETITIONER:
Maud D. & Lee R. Jones, property owner and John F. Owings, contract purchaser

REQUESTED ACTION:
Reclassification to DR 10.5 (Density, Residential 10.5 dwelling units per acre)

EXISTING ZONING:
DR 3.5 (Density, Residential 3.5 dwelling units per acre

LOCATION:
24 Old Tollgate Road

SITE AREA:
9.89 acres

ZONING OF ADJACENT PROPERTY/USE:

North:	BM	Commercial
South:	DR 3.5	Residential
East:	DR 3.5	Residential
West:	DR 3.5	Institutional (Owings Mills High School)

SITE DESCRIPTION:
The petitioners' property consists of 9.89 acres of land zoned DR 3.5. The subject site is currently improved with a single-family, detached dwelling and the majority of the site is wooded.

WATER AND SEWERAGE:
The site is served by public and sewer and is 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 Old Tollgate Road and Tollgate Road, which are designated as local roads.

ZONING HISTORY:
In the 2000 Comprehensive Zoning Map Process, an issue was filed to change the zoning of subject property from DR 3.5 to DR 10.5. The County Council voted to retain the existing DR 3.5 zoning of the property.

MASTER PLAN/COMMUNITY PLANS:
The proposed land use map, adopted by the County Council on February 22, 2001, indicates the site is designated for single-family, detached use.

PROPOSED vs. EXISTING ZONING:

The use regulations for the DR zones may be found in Section 1B01.1A of the Baltimore County Zoning Regulations. The DR 3.5 and DR 10.5 zones permit a density of 3.5 and 10.5 dwelling units per acre, respectively.

DOCUMENTED SITE PLAN:

SCHOOL IMPACT

This development is subject to the requirements of Bill 110-99, Adequate Public Facilities. A school impact analysis is required with development plan submittal. Information is available on the Baltimore County Office of Planning's Web Page: http:/www.co.ba.md.us/bacoweb/services/planning/html/planof.htm.

RESIDENTIAL PERFORMANCE STANDARDS

Be advised that this development is subject to Bill 58-01 titled "Residential Performance Standards". Section 260 of The Baltimore County Zoning Regulations requires the Director of Planning to make a finding to the Hearing Officer for all residential development of four lots or more in Baltimore County that is located within the Urban/Rural Demarcation Line. The Office of Planning may require the submittal of sufficient information, such as building elevations and grading plans, from which a finding can be made on compliance of the project with the standards.

The hearing officer or the Director of Permits and Development Management, as applicable, shall consider the findings presented by the director of planning or the director's designee before a development plan is approved.

After considering the findings, the hearing officer or the Director of Permits and Development Management may deviate from the standards only if clearly necessary to:

1. Comply with another standard;
2. Comply with environmental regulations or otherwise protect resources; or
3. Achieve the best possible development design, considering other goals in the Comprehensive Manual of Development Policies.

260.2 SITE PLANNING

(a) A development proposal shall:

1. Retain the existing quality vegetation of the site to the fullest extent possible and protect the root systems of that vegetation during construction.
2. Integrate locally significant features of the site, such as distinctive buildings, vistas, topographic features, specimen trees, tree stands, hedgerows, monuments, landmarks, ruins, and gardens, into the site design, and retain the character of the features and their settings.
3. Coordinate building design, site layout, and grading so that grade transitions are gradual and respect the existing topography.

3. Provide a landscaped buffer between the rear yards of dwellings existing on May 25, 2001 and the rear yards of abutting new dwellings.

4. Provide for smooth transitions between neighborhoods by arranging and orienting the proposed buildings and site improvements to complement those in the surrounding neighborhood.

5. Provide transitions with respect to setbacks, street patterns, and building-to-street grade relationships.

(b) Reverse frontage lots are permitted only if the petitioner can demonstrate that adequate setbacks, topography, berming, landscaping, or building design will effectively screen private yard space and decks from the public view. Fences may not be located closer than 20 feet to a public right of way.

(c) Panhandle lots are not permitted as a matter of right. Panhandles must conform to section 26-266 of the Baltimore County Code and to the standards in the Comprehensive Manual of Development Policies.

(d) The minimum width for any single-family detached lot located in the South Perry Hall-White Marsh area north of Ridge Road is 75 feet as measured along both the front wall and rear wall of the dwelling unit. This subsection does not apply to alternative site design dwellings permitted in accordance with section 1B01.1A.1b, or to development plans approved prior to February 1, 2001, or to minor developments.

260.3 OPEN SPACE

(a) A development proposal shall:

1 Integrate open space areas into the proposed development by:

i. Creating focal points along streets;

ii. Locating landscaped open green spaces in view of the development entrance or adjoining public street;

iii. Planning a linked network of natural and landscaped open areas connected by pedestrian/bike trails; and

iv. Orienting dwelling units around open areas or squares.

6. Incorporate significant features such as stands of trees into open areas.

7 Link the development's open areas to the surrounding neighborhood open areas, including public parks, walks and bike trails and create both functional and visual continuity, e.g. by matching the design of a bike trail in the proposed development to the bike trail located in the adjoining property.

260.4 Streets and Parking

(a) A development proposal shall:

1. Provide for at least one street connection to an adjoining neighborhood or an adjoining property, not including the principal access to the subdivision, in order to facilitate good traffic circulation.

2. Design streets to slow traffic by offsetting alignments, reducing street width, reducing the length of blocks, and employing the use of traffic management devices such as roundabouts, chokers, chicanes, etc., to accomplish traffic calming.

3. Allow on-street parking.

4. Provide pedestrian and bicycle access to commercial areas and community facilities on site within the development and to the surrounding neighborhood.

5. Provide street and parking accommodations, which compliment the surrounding neighborhood.

(b) Cul-de-sacs may be used if it is demonstrated that a street connection is not feasible due to site conditions such as severe grade transitions or sensitive natural features, or an alternative site layout is not feasible. If cul-de-sacs are used, developments should consist of a balance of street patterns (cul-de-sacs and connections). If cul-de-sacs are used, design elements such as center landscaping and traffic circles shall be used.

(c) Street widths and front yard setbacks may be reduced in accordance with traditional neighborhood design standards.

260.5 LANDSCAPE DESIGN

(a) A development proposal shall:

1. Landscape public open spaces to invite users. Particularly emphasizing the intended entrance to the open space.

2. In addition to plant material, use fences, walls or earth forms to provide effective and attractive screens and buffers where necessary.

3. Provide for, or reinforce and maintain a continuous street tree canopy by preserving healthy street trees or if they are not present, planting new trees. The canopy shall be comprised of trees of the same species or trees with design characteristics and growth habits that are similar to those of the existing street trees.

4. Include the design for site signage on the schematic landscape plan. If this is not possible, the signage design may be included in the final development plan and shall be approved before issuance of any building permits.

260.6 BUILDINGS

(a) A development proposal shall:

1. Provide variety in housing type or design, while maintaining continuity in scale, rhythm, proportion and detail.

2. Orient the front of the dwelling toward the street and incorporate prominent entries and porches or stoops into front building facades.

3. Adhere to a consistent front building setback for all dwellings on the same street or square so that the fronts of dwellings define a uniform street edge.

4. Design decks, balconies and porches as components of the building following dominant building lines, proportions and style and in a scale appropriate to the available space on the site. Decks shall be screened to minimize visibility from a public street.

5. Design accessory structures at a scale appropriate to the dwelling and design storage buildings and garages with the same architectural theme as the principal building on the site, providing consistency in materials, colors, roof pitch and style.

6. Extend the finish material of the exteriors of buildings to grade, or if this is not possible, to within 12 inches of grade, on all sides of the building excluding foundation walls which shall use a finished quality material such as decorative concrete block, poured concrete with a brick pattern, or stucco, and provide landscaping along the foundation.

7. Use similar materials and design elements on all building facades and articulate all building facades using coordinated architectural features such as porches, windows, doors, chimneys, gables and dormers.

(b) Garages may not become the dominant street feature. Garage doors shall use items such as windows, decorative patterns and color to relieve the visual impact of the house from the street.

DESIGN

1. The site plan layout has changed from what was presented to the community as part of the CZMP process. The original plan showed three buildings with underground parking and greater retention of the existing trees. The current proposal should be revised. Three four-story buildings with underground parking would reduce the amount of building and parking area in front of each building and thus reduce the amount of impervious surface, clearing and grading.

2. The architectural elevations do not match the site plan. Revise the architectural elevations to depict the actual building length of ±205'.

3. Drop-off areas should be centered on the building entrances and should be further developed by special landscaping and paving to reinforce the entry.

4. The plan should indicate whether the units are rental or an age restricted.

5. Buildings should be labeled and should include the number of stories and units in each building.

6. The plan should locate and preserve existing specimen trees. The active open space is located in an area of an existing specimen trees.

7. The plan does not appear to allow adequate area for the passive open space.

8. The development of the active open space should be shown and should include walkways, benches, lighting and other amenities.

9. Provide sidewalks along Tollgate and Old Tollgate Roads to provide pedestrian connections to the existing pedestrian infrastructure. The plan should show existing sidewalks.

10. Provide accessible sidewalks from the building entrances to the sidewalks in the public rights-of-way.

11. Provide pedestrian access to Owings Mills High School track and field area.

12. The plan should show the adjacent track, access road and lighting on the school property.

13. The plan should delineate the 50-foot Residential Transition Area buffer.

14. Note 13 states that storm water management will be provided underground. There is no provision for storm water management shown on the plan. The storm water management pond can not be located in the 50-foot Residential Transition Area buffer. If costs prohibit underground storage of the storm water management, an above ground facility would further impact the site plan and tree retention.

RECOMMENDATION:

Based upon a review of the information provided and analysis conducted, the Office of Planning recommends the applicants' request be approved, provided the granting of the reclassification petition is conditioned upon compliance with the above-mentioned design comments (1-14). Compliance with Bill Nos. 110-99 and 58-01 should be addressed at the development stage.

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: August 16, 2001

TO: Baltimore County Zoning Advisory Committee

FROM: W. Carl Richards, Jr.
Zoning Review Supervisor (410-887-3391)

SUBJECT: Out-of-Cycle Documented Zoning Reclassification Petition
Case Number CR 02-070
Legal Owner: Jones Property, Maud D. & Lee R. Jones
Contract Purchaser: John F. Owings, Jr.
Address: 24 Old Tollgate Road
Description: Tollgate Road, 1730' centerline S. Ritters Lane
4th Election District; 3rd 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 JANUARY 18, 2001 AND BY RESOLUTION NO. 23-01 OF THE BALTIMORE COUNTY COUNCIL DATED FEBRUARY 20, 2001 (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 SEPTEMBER 25, 2001 AT 10:00 A.M. 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: GDZ

ZONING ADVISORY COMMITTEE
MEETING OF
AUGUST 20, 2001

Case Number:	CR 02-070
Item Number:	070
Hearing Date/Time:	September 25, 2001/10:00 a.m.
Legal Owner:	Maud D. & Lee R. Jones, Jones Property
Contract Purchaser:	John F. Owings, Jr.
Location:	NW/S Old Tollgate Road, Cor. N/S Tollgate Road also 1730' E centerline S. Ritters Lane
Existing Zoning:	D.R.3.5
Proposed Zoning:	D.R.10.5
Area:	9.86 acres
District:	4th Election District 3rd Councilmanic District
Attorney:	Lawrence M. Hammond
Miscellaneous:	

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
POST-HEARING MEMORANDUM

DATE: March 8, 2002

TO: L. Wescott
C. Marks
L. Barranger

FROM: Kathi

SUBJECT: Case No. CR-02-070 /*Maud D. & Lee R. Jones – Legal Owners; John F. Owings, Jr. – Petitioner* -- Memos
Deliberation Scheduled for Thursday, March 21, 2002 at 9:30 a.m.

Attached for your review are the following:

1. People's Counsel's Memorandum filed by Peter Zimmerman 3/08/02; and

2. Petitioner's Post-Hearing Memorandum filed by Lawrence M. Hammond, Esquire, on behalf of Petitioners.

The public **deliberation** is scheduled for Thursday, **March 21, 2002 at 9:30 a.m.** (to be followed by a 10:00 a.m. reclassification hearing for Chuck and Lynn; Larry is scheduled only for the deliberation).

Kathi

Attachments (2)

COPIES TO C AND S ON 3/13/02
COPIES TO B ON 3/14/02

FILE

RE: PETITION FOR RECLASSIFICATION 24 Old Tollgate Road, NW/S Old Tollgate Rd, Cor. N/S Tollgate Rd, also 1730' E of c/l S. Ritters Ln 4th Election District, 3rd Councilmanic	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	FOR
Legal Owner: Lee R. Jones Contract Purchaser: John F. Owings, Jr. Petitioner(s)	*	BALTIMORE COUNTY
	*	Case No. CR-02-70

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

RECEIVED
COUNTY BOARD OF
01 AUG 28 PM 3:56

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. **All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.**

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 28th day of August, 2001 a copy of the foregoing Entry of Appearance was mailed to Lawrence Hammond, Esq., 465 Main Street, Reisterstown, MD 21136, attorney for Petitioner(s).

Peter Max Zimmerman

PETER MAX ZIMMERMAN

ZONING ADVISORY COMMITTEE AGENDA
DISTRIBUTION MEETING OF
AUGUST 20, 2001
REVISED

* 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 (George Zahner)
\# PDM, Zoning Review DRC/ZAC Meeting File (W. Carl Richards, Jr.)
* PDM, Code Enforcement (Helene Kehring)
* PDM, Building Inspection (Karen Hopkins)
& PDM, Development Plans Review (Robert W. Bowling)
\# Planning Office (Mark Cunningham); *Director (Pat Keller)
* Recreation and Parks (Jean Tansey); MS #52
\# DEPRM (Bruce Seeley) - 2 plats
& State Highway Administration, Access Permits Division (Michael M. Lenhart)
& PDM, Building Plans Review (Lt. Herb Taylor); MS #1102F
* Economic Development Commission, Business Develop. (Robert Hannon); MS #2M07
* Highways (Tim Burgess); MS #1003
* Community Conservation (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 (Charles Armstrong)
\# IF FLOODPLAIN, Department of Natural Resources (John Joyce)
\# IF FLOODPLAIN, Public Works (David Thomas); MS #1315
* IF FLOODPLAIN, Permits (John Reisinger)
* IF FLOODPLAIN, Code Enforcement (Rick Wisnom)
\# IF ELDERLY HOUSING, Community Development; MS #1102M
\# IF HELICOPTER, Police Department, Aviation Unit (Officer Taylor or Sgt. Wines)
\# IF PAWN SHOP, Police Department, Burglary/Pawn Unit (Det. Kropfelder); MS #1102E
* IF TOWER, Tower Coordinator, c/o OIT; MS #2007

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: George Zahner. If you have any questions regarding these zoning petitions, please contact Carl Richards at 410-887-3391 (FAX - 410-887-5708).

Revised 8/17/01

BALTIMORE COUNTY, MARYLAND
Inter-Office Memorandum

DATE: August 16, 2001

TO: *Baltimore County Zoning Advisory Committee*

FROM: W. Carl Richards, Jr.
Zoning Review Supervisor (410-887-3391)

SUBJECT: Out-of-Cycle Documented Zoning Reclassification Petition
Case Number CR 02-070
Legal Owner: Jones Property, Maud D. & Lee R. Jones
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WCR: GDZ

ZONING ADVISORY COMMITTEE
MEETING OF
AUGUST 20, 2001

Case Number:	CR 02-070
Item Number:	070
Hearing Date/Time:	September 25, 2001/10:00 a.m.
Legal Owner:	Maud D. & Lee R. Jones, Jones Property
Contract Purchaser:	John F. Owings, Jr.
Location:	NW/S Old Tollgate Road, Cor. N/S Tollgate Road also 1730' E centerline S. Ritters Lane
Existing Zoning:	D.R.3.5
Proposed Zoning:	D.R.10.5
Area:	9.86 acres
District:	4th Election District 3rd Councilmanic District
Attorney:	Lawrence M. Hammond
Miscellaneous:	

BALTIMORE COUNTY, MARYLAND
Board of Appeals of Baltimore County
Interoffice Correspondence

DATE: June 4, 2002

TO: Arnold Jablon, Director
Permits & Development Management
Attn.: David Duvall

FROM: Theresa R. Shelton
Board of Appeals

SUBJECT: **CLOSED APPEAL CASE FILE**

The following cases have been finalized and the Board of Appeals is closing the copy of the appeal case files and returning the file and exhibits (if applicable) attached herewith.

BOARD OF APPEALS CASE NUMBER	*PDM FILE NUMBER*	NAME	LOCATION
CR-02-070	***Out of Cycle 2001 cr-02-070***	MAUD D. & LEE JONES	24 OLD TOLLGATE ROAD
01-148-SPH	***01-148-SPH***	GRETEL WHITE	7800 GREENSPRING AVENUE
01-216-A	***01-216-A***	MARGUERITE P. PASKY	1946 CANTANNA AVENUE
CBA-01-156	***CIVIL CITATION 01-3570***	AIR FLOW SYSTEMS INC.	NUMEROUS ADDRESSES
00-123-M	***MINOR SUBDIVISION 00123M***	KRACH PROPERTY	REDWOOD AVENUE LEEFIELD AVENUE

Attachment: SUBJECT FILE(S) ATTACHED

Case No. CR-02-070
Out of Cycle 2001

Jones Property; John R. Owings, Jr. -Petitioner
24 Old Tollgate Road 4th E
3rd C

Reclassification from: D.R. 3.5 to D.R. 10.5

DOCUMENTED SITE PLAN

Holding Wednesday, May 8, 2001 at 10:00 a.m. – hearing date in this matter. Notice of Assignment to be sent by PDM. CBA to receive copy when sent

---

8/10/01 –Petition for Reclassification was filed by Petitioner on August 20, 2001; assigned for September 25, 2001 at 10:00 a.m. for hearing.

8/16/01 - Notice of Zoning Reclassification Hearing sent by PDM; scheduled for Tuesday, September 25, 2001 at 10:00 a.m.

9/24/01 – Planning Office report filed; copy hand-delivered by J. Long to P. Zimmerman this date.

9/25/01 – Board convened for hearing (Wescott, Irish, Stahl); case opened; Lawrence Hammond, counsel for Petitioner, requested continuance in open hearing and on the record; he and People's Counsel had just seen comments from Planning; several questions raised /number of issues in Report; request made to allow time to further review comments and prepare amended plan – to be submitted at later date and in open hearing. No objection by People's Counsel; matter continued; to be assigned brief time in early a.m. to submit amendment when request for same is made.

10/12/01 – Notice of Assignment sent to parties; assigned for submittal of amendment only; no evidence or testimony to be received by the Board; scheduled for Thursday, October 25, 2001 at 9:30 a.m. Hearing date for merits of case to be assigned at later date.

10/25/01 – Amended documented site plan submitted at public hearing this date; copies forwarded to PDM by memo; Notice of Assignment sent to all parties; hearing on merits assigned for Wednesday, February 6, 2002 at 10:00 a.m.

2/06/02 – Hearing before Board (Marks; Wescott; Barranger); memos due 3/08/02; deliberation to be assigned for 3/21/02; notice to be sent.

2/11/02 – Notice of Deliberation sent to parties; scheduled for Thursday, March 21, 2002 at 9:30 a.m.; FYI copy to C.S.B.)

3/08/02 – People's Counsel's Memorandum filed by Office of People's Counsel.
-- Petitioner's Post-Hearing Memorandum filed by Lawrence M. Hammond, Esquire, on behalf of Maud D. & Lee R. Jones – Legal Owners; John F. Owings, Jr. –Petitioner
- Copies to panel members: to be given to C and S on 3/13/02; to B on 3/14/02.

3/21/02 – Board convened for deliberation; Majority decision – reclassification GRANTED (Wescott and Barranger); Marks - dissent /would deny request. Written Opinion and Order to be issued (including dissent by Marks); appellate period to run from date of written Order.

BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

IN THE MATTER OF:	Jones Property/Maud D and Lee Jones – Legal Owners John F. Owings, Jr. – CP - Petitioner Case No.: CR-02-070	
DATE:	March 21, 2002	
BOARD/PANEL:	Lawrence S. Wescott, Esquire Charles L. Marks C. Lynn Barranger	LSW CLM CLB
RECORDED BY:	Theresa R. Shelton / Legal Secretary	

PURPOSE: To deliberate the Reclassification from D.R. 3.5 to D.R. 10.5.

PANEL MEMBERS DISCUSSED THE FOLLOWING:

- McIntyre made mistake – his letter was read "slipped through the cracks" – he failed to make the change in zoning
- Strong evidence of error – paper trail shows it was suppose to go forward
- present zoning is not inconsistent – no
- owner is not unreasonable denied – no
- Council made error – had all information prior
- Is reclass warranted by error
- Will this open up issues in the future – what happens in future when mistakes are made?
- Section 2-356 and Section 2-356(j)(1)
- Was property inappropriately zoned when compared to others; is the owner being deprived of justified use?
- Community thought McIntyre would handle. Does community have to micro-manage council person?
- First time in writing that Council person has specifically said he/she erred/made mistake.

DECISIONS BY BOARD MEMBERS:

LSW Majority Decision – Granting Reclassification

CLB Majority Decision – Granting Reclassification

CLM Minority Decision – Deny Reclassification

FINAL DECISION: Majority Decision to GRANT Reclassification from from D.R. 3.5 to D.R. 10.5. Minority Opinion to DENY Reclassification from D.R. 3.5 to D.R. 10.5.

NOTE: These minutes, which will become part of the case file, are intended to indicate for the record that a public deliberation took place that date regarding this matter. The Board's final decision and the facts and findings thereto will be set out in the written Opinion and Order to be issued by this Board.

Respectfully submitted,

Theresa R. Shelton

Theresa R. Shelton
County Board of Appeals

23 Md. App. 358, 328 A.2d 55 COPPOLINO V. COUNTY BD. OF APPEALS OF BALTIMORE COUNTY (Ct. Sp. App. 1974)

DOROTHY COPPOLINO et al.

vs.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY; JOHN L. ASKEW et al. v. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

No. 67, September Term, 1974
COURT OF SPECIAL APPEALS OF MARYLAND
23 Md. App. 358, 328 A.2d 55
November 18, 1974, Decided
Two appeals in one record from the Circuit Court for Baltimore County; MacDaniel, J.

HEADNOTE

Zoning -- **Alleged Error In Comprehensive Zoning -- Scope Of Judicial Review -- Applicable Test -- Question On Review Is Whether Or Not Such Action Was Arbitrary And Discriminatory Or Fairly Debatable -- Strong Evidence Of Mistake In Original *Comprehensive Rezoning Or Evidence Of Substantial Change In Character Of* Neighborhood Must Be Established.**

Zoning -- **Comprehensive Rezoning -- Change Or Mistake In -- Change Or Mistake Rule Not Controlling In Cases Involving Comprehensive Rezoning -- Comprehensive Rezoning To Be Valid Must Bear Substantial Relationship To Public Health, Comfort, Safety, Convenience, Morals And General Welfare -- Under Cyclical Zoning Process Established By Particular County Change Or Mistake Rule Not Controlling And Absence Of Showing Of Either Change Or Mistake Prior To Comprehensive Rezoning Does Not Constitute Error.**

Zoning -- **Expert Opinion -- To Establish Error -- Unconstitutional Confiscation -- Opinion, Even Of Expert, Not Evidence Strong Or Substantial Enough To Show Error In Comprehensive Rezoning Or Confiscation Unless Reasons Given As Basis Of Opinion Or Other Supporting Facts Relied Upon Are Themselves Substantial And Strong Enough To Do So -- Applicant Claiming Rezoning On Basis Of Unconstitutional Confiscation Must *Establish That He Has Been Deprived Of All Reasonable Use Of His Property And It* Cannot Be Used For Any Of Permitted Uses In Existing Zone -- Expert Testimony In Present Case Insufficient To Meet Criteria Necessary To Establish That Zoning Was Confiscatory In Nature.**

Zoning -- **Error -- As Applicable To Zoning Law -- Does Include Failure To Take Into Account Projects Or Trends Reasonably Foreseeable Of Fruition In Future -- Evidence Necessary To Establish Error Must Show That Developments Were Not, In Fact, Or Could Not Have Been Taken Into Account So That Decision Of Board Was Premised On A Misapprehension -- In Case At Bar, Nothing In Record Supported Inference That At Time**

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Of Comprehensive Rezoning Council Was Unaware Of Planned Construction Of Certain Roadway Hence, There Was Insufficient Evidence To Make Fairly Debatable The Question Of Whether Council Erred In Failing To Consider Effect Of Proposed Construction Of Roadway.

Zoning -- **Comprehensive Zoning -- Recommendations Of Planning Body -- Not Binding On Legislative Body -- Recommendations Of Planning Staff And Board Without Articulated Reasons So Justifying Position Insufficient To Make Issue Of Mistake Or Confiscation Fairly Debatable -- Trial Court Erroneous In Affirming Portion Of Board's Order Granting Partial Reclassification Of Subject Property For Evidence Was Insufficient To Establish Mistake In Comprehensive Rezoning Or That Classification Constituted A Confiscatory Action.**

SYLLABUS

Madeline Myers and the executors and trustees of the estate of Harvey S. Myers titleholders of certain property in Baltimore County petitioned for zoning reclassification. From an order affirming the Appeals Board's decision granting in part and denying in part the zoning reclassification sought of the subject property, petitioners and protestants appeal.

COUNSEL

Harry S. Swartzwelder, Jr., for appellants Dorothy Coppolino et al.
James D. Nolan and **Newton A. Williams,** with whom were **Nolan, Plumhoff** & **Williams** on the brief, for appellants John L. Askew et al.
No appearance for appellee, County Board of Appeals of Baltimore County.

JUDGES

Morton, Davidson and Lowe, JJ. Davidson, J., delivered the opinion of the Court.
AUTHOR: DAVIDSON

OPINION

*{*360}* This case presents the narrow question of whether the County Council of Baltimore County (Council) committed basic and actual "mistake", as that term is used in zoning law, when on 24 March 1971 it adopted a comprehensive zoning map on which the subject property, consisting of 32.907 +-- acres, was classified as D.R.-5.5 (Density Residential, 5.5 dwelling units per acre).

Most of the facts are not in dispute. The subject property, roughly rectangular in shape, lies in an area bounded by Belair Road on the west, Joppa Road on the north and Ebenezer Road on the south. All of the land lying within this area was classified in the D.R.-5.5 zone by the comprehensive *{*361}* zoning map adopted by the Council on 24 March 1971. The subject property fronts on the north side of Ebenezer Road and lies approximately one mile to the east of its intersection with Belair Road. It is bounded on the east by a relatively large expanse of land zoned D.R.-5.5 which is developed with single family residences. On the north, the subject

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property adjoins land zoned D.R.-5.5 which is essentially undeveloped. On the west, the subject property is bounded by a relatively large expanse of land zoned D.R.-5.5 which is developed with single family residences and which, in turn, is bounded by land upon which the Perry Hall Elementary and Junior High Schools are located. The Perry Hall High School, located on the south side of Ebenezer Road, confronts the subject property on the south. The elementary school is operating at near capacity while the junior and senior high schools are over capacity. Several additions to existing school facilities and some new schools are being planned.

The subject property is unimproved and heavily wooded. The eastern portion of its frontage reaches an elevation of 190 feet, an elevation approximately 35 feet above that of Ebenezer Road. The property falls from the 190 foot elevation at its southeast corner to a 120 foot elevation at its northwest corner. A large stream and flood plain runs along a portion of the western boundary of the subject property and then cuts across its northern corner. Test borings made in the flood plain indicate that below the earth's surface there is rock which reaches a depth of approximately four feet and a visual inspection has revealed rock outcroppings all along the stream.

Since at least 1966 a new road, Perry Hall Boulevard, with a right-of-way of 110 feet, has been proposed to be located along a portion of the western boundary of the subject property. While the alignment and grade of this road already has been delineated, its actual design has not yet been developed. The Capital Budget indicates that Perry Hall Boulevard will not be constructed until FY 77-78. Until this road is built, all access to the subject property is via the intersection of Ebenezer and Belair Roads. Traffic at this *{*362}* intersection is at or over capacity so that an extensive delay occurs during peak hours. The construction of Perry Hall Boulevard should alleviate traffic congestion at this intersection.

Originally, the subject property consisted of three separate parcels of land. Parcel "A", containing approximately 16 acres, was "L" shaped, with the east-west leg of the "L" being a rectangle containing all of the 1900 foot frontage along Ebenezer Road and the north-south leg of the "L" being a rectangle containing the southwestern portion of the tract. Parcel "B", containing about four acres of land, was roughly triangular in shape and adjoined the northern boundary of the north-south leg of the "L". It comprised the northwestern portion of the subject property. Parcel "C", containing about 12 acres of land, also an essentially rectangular piece of property, adjoined the eastern boundary of the north-south leg of the "L" and the northern boundary of the east-west leg of the "L". It contained all of the eastern portion of the property other than the rectangle of land comprising the east-west leg of the "L". When the three parcels are united into one, as in this application, they form, as noted earlier, an approximate rectangle.

Parcel "A" was classified in the R.A. zone (Residential-Apartments) by the comprehensive zoning map adopted by the Council in August, 1966. The same comprehensive zoning map classified both parcels "B" and "C" in the R.-6 zone (Residence, one or two family, lot area 6000 square feet). In 1967 a petition was filed requesting reclassification of Parcel "B" from the R.-6 zone to the R.A. zone. The petition alleged that the comprehensive zoning map was in error with respect to Parcel "B". In a report dated 20 December 1967, the planning staff of the Office of

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Planning and Zoning (Planning Staff) said:

> "We regard the requested rezoning as a logical but minor consequence of an adjusted alignment for Perry Hall Boulevard, and we thus have no objection to the reclassification. We do not believe *{*363}* that the reclassification should be regarded as a change which in itself would justify further rezoning in this area in the future."

The Zoning Commissioner (Commissioner) granted the requested reclassification of Parcel "B" to the R.A. zone on 3 January 1968. No appeal was taken.

On 3 August 1970 the Council amended the Baltimore County Zoning Regulations,[1] such provisions to take effect 19 September 1970. By virtue of § 100.3A, which created a new set of zoning classifications, the classification of parcels "A" and "B", formerly R.A., was redesignated D.R.-16 (Density-Residential, 16.0 density units per acre) while that of parcel "C" was changed from R.-6 to D.R.-5.5.

On a proposed zoning map dated 10 September 1970, prepared by the Planning Staff and approved for public hearing by the Baltimore County Planning Board (Planning Board), the entire 32 +– acre subject property was assigned a D.R.-16 zoning classification. On a subsequent zoning map, dated 24 November 1970, recommended to the Council by the Planning Board, following its "second round" of public hearings, the 32 acre tract was again designated in the D.R.-16 zone. No reasons for these designations appear in the record. On 24 March 1971 the Council, after holding numerous public hearings, adopted a comprehensive zoning map for the area. The subject property, as a whole, was classified in the D.R.-5.5 zone. Thus, the recommendation of the Planning Staff and the Planning Board to extend D.R.-16 zoning to that portion of the subject property which was formerly parcel "C" was rejected. Moreover, those parts of the subject property originally parcels "A" and "B", both recommended by the Planning Staff and the Planning Board for retention in the D.R.-16 zone, were "downshifted" to the D.R.-5.5 zone. Several other properties lying on the south side of Ebenezer Road, previously classified as D.R.-16 and recommended for retention in that zone, were also *{*364}* "downshifted" to D.R.-5.5. The reasons for these actions do not appear in the record.

Within three weeks of the adoption of the comprehensive zoning map[2] the legal owners of the property petitioned the Commissioner for a reclassification of the subject property to the D.R.-16 zone, alleging that there was error in the comprehensive zoning map with respect to the subject property. In its report concerning this petition the Planning Board noted that the intersection of Ebenezer and Belair Roads was operating at capacity; that the grant of the requested reclassification could change trip density from 1,650 trips per day to 4,000 trips per day; and that there were no plans in the Capital Budget through 1977 for the construction of Perry Hall Boulevard. The Board went on to say:

> "The tract is surrounded on three sides by single-family houses, or vacant land for such use. The tract could be developed in apartments at D.R.-5.5 density.[3] D.R.-16 zoning in

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the middle of the single-family development would constitute spot zoning. Furthermore, after reconsidering the Council's actions not only on this property but in "downshifting" other properties from D.R.-16 to D.R.-5.5 on Perry Hall Boulevard, the petitioners' proposal for D.R.-16 represents an intrusion into a moderate density neighborhood."

The Board reversed the position it had taken prior to the adoption of the 1971 comprehensive rezoning map and recommended that the subject property be retained in the *{*365}* D.R.-5.5 classification. After a hearing the Commissioner found that the subject property could be developed in the D.R.-5.5 classification; that the land surrounding the subject property on three sides was zoned D.R.-5.5, and that the development of the subject property in the D.R.-16 zone would generate a trip density which the intersection of Ebenezer and Belair Roads "could not handle." He concluded that the comprehensive zoning map was not in error in classifying the subject property in the D.R.-5.5 zone. On 22 March 1972 he denied the request for reclassification to the D.R.-16 zone.

An appeal was taken to the Board of Appeals (Board). The recommendation of the Planning Board was included as a part of the file. In addition a number of experts testified on behalf of the owners that the topography of the subject property, the presence of rock, drainage difficulties and other physical characteristics, all of which would entail prohibitive development costs, as well as the proximity of Ebenezer Road and Perry Hall Boulevard made the subject property unsuitable for development in the D.R.-5.5 zone. In contrast they testified that all of these factors combined with the availability of water and sewer, the location of minimal but adequate shopping facilities and a social and recreational center (Perry Hall High School) in close proximity to the subject property, made the tract eminently fitted for development in the D.R.-16 zone. Moreover, they said that the grant of the requested reclassification would not depreciate property values. They further stated that any adverse effect on traffic would be minimal and temporary and would be eliminated by the construction of Perry Hall Boulevard. Schools would not be over-burdened, they maintained, because the number of school children generated by the 524 apartment units permitted in the D.R.-16 zone would be less than that generated by the 181 single family units permitted in the D.R.-5.5 zone. They concluded that the Planning Board recommendation for D.R.-16 zoning on the entire tract, made prior to the adoption of the 1971 map, was correct and that the Council was in error in designating the subject property in the D.R.-5.5 zone on that map.

*{*366}* The protestants, neighboring homeowners, pointed to a report of the Planning Board issued during the October to April Cycle 1971-72[4] which indicated that as a result of the comprehensive rezoning of 1971 the county's inventory of vacant land zoned D.R.-16 was increased from 3,200 acres to 3,700 acres; that that inventory could house two and one-half times the population anticipated by 1975; and, consequently, that such inventory would satisfy the need for apartment development until 1975 by which time the Planning Board would be planning for the comprehensive zoning of 1976.[5] They offered testimony that the requested reclassification would have an adverse effect on the value of their properties; would exacerbate existing flooding problems on their properties; would aggravate already existing traffic congestion; and would

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place an additional burden on already over-capacitated schools.

On 17 July 1973 the action of the Commissioner was reversed in part and affirmed in part by the majority of the three member Board which felt that the Council's action was "clearly in error and confiscatory in nature," and that the petitioners "should at least be returned to the status which existed prior to the adoption of the 1971 comprehensive zoning map." Accordingly, the Board granted reclassification of 20 +– acres of the subject property (former parcels "A" and "B") to D.R.-16 and retained the remaining 12 +– acres (former parcel "C") in the D.R.-5.5 zone.

Two appeals were filed in the Circuit Court for Baltimore County, one by the protestants who appealed from that portion of the order which reclassified former parcels "A" and "B" to the D.R.-16 zone, and the other by the owners of *{*367}* the subject property who appealed from that portion of the order which retained former parcel "C" in the D.R.-5.5 zone. On 25 January 1974 Judge H. Kemp MacDaniel found that the issues before the Board were "fairly debatable" and affirmed the decision of the Board. Both the protestants and the owners appealed to this Court.[6]

The applicable test for determining the scope of judicial review in a zoning case alleging error in a comprehensive rezoning has recently been restated in **Trainer v. Lipchin,** 269 Md. 667 (1973), in which the Court of Appeals, quoting from **Stratakis v. Beauchamp,** 268 Md. 643, 652-53 (1973), said:

> "'. . . Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable, **Montgomery County v. Pleasants,** 266 Md. 462, 295 A.2d 216(1972); **Himmelheber v. Charnock,** 258 Md. 636,267 A.2d 179 (1970); **Chevy Chase Village v. Mont. Co.,** 258 Md. 27, 264 A.2d 861 (1970); **Smith v. Co. Comm'rs of Howard Co.,** 252 Md. 280,249 A.2d 708 (1969). We shall follow that test in considering this appeal.
>
> "While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, **strong** evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced, **Rockville v. Henley,** 268 Md. 469, 302 A.2d 45 (1973); **Heller v. Prince George's Co.,** 264 Md. 410, 412, *{*368}* 286 A.2d 772 (1972); **Creswell v. Baltimore Aviation,** 257 Md. 712, 721, 264 A.2d 838(1970). Since, as we have also said, this burden is onerous, **Cabin John Ltd. v. Montgomery Co.,** 259 Md. 661, 271 A.2d 174 (1970); **Creswell v. Baltimore Aviation, supra; Wells v. Pierpont,** 253 Md. 554,253 A.2d 749 (1969), the task confronting appellants [appellees], whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one.'" (emphasis in original) 269

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Md. at 672-73.

We find that the owners have failed to meet that test.

The owners initially contend that there was error in the 1971 comprehensive zoning map which "downshifted" former parcels "A" and "B" to the D.R.-5.5 zone. They maintain that the then equivalent of the D.R.-16 classification, R.A. (hereinafter referred to as D.R.-16), assigned to former parcel "A" by the comprehensive rezoning of 1966, is presumed to be correct; that the correctness of this action was reaffirmed in 1968 when the Commissioner granted reclassification of former parcel "B" to the D.R.-16 zone, and was again reaffirmed when the Planning Staff and the Planning Board recommended in 1970 not only that former parcels "A" and "B" should be retained in the D.R.-16 zone but also that former parcel "C" should be reclassified to the D.R.-16 zone. The owners maintain that the then existing zoning of the subject property could not properly be altered by the Council unless there was evidence of error in the D.R.-16 classification assigned in 1966 or change in the character of the neighborhood subsequent to the assignment of that classification.

In support of this position the owners point out that Baltimore County Code (1972 Cum. Supp.) §§ 22-20 and 22.22.1 *now require that a comprehensive rezoning of the entire county take* place at least once in every four years.[7] *{*369}* They argue that the frequent use of the comprehensive rezoning technique, absent the "change or mistake" rule, will permit arbitrary and capricious action on the part of the Council, which will undermine the permanence and stability of zoning classifications intended to be protected by the presumption of validity accorded comprehensive rezoning.

The Court of Appeals and this Court have consistently held that the "change or mistake" rule is not controlling in cases involving comprehensive rezoning. **Scull v. Coleman,**251 Md. 6, 12 *(1968)*; **Trustees v. Baltimore County,** *221 Md. 550, 560-61 (1960)*; **McBee v. Baltimore County,** 221 Md. 312, 316-17 (1960); **Roberts v. Grant,** 20 Md. App. 247, 253 (1974). The reason for this rule was set forth cogently in **McBee, supra,** at 316-17, where the Court of Appeals pointed out that:

> "Where the matter is studied comprehensively, the inquiry into time and space with respect to change is naturally more extensive than on a single application. In short, the County Commissioners were here exercising a plenary power, delegated by the General Assembly, to legislate a new zoning for the whole County. The new map reflects changes occurring over a wide area, and takes into account future public needs and purposes. Hence, the legislative body is not confined to a consideration of changes in the immediate neighborhood. The so-called "change or mistake" rule applicable to piecemeal rezoning cases as stated in **N.W. Merchants Term. v. O'Rourke,** 191 Md. 171, 191, is not controlling here, because the new legislation is itself a comprehensive plan designed to cover a substantial area and to supersede the old zoning throughout that area. When such a new map is adopted, it is entitled to the same presumption that it is correct as is an

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original zoning."

We see nothing in the "cyclical" zoning scheme adopted by the Council which impels a modification of this rule. The fact that comprehensive rezoning may occur in Baltimore *{*370}* County with greater frequency than has been the case in the past does not alter the fact that it will result from careful study of changes occurring in wide areas and an assessment of future public needs and purposes. Indeed, in our view, the system will enhance the stability and permanence of zoning classifications by assuring that the majority of zoning classifications are determined in accordance with a carefully considered integrated plan of development, based upon a full understanding of the present and future needs of a broad area, rather than upon a piecemeal review of limited scope. In any event, arbitrary and capricious action by the Council is prevented, and stability and permanence assured by the requirement that a comprehensive rezoning, in order to be valid, must bear a substantial relationship to the public health, comfort, order, safety, convenience, morals, and general welfare. **Norbeck v. Montgomery County,** 254 Md. 59, 66 (1969). Accordingly, we hold that under the cyclical zoning process established by Baltimore County the "change or mistake" rule is not controlling and that the absence of a showing of either change or mistake prior to a comprehensive rezoning does not constitute error.

The owners next complain that the Council erred in assigning the D.R.-5.5 classification to the subject property in that the subject property is unsuited for development in that zone. Indeed, the Board found the evidence before it sufficient not only to establish "error" but also to establish that the D.R.-5.5 zoning was "confiscatory in nature." In our view the evidence presented was not sufficient to establish either "mistake" or an "unconstitutional confiscation" or, indeed, even to make those issues fairly debatable.

A number of expert witnesses expressed the opinion that the subject property was "unsuitable" for development in the D.R.-5.5 zone because of its topography, rock outcroppings, and proximity to Ebenezer Road and the proposed Perry Hall Boulevard. Yet they themselves conceded that single-family houses could be developed on the subject property, although there was doubt as to whether the maximum permitted density of 181 units could be achieved. They admitted that no details concerning *{*371}* development costs of single-family homes had been "worked up," making it impossible to know whether that type of development would result in a profit or a loss. Furthermore, they acknowledged that single-family houses have been built on land adjoining the subject property on the east and west, some of which had topography similar to that of the subject property, and some of which fronted along Ebenezer Road. Thus, the basis of the experts' opinion that the subject property was unsuitable for D.R.-5.5 development was confined exclusively to a consideration of the tract's development for single-family use. There was not an iota of evidence presented to show that the maximum 181 dwelling units permitted in the D.R.-5.5 zone could not be developed successfully in some manner other than detached homes on the subject tract.[8] In addition, there was no evidence presented to show that the subject property was unsuitable for development by way of special exception uses.[9] Thus, the expert opinions that the subject property was not suitable for development in the D.R.-5.5 zone were

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totally unsupported by facts.

The Court of Appeals and this Court have stated that an opinion, even that of an expert, is not evidence strong or *{*372}* substantial enough to show error in the comprehensive rezoning or confiscation unless the reasons given by the expert as the basis for his opinion, or other supporting facts relied upon by him, are themselves substantial and strong enough to do so. **Stratakis v. Beauchamp, supra,** at 643, 655 (1973); **Westview Park v. Hayes,** 256 Md. 575, 582 (1970); **Smith v. Co. Comm'rs of Howard County,** 252 Md. 280, 284 (1969); **Iverson v. Zoning Board,** 22 Md. App. 265, 270 (1974). Moreover, the Court of Appeals has repeatedly held that in order to obtain a rezoning on the basis of an unconstitutional confiscation, an applicant must show that he has been deprived of all reasonable use of his property and that it cannot be used for any of the permitted uses in the existing zone. **Rockville v. Stone,** 271 Md. 655, 662-64, 319 A.2d 536 (1974); **Trainer v. Lipchin, supra,** at 675-76; **Stratakis, supra,** at 654; **Mayor and Council of Rockville v. Henley,** 268 Md. 469, 477 (1973); **Cabin John Ltd. v. Montgomery Co.,** 259 Md. 661, 670 (1970); **Montgomery Co. Council v. Kacur,**253 Md. 220, 229 (1969). Viewed in this light the expert testimony presented here does not pass muster.

The owners additionally assert that the Council erred because it failed to take into account the fact that Perry Hall Boulevard was to be constructed in FY 1977-78. Experts presented by the owners conceded that the intersection of Ebenezer and Belair Roads was overburdened at least in the evening peak hours. Nonetheless, they maintained that this problem was temporary in nature and would be alleviated when the proposed Perry Hall Boulevard was constructed.

The term error, as it is used in zoning law, does include the failure to take into account projects or trends reasonably foreseeable of fruition in the future. But in order to establish error there must be evidence to show that such developments were not, in fact, or could not have been, taken into account so that the Council's action was premised on a misapprehension. **Jobar Corp. v. Rodgers Forge,** 236 Md. 106, 112 (1964); **Rohde v. County Board,** 234 Md. 259, 267-68 (1964); **Pressman v. Baltimore,** 222 Md. 330, 338-39 (1960); **see Miller v. Abrahams,** 239 Md. 263, 268, 272-274 (1965). Here the record shows that the construction of Perry *{*373}* Hall Boulevard was planned as long ago as 1966; that in 1967 the Council granted reclassification to former parcel "B" because of a readjustment of that road; and that the Council had, in its Capital Budget, included money for the construction of that road in FY 1977-78. All of this evidence supports an inference that at the time of the comprehensive rezoning in 1971, the Council was aware of the proposed construction of Perry Hall Boulevard and the consequent possible improvement in the flow of traffic through the Ebenezer-Belair Road intersection. This inference is buttressed by the fact that it was reasonable for the Council, armed with such an awareness, to conclude it to be in the public interest to prevent the intensification of the then existing congestion problem, at least until 1976 when another comprehensive rezoning, based on then current traffic studies, would be undertaken. In contrast, there is nothing in the record to support an inference that at the time of the comprehensive rezoning in 1971 the Council was unaware of the planned construction of Perry Hall Boulevard. Consequently, there is insufficient evidence to make fairly debatable the question of whether the Council erred in failing to consider the effect of the proposed construction of Perry Hall Boulevard.

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Finally, the owners contend that the Council erred in failing to follow the recommendations of the Planning Staff and the Planning Board made prior to the comprehensive rezoning of 1971. Several expert witnesses testified that, in their opinions, the D.R.-16 classification assigned to former parcel "A" by the comprehensive rezoning of 1966 was correct; that the D.R.-16 classification recommended by the Planning Board and assigned to former parcel "B" by the grant of an individual map amendment in 1968 was correct; and that the recommendation of the Planning Staff and the Planning Board that former parcels "A" and "B" be retained in the D.R.-16 zone and former parcel "C" be placed in the D.R.-16 zone were correct. Consequently, they concluded that the Council erred by failing to follow such recommendations in assigning a D.R.-5.5 classification to the subject property.

*{*374}* The Court of Appeals and this Court have recognized that the recommendations of a planning body with respect to a comprehensive rezoning are not binding upon the legislative body. **Nottingham Village v. Balto. Co.,** 266 Md. 339, 354 (1972); **Miller, supra,** at 272; **Iverson, supra,** *at 269. Moreover, the Planning Staff and the Planning Board recommendations* for D.R.-16 zoning were made in the form of a map with no reasons articulated for the D.R.-16 classification proposed. Such recommendations, even though emanating from the Planning Staff and the Planning Board, are insufficient to make the issue of mistake or confiscation "fairly debatable." **Cf. Stratakis, supra,** at 656-57; **Heller v. Prince George's Co.,** 264 Md. 410, 418-19 (1972); **Habliston v. City of Salisbury,** 258 Md. 350, 361-62 (1970).

Under all of these circumstances the evidence before the Board that there was a mistake in the comprehensive rezoning or that the classification of the subject property in the D.R.-5.5 zone constituted a confiscatory action, was insufficient to make either of these issues fairly debatable. The judge below was not correct in affirming that portion of the Board's order which granted reclassification of the 20 +-- acres, formerly comprising parcels "A" and "B", to the D.R.-16 zone. Accordingly, that portion of the order will be reversed.

The Board denied reclassification of former parcel "C" from the D.R.-5.5 zone to the D.R.-16 zone. In order for the requested reclassification to have been granted it was necessary for the owners, among other things, to establish by strong and convincing evidence, that the D.R.-5.5 classification assigned by the comprehensive rezoning of 1971 was erroneous. The evidence of error with respect to former parcel "C" was weaker than that presented with respect to former parcels "A" and "B". Whereas former parcels "A" and "B" had been zoned D.R.-16 before the adoption of the 1971 comprehensive rezoning, former parcel "C" had been classified in the D.R.-5.5 zone since 1966. Weaker evidence than that which we have found to be insufficient to make the question of error as to former parcels "A" and "B" fairly debatable, manifestly, is *{*375} insufficient to constitute the strong and convincing evidence of error required to be* shown before a reclassification of former parcel "C" could be granted. On the basis of the evidence presented, the Board could not have properly granted the requested reclassification. Its decision to retain the 12 + acres, formerly comprising parcel "C", in the D.R.-5.5 zone was correct and the judge below properly affirmed that portion of the Board's decision. Accordingly, that portion of the order will be affirmed.

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Order affirmed in part and reversed in part.

Case remanded for the entry of an order in accordance with this opinion.

Costs to be paid by appellant owners.

DISPOSITION

Order affirmed in part and reversed in part. Case remanded for the entry of an order in accordance with this opinion. Costs to be paid by appellant owners.

OPINION FOOTNOTES

1 These amendments were approved by the County Executive and officially enacted on 5 August 1970.

2 The date upon which the zoning application was filed does not appear in the record. The provisions of Baltimore County Code (1972 Cum. Supp.) §§ 22-22 (c) and (d) support an inference that the application was filed prior to 16 April 1971.

3 **See** Baltimore County Zoning Regulations (1970) § 1B01.1A. Among the permitted uses in D.R. zones are the following: one-family detached houses, one-family semi-detached houses, one-family group houses, two-family houses, town-house apartment buildings, garden apartments, other apartment buildings; and churches, hospitals, schools and research institutes. Section 1B01.1B sets forth certain restrictions on these permitted uses.

4 **See** Baltimore County Code (1972 Cum. Supp.) § 22-22 (c). This section establishes a schedule of semiannual recurring periods for the purpose of considering contemporaneous zoning reclassification petitions.

5 **See** Baltimore County Code (1972 Cum. Supp.) § 22-20 (d). This section requires the Planning Board to recommend to the Council a complete countywide zoning map within the one-year period immediately preceding April 16, 1976, and within the one-year period immediately preceding every fourth year thereafter. The provisions of this section are mandatory. Code § 22.21.1 requires the Council to adopt a countywide zoning map before October 16, 1976 and before October 16 of each of the later years in which the Planning Board is required to submit a recommended county wide map.

6 Baltimore County did not appear in the proceedings either before the Circuit Court or before this Court.

7 **See** note 5, **supra.**

8 In their brief the owners assert that the flexibility allowed by the present D.R.-5.5 zoning classification was not available to them because much of the subject property falls within a residential transition area. Consequently, the tract is confined to single-family use. **See** Baltimore County Zoning Regulations (1970) § 1B01.1B. Section 1B01.1B.1.a. defines a residential transition area as:

"any D.R.-1, D.R.-2, D.R.-3.5, D.R.-5.5, or D.R.-10.5 zone or part thereof which lies (a) within 300 feet of any point on a dwelling other than an apartment building, or (b) within 250 feet of any point lying within a vacant lot of record which is itself wholly or partially classified as D.R. and which is two acres or less in area."

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Section 1B01.1B.1.b., which sets forth the use restrictions in such transition areas, would limit those portions of the subject property lying within a residential transition area to single-family development.

The contention in the brief is unsupported by the evidence. Accordingly, we cannot consider this factor on appeal. Md. Rule 1085.

9 **See** *Baltimore County Zoning Regulations § 1B01.1C, which establishes the following uses, among* others, as permitted by way of special exception: conservatories for music or other arts; convalescent homes; community buildings, swimming pools, golf courses, country clubs, or other, similar civic, social, recreational or educational uses; and private colleges.

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WILLIAM W. BOYCE et al.
vs.
BERTHA SEMBLY et al.

No. 153, September Term, 1974
COURT OF SPECIAL APPEALS OF MARYLAND
25 Md. App. 43, 334 A.2d 137
March 07, 1975, Decided
Appeal from the Circuit Court for Baltimore County; Barrett, C. J.

HEADNOTE

Zoning -- **Test For Determining Scope Of Judicial Review In Case Alleging Error In *Comprehensive Rezoning Is Whether Or Not Decision Is Arbitrary And Discriminatory Or* Fairly Debatable -- Strong Evidence Of Mistake In Original Zoning Or Comprehensive Rezoning Or Evidence Of Substantial Change In Character Of Neighborhood Must Be Produced, And Unless Such Strong Evidence Is Presented Action Granting Reclassification Is Arbitrary And Capricious -- Specific Physical Facts Not Readily Visible Or Discernible At Time Of Comprehensive Zoning Are Sufficient To Establish Error And Overcome Presumption Of Validity Of Comprehensive Zoning -- Opinion Or Conclusion Of Expert Or Lay Witness Is Of No Greater Probative Value Than Warranted By Soundness Of His Underlying Reasons Or Facts -- At Time Of Comprehensive Rezoning, Council Is Required To Take Into Account Only Existing Facts and Projects Or Trends Reasonably Probable Of Fruition In Foreseeable Future -- Record Totally Devoid Of Evidence Council Failed To Take Into Account Any Facts Or Circumstances Existing At Time Of Comprehensive Zoning Relevant To Subject Property And Its Environs To Show Its Initial Assumptions And Premises In Determining Appropriate Classification Were Erroneous -- Nor Any Events Subsequent To Time Of Comprehensive Rezoning To Show Council's Assumptions And Premises At Time Of Comprehensive Rezoning Proved Invalid By Passage Of Time -- Presumption Of Validity Accorded Comprehensive Rezoning Not Overcome And Question Of Error Or Mistake In Comprehensive Zoning Of Subject Property Not Fairly Debatable.**

SYLLABUS

The Zoning Commissioner granted a petition by William W. Boyce, Jr., and P. H. Walker Construction Corp. a business roadside zoning classification, and, on appeal by protestants, the Board of Appeals ordered part of the subject property classified and zoned business and the remainder residential. On appeal by the protestants the Circuit Court ordered the entire tract classified and zoned density residential. The owners of the subject property appeal.

COUNSEL

Ernest C. Trimble, with whom were **Whiteford, Taylor, Preston, Trimble & Johnston** on the brief, for appellants.

Anne Kay Kramer for appellees.

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JUDGES

Thompson, Davidson and Lowe, JJ. Davidson, J., delivered the opinion of the Court. Lowe, J., concurs in the result and filed a concurring opinion at page 62 **infra.**

AUTHOR: DAVIDSON

OPINION

*{*44}* This case presents the narrow question of whether the County Council of Baltimore County (Council) committed basic and actual "mistake" or "error" as those interchangeable terms are used in zoning law, when on 24 March 1971 it adopted a comprehensive zoning map on which the subject property, consisting of 5.84 +-- acres, was classified as D.R.-5.5 (Density Residential, 5.5 dwelling units per acre).

Most of the facts are not in dispute. The subject property, located in a community known as Lutherville, lies in an area bounded by Seminary Avenue on the north, the Harrisburg Expressway on the west, and the Baltimore Beltway on the *{*45}* south. (See location map attached hereto.) It is roughly triangular in shape and fronts on the west side of Railroad Avenue approximately 480 feet south of its intersection with Seminary Avenue.

On the west side of Railroad Avenue, approximately 250 feet north of the subject property, there is a relatively small parcel of land, located at the corner of the southwest quadrant of the intersection of Railroad Avenue and Seminary Avenue, which was reclassified to the B.L. zone (Business, Local) by a local map amendment adopted subsequent to 1955, on which a Citgo service station has long been and still is in operation. In the northwest quadrant of the intersection there is also a comparatively small parcel of land zoned B.L. upon a portion of which a refinishing shop, called The Wood Butcher, was developed around 1960. A furniture store known as Leers, containing about 15,000 square feet, is presently under construction on the remaining portion of that B.L. zoned land. At the corner of the southeast quadrant of the intersection there exists still another relatively small parcel of land which was classified in the B.L. zone in 1955, upon a portion of which a small grocery store has been located for many years. Subsequent to 1955 a relatively small parcel of land adjoining this B.L. zoned tract on the south was reclassified from the then R.-10 zone (Residence, one or two family, lot area 10,000 square feet) to the B.L. zone. An office building has been developed on this B.L. zoned tract. Adjoining this B.L. zoned parcel on its south is a tract of land zoned D.R.-3.5 (Density Residential, 3.5 dwelling units per acre), a portion of which confronts the northern portion of the subject property.[1]

Moving south along the east side of Railroad Avenue and confronting the southern portion of the subject property there is a parcel of land which, subsequent to 1955, was reclassified by a local map amendment from the then R.-10 zone to the D.R.-16 zone (Density Residential, 16 dwelling units per acre). An apartment complex known as the Cardiff of Charles Apartments, consisting of 160 units, has *{*46}* been developed on a portion of that tract. Lying between this D.R.-16 parcel and the Beltway, on the east side of the railroad right-of-way, there is a relatively

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large tract of land which, subsequent to 1955, was reclassified by a local map amendment from the then R.-10 zone to the B.R. zone (Business, Roadside). "Warehouse office storage" -type buildings have been developed on this parcel. The record further shows that the Lutherville Supply & Equipment Company, which sells heavy machinery, earth-movers and cranes, is also located on the land east of the subject property and across the railroad track. It is unclear, however, whether this business enterprise is located on the D.R.-16 zoned land or the B.R. zoned land.

The subject property, which is fairly level, has a low elevation lying approximately 15 to 20 feet below the roadbed of the Northern Central Railway, which adjoins Railroad Avenue on the east. It is bisected by the Roland Run Stream which traverses the subject property from north to south. That portion of the subject property lying to the west of Roland Run Stream is further bisected by a tributary of the Roland Run Stream which passes through that portion of the subject property from west to east. Parallel to Roland Run and its tributaries there are 10-foot-wide easements for utilities and sewers.

For 60 years a building materials and lumber supply yard, located on the southeastern sector of the subject property, has been in operation. This nonconforming use is still being carried on, with annual sales in 1971 of $ 1.5 million. At present, there are five frame buildings located on the southeastern portion of the subject property, all of which are 50 to 60 years old and in a "bad state of repair." Their utility for operation as a modern-day lumberyard is substantially impaired because none of them is designed to accommodate forklift trucks, necessitating the piling of lumber by hand. At one time a residence and a shed had been located on the southwestern portion of the subject property, but those buildings have been razed. Currently, that portion of the tract has no development upon it.

At present, access to the subject property is limited to *{*47}* Railroad Avenue, which runs along a small portion of the northeastern sector of the subject property and then deadends. That street has a 20-foot right-of-way and a paved width of 15 feet. The Northern Central Railway right-of-way which adjoins Railroad Avenue on the east, as well as a portion of the southeastern sector of the subject property, contains one railroad track over which two to four freight trains travel daily. School Lane appears to provide access to the northwestern section of the subject property. The 20-foot-wide pavement of that road ends, however, 60 feet from the northern boundary of the subject property.

The subject property was classified in the R.-6 zone (Residence, one or two family, lot area 6,000 square feet), which was the then equivalent of the D.R.-5.5 zone, by the comprehensive zoning map which preceded that of 1971. On 10 September 1970 the Zoning Commissioner (Commissioner) of Baltimore County granted an application requesting reclassification of the subject property to the B.R. zone. An appeal was taken to the Board of Appeals (Board). While that appeal was pending, the Council was considering the adoption of a new comprehensive zoning map. The Log of Issues and Recommendations to the Council, Relative to the Central Sector, used at the public hearing preceding adoption of the 1971 comprehensive zoning map, indicates that the existing zoning of the subject property was R.-6; that the Planning Board

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recommended that the subject property be designated D.R.-5.5; that the property owner was requesting a B.R. zoning classification in a local map amendment case then pending; and that a proposed Council resolution recommended D.R.-16 zoning for the subject tract. On 24 March 1971 the Council adopted a comprehensive zoning map on which the subject property was classified in the D.R.-5.5 zone.

Within three weeks of the adoption of the comprehensive zoning map[2] the owner of the property and the contract *{*48}* purchaser of the tract [hereinafter called applicants] petitioned the Commissioner for a reclassification of the subject property to the B.R. zone, alleging that there was error in the comprehensive zoning map with respect to the subject property. After a hearing the Commissioner concluded that the comprehensive zoning map was in error in classifying the subject property in the D.R.-5.5 zone. On 8 February 1972 he granted the requested reclassification to the B.R. zone. An appeal was taken to the Board and, on 6 September 1972, the action of the Commissioner was reversed in part and affirmed in part by the Board which believed that the applicants had "met the burden of proof in showing error in original zoning on that portion of the petitioned tract southeastwardly of the stream, but not on that portion northwestwardly of the stream." Accordingly, the Board granted reclassification of the 2.3 +-- acres of the subject property, which lie on the southeast side of the center line of Roland Run to the B.R. zone, and retained the remaining 3.54 +-- acres of the subject property, which lie on the northwest side of the center line of Roland Run, in the D.R.-5.5 zone.

The protestants, neighboring property owners, filed an appeal in the Circuit Court for Baltimore County from that portion of the order which reclassified the southeastern portion of the tract to the B.R. zone. On 29 January 1974 Judge Lester Barrett found that "[t]he testimony of the Protestants in this case supported the correctness of the County Council's comprehensive zoning of March 1971" and that "the testimony produced by the Petitioner-Appellee is not sufficient to overcome the presumption of correctness which attaches with the adoption of a comprehensive zoning map by the County Council." An order was entered reversing that portion of the Board's order which had reclassified the 2.3 +-- acres lying on the southeastern portion of the subject property to the B.R. zone. It is from this order that the applicants appeal.

The applicants initially contend that the trial court applied an improper standard in determining whether the action of the Board should be reversed. They point out that *{*49}* while the trial court found the evidence adduced by the protestants supported the correctness of the 1971 comprehensive zoning and that the evidence adduced by the applicants was insufficient to overcome the presumption of correctness which attaches to a comprehensive rezoning, it did not determine whether the action of the Board was arbitrary and discriminatory or "fairly debatable." The applicants conclude that under these circumstances the trial court impermissibly weighed the evidence and substituted its judgment for that of the Board. We do not agree.

The applicable test for determining the scope of judicial review in a zoning case alleging error in a comprehensive rezoning has recently been restated in **Trainer v. Lipchin,** 269 Md. 667, 672-73, 309 A.2d 471, 474 (1973), in which the Court of Appeals, quoting from **Stratakis v. Beauchamp,** 268 Md. 643, 652-53, 304 A.2d 244, 249 (1973), said:

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"'. . . Where a legislative body, or a board of county officials, pursuant to authority conferred upon it, has granted a rezoning of property, the question on judicial review is whether or not such action is arbitrary and discriminatory or fairly debatable. We shall follow that test in considering this appeal.

"'While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, **strong** evidence of mistake in the original zoning or comprehensive rezoning or evidence of substantial change in the character of the neighborhood must be produced. Since, as we have also said, this burden is onerous, the task confronting appellants [appellees], whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one.'" (Emphasis in original.) (Citations omitted.)

*{*50}* Under this test "strong evidence" of error is required to make the issue of mistake in comprehensive zoning fairly debatable and unless such strong evidence is presented by the applicant, the action of the Board in granting a reclassification is arbitrary and capricious.

Here, the trial court's finding that the "testimony produced by the Petitioner-Appellee is not sufficient to overcome the presumption of correctness which attaches with the adoption of a comprehensive zoning map by the County Council" is, in essence, a determination that there was not evidence of mistake in the comprehensive zoning strong and substantial enough to make that issue fairly debatable and that, consequently, the action of the Board in granting the reclassification was arbitrary and capricious. The trial court's further finding that the evidence adduced by the protestants supported the correctness of the 1971 comprehensive zoning, while correct, was not required for a resolution of the issue in this case. Until the presumed validity of the comprehensive zoning map has been overcome, evidence supporting its correctness is immaterial. Thus, while the trial court made a gratuitous finding, he applied the appropriate standard for judicial review. He neither weighed the evidence nor substituted his judgment for that of the Board.

Secondly the applicants contend that the Council erred in placing the subject property in the D.R.-5.5 zone because, at the time of the adoption of the 1971 comprehensive zoning map, it failed to take certain facts into account.

In this case, in order to grant the requested reclassification, the Board needed strong and substantial probative evidence that there was "mistake" or "error" in the comprehensive zoning of 1971. In order to assess the evidence before the Board, it is necessary to understand the inherent nature of the terms "mistake" or "error" as they are used in zoning law. A perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of

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validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or *{*51}* premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension. **Bonnie View Club v. Glass,** 242 Md. 46, 52-53, 217 A.2d 647, 651 (1966); **Jobar Corp. v. Rodgers Forge Community Ass'n.,** 236 Md. 106, 112, 116-18, 121-22, 202 A.2d 612, 615, 617-18, 620-21 (1964); **Overton v. County Commissioners,** 225 Md. 212, 216-17, 170 A.2d 172, 174-76 (1961); **see Rohde v. County Board of Appeals,** 234 Md. 259, 267-68, 199 A.2d 216, 218-19 (1964). Error or mistake may also be established by showing that events occurring subsequent to the comprehensive zoning have proven that the Council's initial premises were incorrect. As the Court of Appeals said in **Rockville v. Stone,** 271 Md. 655, 662, 319 A.2d 536, 541 (1974):

> "On the question of original mistake, this Court has held that when the assumption upon which a particular use is predicated proves, with the passage of time, to be erroneous, this *is sufficient to authorize a rezoning.*"

See Rohde, supra, at 234 Md. 267-68, 199 A.2d 220-21; **England v. Rockville,** 230 Md. 43, 45-47, 185 A.2d 378, 379-80 (1962); **Pressman v. Baltimore,** 222 Md. 330, 338-39, 160 A.2d 379, 383 (1960); **White v. County Board of Appeals,** 219 Md. 136, 144, 148 A.2d 420, 423-24 (1959); **cf. Dill v. The Jobar Corp.,** 242 Md. 16, 20-21, 24, 217 A.2d 564, 567-68 (1966); **Marcus v. Montgomery County Council,** 235 Md. 535, 540-41, 201 A.2d 777, 780 (1964); **Offutt v. Board of Zoning Appeals,** 204 Md. 551, 558, 105 A.2d 219, 221-22 (1954); **Wakefield v. Kraft,** 202 Md. 136, 144-45, 149, 96 A.2d 27, 30 (1953); **Hoffman v. City of Baltimore,** 197 Md. 294, 307,79 A.2d 367, 373-74 (1951).

It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the *{*52}* adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning, **Bonnie View Club, supra,** at242 Md. 48-49, 52, 217 A.2d 649, 651 (mineshaft and subsurface rock formation); by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account, **Overton, supra,** at 225 Md. 216-17, 170 A.2d 174-75(topography); or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning, **Jobar Corp., supra,** at 236 Md. 116-17, 202 A.2d 617-18 (need for apartments). **See Rohde, supra,** at 234 Md. 267-68, 199 A.2d 221. Because facts occurring subsequent to a comprehensive zoning were not in

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existence at the time, and, therefore could not have been considered, there is no necessity to present evidence that such facts were not taken into account by the Council at the time of the comprehensive zoning. Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the question of error is not "fairly debatable."[3]

*{*53}* Moreover, in reviewing the evidence before the Board, it must also be noted that the opinion or conclusion of an expert or lay witness is of no greater probative value than that warranted by the soundness of his underlying reasons or facts. **Surkovich v. Doub,** 258 Md. 263, 272, 265 A.2d 447, 451 (1970); **Anderson v. Sawyer,** 23 Md. App. 612, 618, 329 A.2d 716, 720. The Court of Appeals and this Court have stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in a comprehensive rezoning unless the reasons given by the witness as the basis for his opinion, or other supporting facts relied upon by him, are themselves substantial and strong enough to do so. **Stratakis, supra,** at 268 Md. 655, 304 A.2d 250; **Coppolino v. County Board of Appeals of Baltimore County,**23 Md. App. 358, 371-72, 328 A.2d 55, 62 (1974). Viewed in the light of the principles applicable to "error" or "mistake" the testimony presented here does not pass muster.

The applicants contend that at the time of the comprehensive rezoning of 1971 the Council erred in placing the subject property in the D.R.-5.5 zone because they failed to take into account the fact that the subject property was *{*54}* then unsuitable for residential development.[4] A witness qualified in the fields of real estate and real estate appraisal and the contract purchaser of the subject property testified that it was "unsuitable" for residential development because of its physical characteristics and its proximity to the railroad tracks. They stated that much of the land in the western sector of the subject property lay in the flood plain, and was not usable for any purpose; that in order to provide access to the western portion of the tract it would be necessary to bridge Roland Run Stream at great expense; and that, in any event, the maximum permitted density of 35 units could not be achieved either by single-family residential development or apartment development because the eastern portion of the subject property, adjoining the railroad right-of-way, was undesirable for residential development while the western portion contained insufficient usable land for the construction of 35 units. They concluded that residential development on the subject property would be economically unfeasible and that the only reasonable use which could be made of it consisted of commercial use on the eastern portion of the tract with off-street parking located on the western portion. They acknowledged that the subject property presently contains a profitable nonconforming use and that a single-family residence had been located on the western portion of the tract. They further conceded that the subject property was adjoined on the west and north by land upon which single-family development had taken place; that single-family development presently existed along the right-of-way of the railroad on land adjoining or lying in close proximity to the subject property; and that single-family residential development had recently occurred on land adjoining the railroad right-of-way in other communities located near Lutherville. There were no facts presented to show how much of the land contained in the total tract was unusable; how many

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units physically could {*55} be located on the tract; or how much it would cost to bridge Roland Run in order to provide access to the western portion of the subject property. Moreover, there was no explanation as to why it would be impossible to provide access for residential development via School Lane; or why it was any more undesirable here to locate residential units next to the right-of-way of the Northern Central Railroad than it had been to locate residential units next to the railroad within the same and neighboring communities.

This evidence was insufficient to make the question of "error" or "mistake" fairly debatable for two reasons. First, because the conclusion that the subject property was unsuitable for residential development was not supported by adequate reasons or facts, it was entitled to little if any probative value. It was not sufficiently strong and substantial to overcome the presumption of validity of the comprehensive zoning. Secondly, there was no evidence to show that at the time of the comprehensive zoning the Council was unaware of the readily visible physical characteristics and location of the subject property and failed, in fact, to take them into account. Indeed, the existence of easements for public sanitary sewers supports an inference that the Council was, in fact, aware of the physical characteristics of the subject property. Thus, there was no evidence to show that the initial premises of the Council with respect to the subject property were incorrect and that consequently the classification assigned at the time of the comprehensive rezoning was improper.

The applicants next contend that at the time of the comprehensive zoning of 1971 the Council erred in failing to take into account various physical changes which had occurred in the area between the adoption of the 1955 comprehensive zoning map and the 1971 comprehensive zoning map. These changes included the development of a large furniture store on land in the northwest quadrant of the intersection of Railroad Avenue and Seminary Avenue on land zoned as commercial by the 1955 comprehensive zoning map and the development of extensive commercial and apartment uses on land, in close proximity to the {*56} subject property, which had been reclassified from single-family residential zones to commercial and apartment zones after the adoption of the 1955 comprehensive zoning map. The zoning map shows that none of the changes in zoning classification or development have occurred in the area bounded by the Harrisburg Expressway on the west, Seminary Avenue on the north, Railroad Avenue on the east, and the Beltway on the south. Thus, the immediate neighborhood within which the subject property lies has been left essentially unchanged and contains no land classified in the commercial zone other than that at the intersection of Railroad Avenue and Seminary Road, which has been so classified since 1955. Moreover, the zoning map shows that all of the commercial uses existing in a much broader area are located at road intersections. There is not an iota of evidence in the record to indicate that at the time of the comprehensive zoning of the subject property the Council was unaware of either the zoning reclassifications or development which had taken place between 1955 and 1971. Indeed, the presumption that the Council was aware of these occurrences is buttressed by the fact that it was reasonable for the Council, cognizant that commercial uses had already been extended at various road intersections in the area, to conclude that the intrusion of additional commercial zoning into the area at a location other than a road intersection, was contrary to the public interest. Consequently, there is insufficient evidence to make fairly debatable the question of whether the Council erred in failing

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to consider the effect of the zoning and development which had taken place between 1955 and 1971.

The applicants additionally contend that the Council erred in failing to take into account the projected widening of the Harrisburg Expressway and the Beltway interchange as well as the extension of Charles Street. The only evidence presented as to the impact of these roads on the subject property was that of the applicants' expert, qualified as an expert in real estate and real estate appraisal. He testified that the Beltway interchange requires a "lot of bridgework" and "will go way up in the air," so that it might be seen from *{*57}* the subject property in the wintertime when the trees are barren of leaves. He conceded, however, that at the time of the comprehensive zoning map, the Council anticipated the widening of the Harrisburg Expressway and the Beltway interchange. Moreover, he acknowledged that even at the time of the Council hearing no plan for an extension of Charles Street had been finalized, making uncertain when, if at all, such an extension might take place. The evidence with regard to widening of the Harrisburg Expressway and the Beltway interchange is insufficient to establish either error or mistake because it supports, rather than rebuts, the presumption that at the time of the comprehensive zoning the Council was aware of the fact that those roads were to be widened. The evidence with respect to the proposed extension of Charles Street is insufficient because it is too speculative in nature to have properly been considered. At the time of comprehensive rezoning, the Council is required to take into account only existing facts and those projects or trends which are reasonably probable of fruition in the foreseeable future. **Hunter v. County Commissioners,** 252 Md. 305, 310, 250 A.2d 81, 84 (1969) **see Chapman v. Montgomery County,** 259 Md. 641, 649-50, 271 A.2d 156, 160-61 (1970); **Jobar Corp., supra,** at 236 Md. 112, 202 A.2d 615; **Rohde, supra,** at 234 Md. 264, 199 A.2d 218-19; **Trustees of McDonogh Educational Fund and Institute,** 221 Md. 550, 570-71, 158 A.2d 637, 648 (1960).

The applicants also contend that the Council erred because it failed to take into account the B.R. zoning classification of the subject property, which they assert existed at the time of the comprehensive rezoning, and further failed to take into account the fact that the property owner was seeking a commercial classification for his property. They maintain that at the time of the comprehensive rezoning the Council considered only the possibility of reclassifying the subject property from the R.-6 zone to the D.R.-16 zone. In support of this position they rely on the Log of Issues and Recommendations to the Baltimore County Council, Relative to the Central Sector, used at the public hearing preceding adoption of the 1971 comprehensive zoning map. *{*58}* This log indicates that the then existing zoning of the subject property was R.-6; that the Planning Board recommended that the subject property be designated D.R.-5.5, the new equivalent of R.-6; that the property owner was requesting a B.R. zoning classification in a local map amendment case then pending; and that a proposed Council resolution recommended D.R.-16 zoning for the subject tract. This evidence, rather than overcoming the presumption that the Council was aware of all of the relevant existing facts at the time of the comprehensive rezoning, supports it.

The record clearly shows that at the time of the comprehensive zoning the subject property had been reclassified to the B.R. zone by the Zoning Commissioner but that that action by the

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Commissioner was then pending on appeal. Because an appeal was pending, the reclassification granted by the Zoning Commissioner was deprived of the force and effect of law.[5] Consequently, the existing classification of the subject property was properly reflected in the log as R.-6. Moreover, the log patently indicates that a request for reclassification to the B.R. zone was then pending, thus putting the Council on notice of the property owner's desire to have the subject property placed in that classification. Under these circumstances there can be no doubt that the Council was aware of the facts as they then existed, and in particular, of the classification sought by the property owner. Accordingly, its decision to place the subject property in the D.R.-5.5 zone was not premised on a misapprehension.

Finally, the applicants contend that the Council erred in failing to take into account the fact that their property had been utilized for the past 60 years as a building materials and lumber supply yard; that this nonconforming use had always been compatible with the adjoining residential uses; that this nonconforming use could be continued even if the *{*59}* requested reclassification were denied; and that the requested reclassification was sought only for the purpose of permitting the owner to update and improve his present facilities and to protect his right to continue that business in the event that the building should be destroyed by fire.[6]

This contention is without merit for several reasons. There is no evidence to indicate that the Council was unaware of this nonconforming use which had been in existence for 60 years. Moreover, nonconforming uses are by definition inherently incompatible with permitted uses in a zone.[7] Indeed, it is public policy in Baltimore County to drive such nonconforming uses out of permanent existence by preventing the expansion of such uses or their restoration if substantial damages are incurred.[8] Finally, in response to the applicants' argument that they were seeking B.R. zoning solely as "insurance" to guarantee the right to rebuild the present use in the event of casualty, it need only be noted, as the applicants conceded, that once the reclassification was granted, nothing could prevent the development of any of the uses permitted in the B.R. zone on the subject property.[9] Consequently, the evidence again was insufficient to make the question of error fairly debatable.

*{*60}* When all is said and done, this record is totally devoid of any evidence to show that at the time of the comprehensive zoning of the subject property the Council failed to take into account any facts or circumstances then existing relevant to the subject property and its environs so that its initial assumptions and premises in determining the appropriate classification for the subject property were erroneous. Nor was there any evidence of any events occurring subsequent to the time of the comprehensive rezoning, which would show that the Council's assumptions and premises at the time of the comprehensive rezoning had been proved invalid by the passage of time. Under all of the circumstances in this case the presumption of validity accorded to the comprehensive rezoning was not overcome and the question of "error" or "mistake" in the comprehensive zoning of the subject property was not "fairly debatable." The trial court was correct in reversing that portion of the Board's order which granted reclassification to the B.R. zone of the 2.3 +-- acres of the subject property which lie on the southeastern side of the center line of Roland Run Stream. Accordingly, the order of the trial court will be affirmed.

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Order affirmed.

Costs to be paid by appellants. *{*61}*

DOUBLE CLICK TO VIEW ILLUSTRATION

DISPOSITION

Order affirmed. Costs to be paid by appellants.

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room - Room 48
Old Courthouse, 400 Washington Avenue

October 25, 2001

NOTICE OF ASSIGNMENT /Hearing on Merits

CASE #: CR-02-070
(out of cycle, 2001)

IN THE MATTER OF: ***Maud D. & Lee R. Jones*** *(Jones Property)*
- Legal Owners; ***John F. Owings, Jr.,*** - CP
24 Old Tollgate Road
4th Election District; 3rd Councilmanic District

RE: Petition for Reclassification /Documented Site Plan

ASSIGNED FOR: **WEDNESDAY, FEBRUARY 6, 2002 at 10:00 a.m.**

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix C, Baltimore County Code.
IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Petitioners : Lawrence M. Hammond, Esquire
Petitioners : Lee R. and Maud D. Jones /Legal Owners
John F. Owings, Jr. /CP /Petitioner

Robert J. Haines, Esquire
/Board of Ed. /MS 1102-J
People's Counsel for Baltimore County
Pat Keller, Planning Director
Lawrence E. Schmidt /Zoning Commissioner
W. Carl Richards /PDM
Arnold Jablon, Director /PDM

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AMMENDED: July 25, 2001

W. L. "Wil" Duvall, P.E.
W. Duvall & Associates, Inc.
530 East Joppa Road
Towson, Maryland 21286

RE. Jones Property, Old Tollgate Road
Owings Mills

Dear Mr. Duvall:

This report attempts to address a series of questions pertaining to the above-referenced property, questions posed to the zoning petitioner under Council Bill No. 98-1975.

The information requested is under the heading "Environmental Impact Statement" (EIS) . Rather then repeat the questions herein, the reader is referred to the Baltimore County Zoning Manual. For clarity, however, the following responses are given in the order of the listed elements of the EIS.

1.)

The proposed action for the property, given a successful petition, will allow for the development of a senior housing complex on the Reisterstown Road corridor in Owings Mills, Maryland. Disturbance to the site will include removal of the razing of buildings, removal of a portion of the forest, grading, and paving. The created imperviousness will require stormwater management to manage the post-development run-off. All of the foregoing is standard procedure for development in Baltimore County. Of particular note in this instance, however, is the newly imposed stormwater management regulations that are more restrictive and provide better protection to streams then was the case previously. These new regulations would be in effect upon the proposed development allowed by the granting of the petition.

2.)

Direct impacts would be the removal of forest: Estimates are as follows:

Site Acreage: 9.9
Existing Forest: 9.1
Preliminary Proposed clearing: 6.0
Retention required under FCA: 3.4

It is our understanding that a substantial vegetated buffer is to be retained around the developed

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area, in addition to the open space of 1.5 acres. Also, the only stream on the subject, a first-order, Use I tributary to Gwynns Falls is fully protected by the County's Forest Buffer Program. Beyond that, the stream is at the northerly aspect of the subject and in an area designated as not part of the development and re-zoning proposal

Since stormwater run-off is managed routinely, as is sediment control, via County requirements, and forest retention can be met on-site, we see the proposed 4.91 acre area as an additional buffer area, enhancing the environmental quality of the development. In light of this, we see no significant direct of indirect impacts resulting from the proposed development.

3.)

The impacts proposed, limited to only those necessary to support the development are not avoidable, but we do not consider them adverse.

4.)

We believe the environmental economies of scale mitigate well for the proposal. Substantial areas of preserved forest, in particular, offer protection to forest that might ordinarily be cleared under another development proposal. Given that development will occur on this site in some fashion, we believe this is the best situation, all factors considered.

5.)

Our response to this question is that of the allowable development possibilities, this proposal preserves more forest and mitigates better for water quality, then any other short of the no-build alternative, which is not realistic. This provides for the best short and long-term environmental conditions possible under the circumstances.

6.)

The preservation of the substantial forest on-site, in particular will provide a natural walking area for the residents of the proposed development. This will provide, beyond the protections heretofore described, on-going enjoyment of this resource into the future.

* * *

Other supporting information:

No streams, wetlands, or floodplains are proposed to be impacted by the development proposal

Sewerage service is public as is water supply, therefore there will be no impacts to, or apropriation of, groundwater on the subject.

* * *

Should you have any questions or require additional information, please do not hesitate to call

Cordially,

Dennis J. LaBare

Author's Statement of Qualifications

Mr. LaBare has been engaged in biological and ecological research and monitoring of freshwater systems in Central Maryland and Southern Pennsylvania since 1976. He has performed studies in the Gunpowder, Monocacy, Patapsco, and Potomac drainage basins while developing expertise in aquatic system inventories, assessment, and planning. He has performed hundreds of wetland delineations throughout the piedmont and coastal plain on sites from less than one to more than one-thousand acres and has designed numerous restorative and water quality enhancement mitigation projects. All these endeavors have been undertaken in a manner to facilitate land use planning decisions built on sound science and common sense. He has performed and prepared hundreds of Forest Stand Delineations and Forest Conservation Plans in the same region since the inception of the law and has provided training on the subject to other land use professionals.

For over twenty-five years Mr. LaBare's activism and leadership in the environmental conservation arena have provided him a familiarity with the regulatory environment and its personnel. This knowledge coupled with his four years experience in retail and wholesale real estate sales and property tax valuation consulting gives him the unique perspective of both sides of land use issues.

EDUCATION

M.S., Towson State University, 1986
B.S., University of Maine, 1977

MISC.

Formerly Adjunct Faculty, The Johns Hopkins University Graduate School of Continuing Studies
Lecturer in Stream Ecology

Presently, Instructional Faculty, Adult Education
Lecturer in Stream Ecology

Qualified Professional, Maryland Forest Conservation Act

Recipient, 1993 National Trout Unlimited "Trout Conservation Award", TU's highest national award for a volunteer.

DWELLING, ALTERNATIVE SITE DESIGN — A dwelling sited on a zero lot line or zipper lot, patio house or neo-traditional dwelling as prescribed in the Comprehensive Manual of Development Policies.[11] [Bill No. 2-1992]

DWELLING, SINGLE-FAMILY DETACHED — A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and not attached to any other dwelling by any means. Single-family detached dwellings to be developed as part of an alternative site design shall be considered alternative site design dwellings. [Bill No. 2-1992]

DWELLING, TWO-FAMILY — A two-family house containing two dwelling units each of which is totally separated from the other with an unpierced ceiling and floor extending from exterior wall to exterior wall or by an unpierced wall extending from ground to roof. [Bill No. 2-1992]

ELDERLY HOUSING FACILITY — The term "elderly housing facility" includes an assisted living facility, a continuing care facility and Class A or Class B housing for the elderly. [Bill Nos. 36-1988; 188-1993]

ENCLOSED MALL — A shopping center containing an enclosed pedestrian concourse or connecting enclosed pedestrian concourses to which at least 75% of the establishments therein front onto and have their only direct access (except as required for emergency use). [Bill No. 29-1982]

ENVIRONMENTAL IMPACT STATEMENT — A comprehensive study which accurately discloses the environmental consequences or enhancement of a proposed action. Such a statement must include the following:

A detailed description of the proposed action including information and technical data adequate to permit a careful assessment of environmental impact;

Discussion of the probable impact on the environment, including any impact on ecological systems and any direct or indirect consequence that may result from the action;

Any adverse environmental effects that cannot be avoided;

Alternatives to the proposed action that might avoid some or all of the adverse environmental effects, including analysis of cost and environmental impact of these alternatives;

An assessment of the cumulative, long-term effects of the proposed action including its relationship to short-term use of the environment versus the environment's long-term productivity; and

Any irreversible or irretrievable commitment of resources that might result from the action or which would curtail beneficial use of the environment. [Bill No. 98-1975]

EXCAVATIONS, CONTROLLED — All types of excavations other than those defined as "excavations, uncontrolled."

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11 Editor's Note: Information on the Manual may be obtained from the Department of Permits and Development Management.

DECLARATION OF RESTRICTIVE COVENANTS

THIS DECLARATION OF RESTRICTIVE COVENANTS made this 10th day of October, 2000, by and between **LEE R. JONES and MAUD D. JONES**, Husband and Wife (hereinafter collectively known as "Owner") and **TOLLGATE ACTION GROUP**, a Maryland Association, (hereinafter referred to as "TAG").

RECITALS

WHEREAS, Jones is the owner of 13.97 acres of land, more or less, located in the Fourth Election District of Baltimore County, Maryland, by virtue of a Deed dated February 26, 1990 and recorded among the Land Records of Baltimore County in Liber S.M. No. 8412, folio 450, hereinafter known as "the Property"; and

WHEREAS, the Property is currently zoned DR 3.5; and

WHEREAS, the Baltimore County Council, pursuant to the 2000 Comprehensive Zoning Map Process, is considering rezoning the Property, said Property being designated on the Log of Issues as No. 3-148; and

WHEREAS, the Owner has requested that 10.8 acres of the Property be rezoned as DR 10.5 and that the remaining 3.17 acres retain its present zoning of DR 3.5. A copy of the 200 scale zoning map which delineates the proposed DR 10.5 portion of the Property and the remaining DR 3.5 portion of the Property is attached hereto and incorporated as Exhibit "A"; and

WHEREAS, the Owner desires to develop the proposed DR 10.5 portion of the Property as a Condominium consisting of approximately ninety (90) units, with the residents to be restricted to those individuals Fifty-five (55) years of age or older; and

WHEREAS, the Owner is willing to surrender all development rights with respect to the remaining DR 3.5 portion of the Property if the aforementioned Condominium project is constructed; and

WHEREAS, TAG is willing to support the Owner's request, subject, however, to the development of the project as contemplated herein; and

WHEREAS, the Owner desires to subject the Property and the improvements located thereon to the Covenants, Conditions and Restrictions set forth; and

NOW, THEREFORE, WITNESSETH, the Owner hereby declares:

1. The above Recitals are incorporated herein by reference as if fully set forth.

2. That the Owner will use its best efforts to develop as a Condominium within the DR 10.5 portion of the Property, consisting of a maximum of three (3) buildings, containing a maximum of ninety (90) units, to be constructed, reconstructed, and/or refurbished in a manner substantially in compliance with the architectural rendering attached hereto and incorporated as Exhibit "B".

3. That these Covenants are subject to the Owner obtaining approval for the Condominium project from the Development Review Committee ("DRC") or other appropriate Baltimore County agencies and that the requested zoning is obtained under the 2000 Comprehensive Zoning Map Process ("CZMP").

4. That if the Property is developed as contemplated herein, the Owner will guarantee, by way of by-laws and restrictive covenants for the future condominium, that the members of TAG will have access to the passive and active open space, foot paths, and meeting rooms for regularly scheduled meetings of TAG located on the Property.

5. That if the property is developed as a Condominium as contemplated herein, the areas set forth on Exhibit "C" attached will remain undeveloped, with as many of the existing trees to be retained as practical or as permitted by law.

6. If the Property is not developed as contemplated herein, the Owner may not develop the Property except as permitted by the regulations governing properties zoned DR 3.5 and hereby agrees by the 2004 CZMP to request that the Property revert to its present zoning without reference to the restrictions set forth herein.

7. That these Covenants shall be enforceable at law and/or in equity and shall bind and inure to the benefit of the Owner, their successors and assigns, as well as trustees in bankruptcy, mortgagees and any party taking or benefiting from any assignment for the benefit of creditors or any party who shall purchase any portion of the Property from the Owner.

8. If this Property is developed as contemplated herein, TAG agrees to support such development through the Baltimore county Approval Process. This agreement shall be recorded among the Land Records of Baltimore County at the expense of the Owner and shall run with the land and shall be binding upon the Owner and upon all persons claiming thereunder. It is understood that these Covenants touch and concern the land and if the Property is developed as a Condominium as contemplated herein, said Covenants shall run with the land until the year 2020, at which time these

Covenants will terminate in all respects, however, if the property is not developed as contemplated herein, it is intended that these Covenants run with the land through the end of 2002 at which time the Covenants will terminate in all respects.

9. These Covenants and the rights and liabilities arising hereunder are governed by and shall be determined in accordance with the laws of the State of Maryland.

10. Any failure by any party entitled to enforce any of these Covenants, Conditions and Restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter as to the same breach, or as to one occurring prior to, or subsequent thereto.

11. Enforcement of these Covenants shall be by proceedings at law or in equity against any party or parties violating or attempting to violate any Covenant, either to restrain violation or recover damages, or both. The reasonable expenses of enforcement by TAG, including but not limited to reasonable attorneys fees, shall be charged to the party or parties adjudicated by a court of competent jurisdiction to be a violation of these Covenants and Restrictions.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first above written.

Witness _____ Lee R. Jones _____ (SEAL)

Witness _____ Maud D. Jones _____ (SEAL)

ATTEST: TOLLGATE ACTION GROUP

_____ By _____ (SEAL)
Arthur Coppersmith, President

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I HEREBY CERTIFY that on this 10th day of October, 2000, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared LEE R. JONES and MAUD D. JONES, known to me (or satisfactorily proven) to be the person who subscribed their names to the within instrument, and acknowledged doing so for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

LAWRENCE M. HAMMOND NOTARY PUBLIC BALTIMORE COUNTY, MD.

Notary Public

My Commission expires: September 01, 2002.

STATE OF MARYLAND, COUNTY OF Baltimore, to wit:

I HEREBY CERTIFY that on this 10th day of October, 2000, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Arthur Coppersmith, President of Tollgate Action Group, known to me (or satisfactorily proven) to be the person who subscribed his/her name to the within instrument, and being authorized so to do, acknowledged doing so for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

LAWRENCE M. HAMMOND NOTARY PUBLIC BALTIMORE COUNTY, MD.

Notary Public

My Commission expires: September 01, 2002.

This instrument has been prepared by Lawrence M. Hammond, an attorney duly admitted to practice before the Court of Appeals of Maryland.

Lawrence M. Hammond

c:\lmh\jones.cov

Verified
KdV

EXHIBITS

CR-02-070 JONES FEB 6, '02

PET 1 SITE PLAN
PET 2 CONCEPT PLAN
PET 3 MARKET STUDY BY J. CRONYN
PET 4 MEETING LETTER 1/9/01
PET 5 ALT. 'A' ARCHITECTURAL PLAN
PET 6 ALT 'B' " "
PET 7 RESTRICTIVE COVENANTS (PROPOSED)
PET 8 " " (EXECUTED COPY)

PEOPLE'S COUNSEL

PC 1 PLANNING COMMENTS 9/19/01
PC 2 B. C. MASTER PLAN ~~PG 26 - 28~~ SECTIONS 2001 2/22/00
PC 3 CMZP DOC.
PC 4a-d PLANNING OFFICE ISSUE DOC. 3-148 ISSUE.
PC 5 BC COUNCIL MINUTES.
PC 6 FINAL LOG OCT 10, '00 CMZP
PC 7 ADC ROAD MAP
PC 8 ZONING MAP
PC 9 PIKESVILLE ZONING MAP 1000 SCALE
PC 10 BILL NO 122-78
PC 11 " " 46-79
PC 12 MODIFICATION OF "CHANGE-MISTAKE" ZONING RULES

SENIOR DEMOGRAPHIC TRENDS
NORTHWEST MARKET AREA
&
BALTIMORE COUNTY

Prepared For:

Mr. John F. Owings, Jr.
JOHN F. OWINGS ENTERPRISES
P.O. Box 295
Owings Mills, MD 21117

Submitted by:

Lipman Frizzell & Mitchell LLC
8815 Centre Park Drive
Suite 200
Columbia, Maryland 21045

September 25, 2001

PBT 3

Lipman Frizzell & Mitchell LLC

SENIOR DEMOGRAPHIC TRENDS
NORTHWEST MARKET AREA & BALTIMORE COUNTY

Lipman Frizzell & Mitchell LLC (LF&M) has been retained by John F. Owings Enterprises (Owings) to analyze and comment upon senior demographic trends in a defined market area and in Baltimore County generally.

This analysis is offered to the Board of Appeals in connection with Owings' application for rezoning of the Jones Property at 24 Old Tollgate Road from a DR 3.5 to a DR 10.5 zoning classification, subject to restrictions limiting its development to senior (age 55+) housing.

Purpose of This Analysis

The purpose of this analysis is to identify trends in the number of senior persons *and households over time, as well as their current economic standings.* Those trends will significantly increase the need for senior living alternatives now and for the foreseeable future.

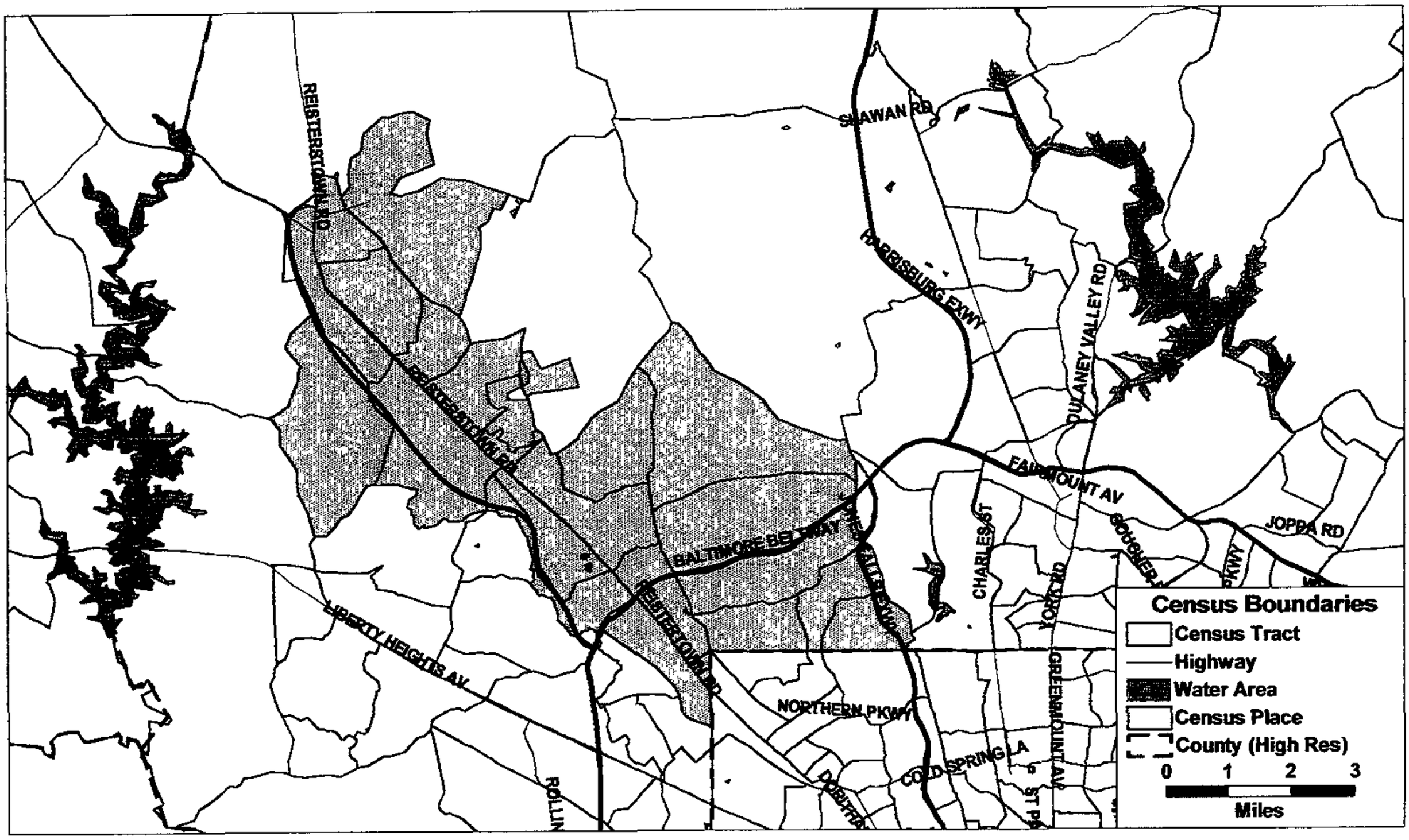
Methodology

LF&M has used a straightforward methodology to analyze senior demographic trends:

- Define Market Areas - We have defined a "Northwest Market Area" (depicted on the following page) which encompasses the geographic territory from within *which housing at the subject site is likely to draw most of its residents.* The defined market area is comprised of Baltimore Metropolitan Council's Regional Planning Districts (RPD) 306 and 313, which are titled Pikesville and Owings Mills/Reisterstown respectively. For comparative purposes as well as because a certain number of residents will certainly be drawn from the broader community, we have also defined Baltimore County as a market area.

- Claritas, Inc. Demographic Data - We have compiled demographic data supplied *by Claritas, Inc., a national demographic research firm.* The data reports 1980 and 1990 U.S. Census information as well as Claritas' 2001 estimates and 2006 projections. LF&M believes the estimates and projections to be reasonable statements of trends.

Our comments then apply the observed trends to the issue of need for senior housing alternatives.



NORTHWEST MARKET AREA
BALTIMORE COUNTY, MD
(RPDs 306 & 313)

Senior Demographic Trends

LF&M has summarized the salient demographic statistics in Table 1 (Market Area) and Table 2 (Baltimore County). We note the following:

Population Trends

- Market Area Population - Market Area population has increased since 1990 at an average annual rate of 2.14%, but growth is expected to slow to 1.35% annually during the next five years. The area's senior (55+) population grew one-and-a-half times faster (3.20%) than the total population, and is projected to grow almost **three times** as fast (3.87%) as the total population through 2006. The leading edge of the Baby Boom generation--born in 1946--is turning 55 years of age in 2001, as demonstrated in the bulge of growth (6.86%) for the age 45-54 years bracket since 1990 which then boosts growth in the 55+ group through 2006 and beyond.

- Baltimore County Population - County population has increased since 1990 at an average annual rate of .88%, but growth is expected to slow to .60% annually during the next five years. The jurisdiction's senior (55+) population grew more than one-half faster (1.38%) than the total population, and is projected to grow almost **four times** as fast (2.30%) as the total population through 2006. The leading edge of the Baby Boom generation increased the age 45-54 years bracket by 4.90% annually since 1990, also resulting in higher growth for the 55+ group through 2006 and beyond.

- Market Area vs. County - Boosted by Owings Mills Growth Area residential development, the Market Area population has grown at a pace 2.4 times that of the County as a whole. Though the growth rate for both geographies is expected to slow over the next five years, the Market Area is nonetheless projected to grow 2.25 times faster. The Market Area's senior population growth has been **2.3 times** the County's since 1990 and is expected to be **1.7 times** higher through 2006.

In summary, the 5,181 seniors added to the Market Area's population since 1990 represent a growth rate significantly higher than even the area's tremendous increase in total population during the same time period. The County's rate of increase for seniors and total population both pale by comparison to the Market Area's.

Household Trends

Household growth trends (for both seniors and the general population) mirror and accentuate the population trends outlined above. Declining household size in

Table 1
DEMOGRAPHIC CHANGES
Northwest Market Area (RPD 306, 313)
1980 - 2006

	1980	1990	2001	2006
Population Trend				
Total Population	**60,667**	**67,848**	**83,814**	**89,472**
Growth Rate (Avg. Ann.)		1.18%	2.14%	1.35%
Population 45-54		**7,345**	**12,889**	**14,321**
Growth Rate (Avg. Ann.)			6.86%	2.22%
Population 55+		**14,699**	**19,880**	**23,722**
Growth Rate (Avg. Ann.)			3.20%	3.87%
Household Trend				
Total Households	**22,341**	**27,035**	**35,479**	**38,457**
Growth Rate (Avg. Ann.)		2.10%	2.84%	1.68%
Senior Households:				
Households 55-64		3,348	5,028	6,623
Households 65-69		1,733	2,044	2,406
Households 70-74		1,468	2,018	2,100
Households 75-79		1,097	1,501	1,621
Households 80-84		689	956	1,125
Households 85+		428	727	810
Total Senior Households		**8,763**	**12,274**	**14,685**
Growth Rate (Avg. Ann.)			3.64%	3.93%

Source: U.S. Census 1980, 1990; Claritas, Inc.: 2001 estimates, 2006 projections; compiled by Lipman Frizzell & Mitchell LLC.

Table 2
DEMOGRAPHIC CHANGES
Baltimore County
1980 - 2006

	1980	1990	2001	2006
Population Trend				
Total Population	**655,615**	**692,134**	**759,098**	**781,782**
Growth Rate (Avg. Ann.)		0.56%	0.88%	0.60%
Population 45-54		**73,770**	**113,559**	**123,719**
Growth Rate (Avg. Ann.)			4.90%	1.79%
Population 55+		**164,501**	**189,412**	**211,206**
Growth Rate (Avg. Ann.)			1.38%	2.30%
Household Trend				
Total Households	**237,370**	**268,280**	**307,393**	**320,647**
Growth Rate (Avg. Ann.)		1.30%	1.33%	0.86%
Senior Households:				
Households 55-64		39,183	46,565	56,975
Households 65-69		20,311	19,980	21,405
Households 70-74		16,847	18,833	18,612
Households 75-79		10,977	13,711	13,773
Households 80-84		6,831	9,065	9,912
Households 85+		4,456	7,178	8,072
Total Senior Households		**98,605**	**115,332**	**128,749**
Growth Rate (Avg. Ann.)			1.54%	2.33%

Source: U.S. Census 1980, 1990; Claritas, Inc.: 2001 estimates, 2006 projections; compiled by Lipman Frizzell & Mitchell LLC.

society means that households have grown at a faster pace than population for the past 30 years. In particular, senior households have grown across the board at a pace slightly faster than the senior population due to the high proportion of senior households which are one person households. Once again, the Market Area's growth rate for senior (55+) households is significantly higher than the County's: **2.4 times greater** since 1990 and **1.7 times greater** for the next five years.

These are not short term phenomena, since the demographic impact of the Baby Boom will continue to be felt for the next 20 years and beyond, as that population cohort continues to age. That group's size and longer life expectancies as compared to previous generations will put new pressure on the national and local aging service delivery systems (e.g., the Social Security Trust Fund and senior recreation centers), but will also require the development of new senior living alternatives.

Senior Incomes

Estimates of 2001 household incomes for both the Market Area and Baltimore County are summarized in Table 3. We note the following:

- Incomes for All Households - In general, household incomes for the County are high ($54,466 median) and incomes in the Market Area ($61,162 median) are higher by 12.3%.

- Senior Household Incomes - Seniors constitute about one-half of all households earning less than $35,000 per year: 48.1% in the Market Area and 52.8% for the County. They represent a small fraction of households earning more than $35,000 per year: 14.7% in the Market Area and 20.6% in the County. The median income for senior households, therefore, falls short of the median for all households: by 8.6% in the Market Area and by 16.0% in the County as a whole.

Lower senior household incomes have dictated the need for affordable senior living options, such as the proposed age-restricted garden style condominium community. Units base-priced in the $90,000-$100,000 range can be affordable to seniors with modest incomes and, often, limited equity from the sale of a larger home to invest in a condo unit which suits their needs as they age (e.g., elevator, no maintenance, etc.)

Conclusion

Lipman Frizzell & Mitchell finds that the growth of the senior population and households has been significantly greater than the growth of the population in general. In particular, within the defined Pikesville/Owings Mills/Reisterstown

Table 3
HOUSEHOLD INCOMES
2001
Market Area & Baltimore County

All Households	**Market Area**		**Baltimore County**	
Under $5,000	576	1.62%	5,490	1.79%
$5,000 - $9,999	819	2.31%	8,404	2.73%
$10,000 - $14,999	1,105	3.11%	10,722	3.49%
$15,000 - $24,999	2,646	7.46%	28,617	9.31%
$25,000 - $34,999	3,144	8.86%	33,142	10.78%
$35,000 - $49,999	5,574	15.71%	51,152	16.64%
$50,000 - $74,999	8,215	23.15%	74,917	24.37%
$75,000 - $99,999	5,079	14.32%	43,758	14.24%
$100,000 - $149,999	4,275	12.05%	32,588	10.60%
$150,000 - $249,999	2,271	6.40%	12,503	4.07%
$250,000 - $499,999	1,053	2.97%	4,114	1.34%
$500,000 or More	722	2.04%	1,986	0.65%
Total Households	**35,479**	**100.00%**	**307,393**	**100.00%**
Median Income	$61,162		$54,466	

Senior Households	**Market Area**		**Baltimore County**	
Under $5,000	303	0.85%	2,928	0.95%
$5,000 - $9,999	600	1.69%	6,140	2.00%
$10,000 - $14,999	707	1.99%	7,300	2.37%
$15,000 - $24,999	1,333	3.76%	15,565	5.06%
$25,000 - $34,999	1,046	2.95%	13,656	4.44%
$35,000 - $49,999	1,590	4.48%	16,866	5.49%
$50,000 - $74,999	2,356	6.64%	22,257	7.24%
$75,000 - $99,999	1,448	4.08%	12,937	4.21%
$100,000 - $149,999	1,397	3.94%	10,845	3.53%
$150,000 - $249,999	787	2.22%	4,529	1.47%
$250,000 - $499,999	409	1.15%	1,549	0.50%
$500,000 or More	298	0.84%	760	0.25%
Total Senior Households	***12,274***	***34.60%***	***115,332***	***37.52%***
Median Income	$55,923		$45,741	

Source: Claritas, Inc.: 2001 estimates.

Market Area, the growth of the senior population has been even more dramatic: outpacing even the tremendous growth in the general population which has been fostered by the Owings Mills Growth Area. The area's senior (55+) population grew one-and-a-half times faster than the total population, and is projected to grow almost **three times** as fast as the total population through 2006. With the progressive aging of the Baby Boom, the disparity will grow ever greater for the next 20 years.

Lower senior household incomes dictate a need for affordable senior living options. The subject property's proposed age-restricted garden style condominium community can be affordable to seniors with modest incomes and limited equity to invest in a condo unit which suits their needs as they age.

Respectfully Submitted,
LIPMAN FRIZZELL & MITCHELL LLC

Joseph M. Cronyn
Senior Associate

September 25, 2001

Appendix
Consultant Qualifications

Lipman Frizzell & Mitchell, LLC

Lipman, Frizzell & Mitchell is a multi-faceted real estate consulting and appraisal firm serving the Mid-Atlantic since 1977. LF&M is the Region's largest real estate advisory firm, with 21 professionals in our Columbia offices. The firm offers advisory services including: appraisal/portfolio valuation, litigation support/expert testimony, feasibility assessment, economic and fiscal analysis, transaction consulting.

Joseph M. Cronyn

Joseph M. Cronyn is the senior consultant who completed this assignment. Mr. Cronyn has a broad professional background in real estate acquired over 28 years in the industry including: research, sales and marketing, development, financing and appraisal. His advisory assignments have encompassed: market and financial feasibility analyses of major real estate projects; land acquisition and marketing for residential development; tax-motivated and conventional financing for single family and multifamily residential projects; and advising public, non-profit and private clients concerning real estate decision-making.

Mr. Cronyn is qualified in analyzing the multitude of issues relating to residential and commercial real estate development, including: demographic and economic trends, financial analysis and property valuation, economic and fiscal impacts.

Mr. Cronyn has often conducted real estate feasibility, fiscal and economic impact analyses in Baltimore County. He has completed numerous assignments and testified before public boards concerning residential and commercial development issues.

BALTIMORE COUNTY
COMPREHENSIVE ZONING MAP

Final Log of Issues
Adopted October 10, 2000

PC6

2000 CZMP Map Issues: District 3

Councilmanic District
Secondary Roads
Major Roads
Map Issues

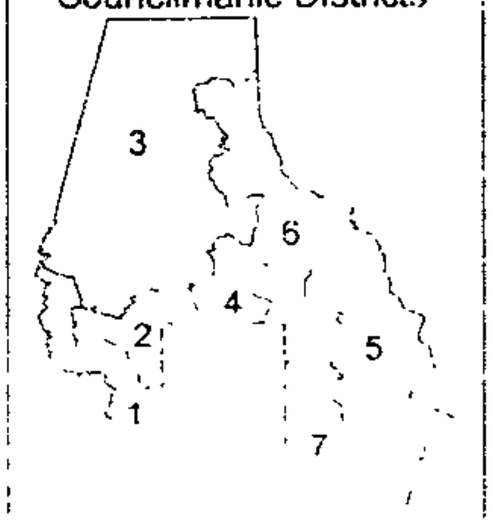
N
W E
S

BALTIMORE COUNTY MARYLAND

3

BALTIMORE CITY

Councilmanic Districts



1 inch = 3 miles

3 0 3 6 Miles

1:190080

Prepared by Baltimore County Office of Planning
OIT/GIS Services Unit January 2000

Sources Roads and Councilmanic Districts Baltimore Metropolitan Council 1999 1 24000
CZMP issues Baltimore County Office of Planning Digitized from 1996 Tax Maps 1 7200

Issues as of January 18 2000
This map is for display purposes only. Land use decisions involving zoning designations should be verified with the zoning office

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-001	Staff	North side of Westminster Pike 1430' northwest of Main St					See Issues 3-002, 3-012
			BL 1.0	MLR 1.0	MLR 1.0	MLR 1.0	
			Total 1.0	Total 1.0	Total 1.0	Total 1.0	
3-002	Staff	North side of Westminster Pike, 200' west of Wolf Ave					See Issue 3-001
			BL 0.5	DR 3.5 or	ML 0.5	ML 0.5	
			Total 0.5	ML 0.5	Total 0.5	Total 0.5	
				Total 0.5			
3-003	Staff	South side Glyndon Dr, 400' east of Main St					
			DR 16 8.7	DR 3.5 8.7	DR 3.5 8.7	DR 3.5 8.7	
			Total 8.7	Total 8.7	Total 8.7	Total 8.7	
3-004	Staff	8 Hillside Ave, 200' east of York Rd					
			BL AS 0.2	DR 3.5 0.2	DR 3.5 0.2	DR 3.5 0.2	
			Total 0.2	Total 0.2	Total 0.2	Total 0.2	
3-005	Staff	East & west side Deer Park Rd at Lyons Mill Rd					See Issues 3-024, 3-025, 3-026 Overlay Adopted
			RC 5 130.0	RC 4 111.0	RC 4 111.0	RC 5 111.0	
			DR 3.5 113.0	DR 1 132.0	DR 1 132.0	DR 1 132.0	
			Total 243.0	Total 243.0	Total 243.0	Total 243.0	
3-006	Staff	North side of Mt. Carmel Rd east of Falls Rd					See Issue 3-048
			BL CR 1.3	RC 2 1.3	RC 2 1.3	RC 2 1.3	
			Total 1.3	Total 1.3	Total 1.3	Total 1.3	
3-007	Staff	18817, 18823, 18825 Falls Rd, 1500' south of Beckleysville Rd					
			RC 5 9.9	RC 2 9.9	RC 2 9.9	RC 2 9.9	
			Total 9.9	Total 9.9	Total 9.9	Total 9.9	
3-008	Staff	14212, 14214 Jarrettsville Pk, west side of Jarrettsville Pk 1200' south of Paper Mill Rd					See Jacksonville Community Plan
			RO CR 1.8	ROA 1.8	ROA 1.8	ROA 1.8	
			Total 1.8	Total 1.8	Total 1.8	Total 1.8	
3-009	William Nash	5307-5311 Emory Rd, 213 ' east of MD Route 30					
			RO CR 0.6	RC 5 1.7	RC 5 1.7	RC 5 1.7	
			BR CR 0.2	Total 1.7	Total 1.7	Total 1.7	
			RC 2 0.9				
			Total 1.7				

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-010	Whitman Property	11534 Garrison Forest Rd, 30' from Carroll Ave					Overlay Adopted
			DR 1 7.4	ML IM 7.4	DR 1 2.1	DR 1 2.1	
			Total 7.4	Total 7.4	ML IM 5.3	ML IM 5.3	
					Total 7.4	Total 7.4	
3-011	Sylvan L. Cornblatt	1 Montrose Ave; 200' east of Reisterstown Rd					
			DR 3.5 0.3	BL 0.3	DR 3.5 0.3	DR 3.5 0.3	
			Total 0.3	Total 0.3	Total 0.3	Total 0.3	
3-012	Ann Horvath	Southwest Westminster Pike east of I-795					See Issue 3-001
			OR 1 2.5	ML 2.5	ML 2.5	ML 2.5	
			Total 2.5	Total 2.5	Total 2.5	Total 2.5	
3-013	Susan Blavatt	9804 Reisterstown Rd, 2350' south of Garrison View Rd					
			MLR IM 4.2	BR 4.2	BR 4.2	MLR IM 4.2	
			Total 4.2	Total 4.2	Total 4.2	Total 4.2	
3-014	George W. Knouse	16208 Hanover Pike, 146' north of Lees Mill Rd					See Hanover Pike Corridor Study
			RC 2 0.6	BL CR 0.6	RC 2 0.6	RC 2 0.6	
			Total 0.6	Total 0.6	Total 0.6	Total 0.6	
3-015	KA Real Estate Associates, LLC	10324 South Dolfield Rd at New Plant Court					
			ML IM 2.0	BR 2.0	ML 2.0	ML IM 2.0	
			Total 2.0	Total 2.0	Total 2.0	Total 2.0	
3-016	Alfred M. and Shirley S. Paul	10810 Reisterstown Rd, 1320' south of Pleasant Hill Rd					
			RO 0.6	BL 0.6	BL 0.6	BL 0.6	
			Total 0.6	Total 0.6	Total 0.6	Total 0.6	
3-017	Joseph Wilder	Southeast corner of Gwynnbrook Ave and Reisterstown Rd					See Issues 3-111, 3-112, 3-113, 3-114, 3-115, 3-116, 3-151
			OR 2 8.4	BR or BM 8.4	OR 2 8.4	OR 2 8.4	
			Total 8.4	Total 8.4	Total 8.4	Total 8.4	
3-018	Deborah Ann Cleaver	56 Ashland Dr, east of York Rd					
			RC 4 1.0	RO 1.0	ROA 1.0	RC 4 1.0	
			Total 1.0	Total 1.0	Total 1.0	Total 1.0	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-019	Carole Bognanni Sacra	635 Main St	RO 0.1 Total 0.1	BL 0.1 Total 0.1	CB 0.1 Total 0.1	CB 0.1 Total 0.1	Covenant Agreement
3-020	Thaddeus & Virginia Cox	2108 Freeland Rd, north of Middletown Rd	RC 2 5.3 Total 5.3	RC 5 5.3 Total 5.3	RC 2 5.3 Total 5.3	RC 2 5.3 Total 5.3	
3-021	Kent-Mar Corporation	2580 Dolfield Rd, northwest corner of Dolfield Rd and Pleasant Hill Rd	DR 10.5 7.0 OT 6.7 RC 5 25.9 Total 39.6	ML IM 39.6 Total 39.6	RC 5 25.9 ML 13.7 Total 39.6	DR 10.5 7.1 ML 6.6 RC 5 25.9 Total 39.6	Overlay Adopted
3-022	August Piccinini	Nicodemus Rd, 325' east of Berrymans Ln	RC 5 52.8 RO 1.6 Total 54.4	SE 54.4 Total 54.4	RC 5 52.8 RO 1.6 Total 54.4	DR 3.5 54.4 Total 54.4	Covenant Agreement
3-023	Dr. & Mrs. James Ryan	North side Sherwood Rd, 600' east of Tyrie Rd	DR 2 9.0 RC 4 10.9 Total 19.9	RC 5 19.9 Total 19.9	DR 2 9.0 RC 4 10.9 Total 19.9	RC 5 19.9 Total 19.9	See Issue 3-040
3-024	Ryland Homes	Dolfield Rd, 1700' northeast of Dolfield Rd and Deer Park Rd	RC 5 16.2 DR 5.5 0.5 Total 16.7	DR 3.5 16.7 Total 16.7	RC 5 16.2 DR 5.5 0.5 Total 16.7	RC 5 16.2 DR 5.5 0.5 Total 16.7	See Issues 3-005, 3-025, 3-026, 3-079
3-025	Ryland Homes	1300' east of Deer Park Rd and Dolfield Rd	DR 3.5 9.1 DR 5.5 0.1 Total 9.2	DR 5.5 9.2 Total 9.2	DR 3.5 9.1 DR 5.5 0.1 Total 9.2	DR 3.5 9.1 DR 5.5 0.1 Total 9.2	See Issues 3-005, 3-024, 3-026, 3-079 Withdrawn by Petitioner 6/23/00

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-026	Ryland Homes	Dolfield Rd, 2200' east of Dolfield Rd and Deer Park Rd					See Issues 3-005, 3-024, 3-025, 3-079
			DR 5 5 0.3 RC 5 16 4 Total 16 7	DR 3.5 16.7 Total 16.7	DR 5.5 0.3 RC 5 16.4 Total 16.7	DR 5 5 0.3 RC 5 16.4 Total 16.7	
3-027	Craig Whitcraft	605 Main St, southeast of Chartley Dr					
			O 3 1.3 Total 1 3	BM 1.3 Total 1.3	DR 3 5 0 3 BL 1.0 Total 1.3	O 3 1.3 Total 1.3	
3-028	Sarah Sartipy	9925 Reisterstown Rd, southeast corner of Reisterstown Rd and Olive Ln					See Issues 3-086, 3-087, 3-088, 3-089, 3-090
			DR 16 0.2 DR 1 0.2 RO 0 4 Total 0.8	BL 0 8 Total 0.8	CB 0.8 Total 0 8	DR 16 0.2 DR 1 0.2 RO 0.4 Total 0.8	
3-029	Meadows of Greenspring Homeowners Assoc.	Greenspring Station, Joppa Rd at Falls Rd					See Issue 3-085 Overlay Adopted
			DR 16 1.8 BL 13.5 OR 1 13.0 BM 17 0 Total 45.3	O 3 45 3 Total 45.3	BM* and O 3 8.3 O 3 36.2 BM 0.8 Total 45.3	BM* and O 3 8.3 O 3 36.2 BM 0.8 Total 45.3	*BM ground floor only
3-030	Bosworth Properties, Inc	11024 Reisterstown Rd, north of Pleasant Hill Rd					See Issue 3-071
			OR 1 4.8 Total 4.8	BM 4 8 Total 4.8	OR 1 4.8 Total 4.8	OR 1 4.8 Total 4.8	
3-031	Questar Properties Inc	218 International Circle					See Issue 3-146 Covenant Agreement Overlay Adopted
			MLR 17 6 Total 17 6	RAE 1 or DR 16 17.6 Total 17.6	RAE 1 11.8 DR 16 5.8 Total 17.6	RAE 1 12.2 DR 16 5.4 Total 17.6	

Baltimore County 2000 Compr ensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-032	Security Management Corp	South east corner of York Rd and Phoenix Rd	RC 4 150.0 Total 150.0	DR 1 150.0 Total 150 0	RC 4 150.0 Total 150.0	RC 4 150 0 Total 150.0	
3-033	Harold Burton	118 Mt. Carmel Rd, 1500' west of York Rd	RC 5 CR 0.4 BL CR 6.2 Total 6 6	BL 6 6 Total 6.6	BL CR 6.6 Total 6.6	BL CR 6.6 Total 6.6	See Hereford Plan
3-034	Paul W. Botzler	16924 York Rd, 350' north of Everett Ave	RC 5 1 7 Total 1.7	BM CR 1 7 Total 1.7	RC 5 1.1 BM CR 0.6 Total 1 7	BM CR 1.7 Total 1.7	See Issue 3-035 Covenant Agreement
3-035	Paul W. Botzler	16918 York Rd, 200' north of Everett Ave	RC 5 0.8 Total 0.8	BM CR 0.8 Total 0.8	RC 5 0.5 BM CR 0 3 Total 0.8	RC 5 0.5 BM CR 0 3 Total 0.8	See Issue 3-034 Covenant Agreement Overlay Adopted
3-036	Stewart Sachs	1 East Cherry Hill Rd, north side of Reisterstown Rd at East Cherry Hill Rd	RO 0.3 Total 0.3	BL 0.3 Total 0 3	RO 0.3 Total 0.3	RO 0.3 Total 0.3	See Issues 3-094, 3-096, 3-097, 3-098, 3-099, 3-100
3-037	Donald E. Warrener, Jr	20227 Old York Rd, 70' south of West Liberty Rd	RC 2 0 6 Total 0 6	BL CR 0 6 Total 0 6	RC 2 0.6 Total 0 6	RC 2 0.6 Total 0.6	
3-038	Janet & Vasilios Alibrandis	21320 Old York Rd	RC 5 1 1 Total 1 1	BL CR 1 1 Total 1.1	RC 5 1.1 Total 1.1	RC 5 1.1 Total 1.1	
3 039	Knollbrook Community Assembly, Inc	North side of Oakknoll Rd, 100' east of Cedarknoll Rd	DR 3 5 6 0 Total 6.0	RC 2 6.0 Total 6.0	DR 1 6.0 Total 6.0	DR 1 6.0 Total 6.0	See Issue 3-040

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-040	Sherwood Hill Improvement Association	North & south side of Sherwood Rd, 900' east of York Rd	DR 3.5 33 5 DR 2 92.7 Total 126.2	RC 5 48.6 DR 2 8 5 DR 1 69 1 Total 126.2	DR 2 92.7 DR 3.5 33.5 Total 126.2	DR 1 110.0 DR 2 8.1 RC 5 8.1 Total 126.2	See Issues 3-023, 3-039 Overlay Adopted
3-041	William H. Norris	17010 York Rd, north of Mt. Carmel Rd	RC 5 0.5 Total 0.5	BL CR 0 5 Total 0.5	BL CR 0.5 Total 0.5	BL CR 0.5 Total 0.5	See Hereford Plan
3-042	Louis Mangione	Painters Mill Rd 750' southwest of Music Fair Rd	ML IM 36.9 Total 36 9	BM 36.9 Total 36.9	ML 36.9 Total 36.9	ML IM 36.9 Total 36.9	See Issue 3-075
3-043	Gustine Properties, Inc	10620 Reisterstown Rd	DR 3.5 1.3 RO 1.2 Total 2.5	BM AS 2.5 Total 2.5	DR 3.5 1.3 RO 1.2 Total 2.5	DR 3.5 1.3 RO 1.2 Total 2.5	
3-044	Stonehenge LLC	Shawan Plaza, intersection of Shawan Rd and York Rd	RC 4 3 3 Total 3.3	BR 3.3 Total 3 3	RC 4 3.3 Total 3.3	RC 4 3.3 Total 3.3	
3-045	John T. Gosnell	18 & 20 Warren Rd, 400' east of York Rd	RO 0.3 DR 3.5 0.3 Total 0 6	RO 0.3 BR 0.3 Total 0.6	RO 0.3 DR 3.5 0.3 Total 0.6	RO 0.3 DR 3.5 0.3 Total 0.6	
3-046	McDonogh School, Inc	Southeast corner of Painters Mill Rd and Lyons Mill Rd	OR 2 7.5 Total 7.5	BL AS 7.5 Total 7.5	OR 2 7.5 Total 7.5	OR 2 7.5 Total 7.5	Withdrawn by Petitioner 7/10/00
3-047	Taylor Technologies	West side of York Rd south of Phoenix Rd	RC 4 3 0 ML 3.1 Total 6 1	RC 4 3.1 ML 3.0 Total 6.1	RC 4 3.1 ML 3.0 Total 6.1	RC 4 3.1 ML 3.0 Total 6.1	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-048	Loring T Sparks	17422 Falls Rd, northwest corner of Falls Rd and Mt. Carmel Rd	RC 2 1.0 Total 1.0	BL CR 1.0 Total 1.0	BL CR 1.0 Total 1.0	BL CR 1.0 Total 1.0	See Issue 3-006 Covenant Agreement
3-049	Dellcrest Realty Company	10117 York Rd, east side of York Rd 250' north of Halesworth Rd	ML AS 6.7 Total 6.7	BM AS 6.7 Total 6.7	ML AS 6.7 Total 6.7	ML IM 6.7 Total 6.7	
3-050	John & Carolyn Jackson	11416 Reisterstown Rd	DR 3.5 2.0 Total 2.0	BM 2.0 Total 2.0	DR 3.5 2.0 Total 2.0	DR 3.5 2.0 Total 2.0	See Issue 3-064
3-051	Alvin B Krongard	1400 West Seminary Ave, northeast corner of West Seminary Ave and Mays Chapel Rd	RC 5 34.3 Total 34.3	DR 1 34.3 Total 34.3	RC 5 34.3 Total 34.3	DR 1 34.3 Total 34.3	See Issue 3-145 Covenant Agreement
3-052	Cloverland Farms Dairy, Inc	10515 Reistertown Rd, north of Dolfield Ave	BL 1.4 Total 1.4	BL AS 1.4 Total 1.4	BL 1.4 Total 1.4	BL 1.4 Total 1.4	
3-053	North County Coalition	18429 Middletown Rd, east and west side of I-83 at Middletown Rd	RC 5 63.0 RC 4 122.0 Total 185.0	RC 2 185.0 Total 185.0	RC 5 63.0 RC 4 122.0 Total 185.0	RC 4 185.0 Total 185.0	
3-054	North County Coalition	700' north of Dairy Rd and York Rd	RC 5 79.7 Total 79.7	RC 2 79.7 Total 79.7	RC 4 79.7 Total 79.7	RC 5 57.5 RC 4 22.2 Total 79.7	See Issue 3-123 Overlay Adopted

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-055	Maryland Line Area Association, Inc	North and south side of Walker Rd at Rayville Rd	RC 4 171.6 RC 5 173.8 Total 345.4	RC 2 345.4 Total 345.4	RC 4 345.4 Total 345.4	RC 4 91.0 RC 5 28.0 RC 2 226.4 Total 345.4	Overlay Adopted
3-056	Maryland Line Area Association, Inc	19919 Cameron Mill Rd, 2200' north of Walker Rd	RC 4 240.4 Total 240.4	RC 2 240.4 Total 240.4	RC 4 240.4 Total 240.4	RC 2 240.4 Total 240.4	
3-057	Mr. & Mrs. Wallace White	101 Meadow Ln, west of the intersection of Meadow Ln and Red Run Blvd	RAE 2 1.1 Total 1.1	BL 1.1 Total 1.1	RO 1.1 Total 1.1	RAE 2 1.1 Total 1.1	
3-058	Dr. & Mrs. Ronald Pomykala	1400 Greenspring Valley Rd, 1000' west of the intersection of Greenspring Valley Rd and Greenspring Ave	RC 2 7.7 Total 7.7	BM 7.7 Total 7.7	RC 2 7.7 Total 7.7	RC 2 7.7 Total 7.7	Withdrawn by Petitioner 4/11/00
3-059	Susanne Walper Watson	10807 & 10809 Reisterstown Rd, south of Enchanted Hills Rd	DR 16 0.2 OR 1 0.2 Total 0.4	BR 0.4 Total 0.4	BL 0.4 Total 0.4	OR 2 0.4 Total 0.4	See Issues 3-134, 3-135
3-060	Spellman, Larson & Associates	16950 York Rd at Mt. Carmel Rd	RO CR 0.1 RC 5 CR 0.5 Total 0.6	BM CR 0.6 Total 0.6	RO CR 0.1 RC 5 CR 0.5 Total 0.6	RO CR 0.1 RC 5 CR 0.5 Total 0.6	See Hereford Plan
3-061	Paul M. Fabiszak	12047 Falls Rd, 1000' north of Greenway Rd	RC 5 1.2 RC 4 7.4 Total 8.6	ML 8.6 Total 8.6	RC 5 1.2 RC 4 7.4 Total 8.6	RC 5 1.2 RC 4 7.4 Total 8.6	See Issue 3-108

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-062	Consolidated Falls, LLC	10829 Falls Rd, 650' north of Greenspring Valley Rd	OR 1 0.2 RC 5 0.3 Total 0.5	RC 5 0.1 OR 1 0.2 OR 2 0.2 Total 0.5	O 3 0.5 Total 0.5	O 3 0.5 Total 0.5	See Issues 3-029, 3-085
3-063	Staff	Church Rd at Red Run Blvd	OR 2 26.3 Total 26.3	ML IM 26.3 Total 26.3	OR 2 26.3 Total 26.3	O 3 26.3 Total 26.3	See Issue 3-155
3-064	Ambler M. Blick & Robert McDaniel	11422-11426 Reisterstown Rd, south of Sunset Rd	DR 3.5 0.2 RO 0.9 Total 1.1	BM 1.1 Total 1.1	DR 3.5 0.2 RO 0.9 Total 1.1	BM 1.1 Total 1.1	See Issues 3-050, 3-093
3-065	James Reter & Calvin Reter	4825 Butler Rd at Railroad Ave	CB 2.1 Total 2.1	BL 2.1 Total 2.1	CB 2.1 Total 2.1	CB 2.1 Total 2.1	See Issues 3-081, 3-141
3-066	Pleasant Hill LLLP	Northeast corner of Red Run Blvd and Pleasant Hill Rd	ML IM 2.3 Total 2.3	BL AS 2.3 Total 2.3	BL AS 2.3 Total 2.3	ML IM 2.3 Total 2.3	See Issue 3-067
3-067	Pleasant Hill LLLP	Southeast corner of Red Run Blvd and Pleasant Hill Rd	ML IM 4.0 Total 4.0	BL 4.0 Total 4.0	ML IM 4.0 Total 4.0	ML IM 4.0 Total 4.0	See Issue 3-066
3-068	James V. Hottes & Marjorie H. Casey	10615 York Rd, northeast corner of York Rd and Matthews Ave	RO 0.3 Total 0.3	BL 0.3 Total 0.3	RO 0.3 Total 0.3	RO 0.3 Total 0.3	
3-069	Worthington-Woodsyde Association	2907 Walnut Ave, at Greenspring Ave	RC 5 17.8 Total 17.8	RC 2 17.8 Total 17.8	RC 5 17.8 Total 17.8	RC 5 17.8 Total 17.8	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-070	Worthington-Woodsyde Association	12425 Greenspring Ave	RC 5 107.4 Total 107.4	RC 2 107.4 Total 107.4	RC 5 107.4 Total 107.4	RC 5 107.4 Total 107.4	See Issue 3-108
3-071	Marc Berman	11020 Reisterstown Rd, north of Pleasant Hill Rd	OR 1 0.6 Total 0.6	BL 0.6 Total 0.6	OR 1 0.6 Total 0.6	OR 1 0.6 Total 0.6	See Issue 3-030
3-072	Noxell Corporation	Northwest corner of York Rd and Wight Ave	ML IM 25.1 Total 25.1	BR IM 25.1 Total 25.1	ML IM 25.1 Total 25.1	ML IM 25.1 Total 25.1	
3-073	Sweetheart Cup Company, Inc	10100 Reisterstown Rd, southwest corner of Reisterstown Rd and Painters Mill Rd	MLR IM 13.9 ML IM 39.4 Total 53.3	BM IM 53.3 Total 53.3	MLR IM 13.9 ML IM 39.4 Total 53.3	MLR IM 13.9 ML IM 39.4 Total 53.3	See Issue 3-074
3-074	Sweetheart Holdings inc	Southwest side of Reisterstown Rd 3970' southeast of Painters Mill Rd	ML IM 21.0 MLR IM 0.9 Total 21.9	BM IM 21.9 Total 21.9	BM 21.9 Total 21.9	BM 21.9 Total 21.9	See Issues 3-073, 3-109 Covenant Agreement
3-075	BJ's Wholesale Club, Inc	55 Music Fair Rd, 2000' southeast of Painters Mill Rd	BM 10.5 Total 10.5	BM IM 10.5 Total 10.5	BM 10.5 Total 10.5	BM 10.5 Total 10.5	See Issue 3-042
3-076	Elias Rizakos & Jim Vangelakos	60 & 61 Main St, 200' to northeast corner of Main St and Chatsworth Ct	DR 3.5 6.2 BL 1.4 Total 7.6	DR 3.5 4.4 BL CCC 3.2 Total 7.6	DR 3.5 6.2 BL 1.4 Total 7.6	DR 3.5 6.2 BL 1.4 Total 7.6	
3-077	Parkway Village LP	East side of Beaver Dam Rd, north of Padonia Rd	ML IM 13.4 Total 13.4	BM IM 13.4 Total 13.4	ML IM 13.4 Total 13.4	ML IM 13.4 Total 13.4	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-078	Quest International Flavors	10 Painters Mill Rd, southwest of Reisterstown Rd	ML IM 6.7 BM 0.5 Total 7.2	BM IM 7.2 Total 7.2	ML IM 6.7 BM 0.5 Total 7.2	ML IM 6.7 BM 0.5 Total 7.2	
3-079	Lisa Figgs	Dolfield Rd, north of Lakeside Dr	DR 5.5 1.9 RC 5 4.2 Total 6.1	DR 3.5 6.1 Total 6.1	DR 5.5 1.9 RC 5 4.2 Total 6.1	DR 5.5 1.9 RC 5 4.2 Total 6.1	See Issues 3-024, 3-025, 3-026
3-080	James & Sandra Howdyshell	New Hanover Rd, 1850' from Butler Rd	RC 2 8.8 Total 8.8	ML 8.8 Total 8.8	RC 2 8.8 Total 8.8	RC 2 8.8 Total 8.8	See Issues 3-101, 3-102, 3-103, 3-104 See Hanover Pike Corridor Study
3-081	Glyndon Community Association	Butler Rd and Railroad Ave	BL 4.2 ML 17.1 Total 21.3	CB 5.9 MR 15.4 Total 21.3	BL 4.2 CB 1.7 ML 15.4 Total 21.3	DR 2 5.9 BL 4.2 CB 1.4 ML 9.8 Total 21.3	See Issues 3-141, 3-065 Overlay Adopted
3-082	Glyndon Community Association	18609 Insulin Ln	DR 2 107.4 RC 5 40.3 Total 147.7	DR 1 107.4 RC 4 40.3 Total 147.7	DR 2 107.4 RC 4 40.3 Total 147.7	DR 1 105.3 DR 2 2.1 RC 4 40.3 Total 147.7	Overlay Adopted
3-083	Falls Road Community Association	South of Padonia Rd, west of Jenifer Rd	RC 5 196.1 Total 196.1	RC 4 196.1 Total 196.1	RC 5 196.1 Total 196.1	RC 5 196.1 Total 196.1	See Issue 3-108

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-084	Hampton-Reisterstown LLC	West side of Reisterstown Rd, southwest of Glyndon Ave	RO 0.4 Total 0.4	BL 0.4 Total 0.4	RO 0.4 Total 0.4	RO 0.4 Total 0.4	
3-085	Foxleigh Enterprises, Inc	East side of Falls Rd at Greenspring Valley Rd	OR 1 0.4 BM 11.2 Total 11.6	BM 11.6 Total 11.6	BM* and O 3 8.3 O 3 3.3 Total 11.6	BM* and O 3 11.6 Total 11.6	See Issues 3-029, 3-062 Overlay Adopted *BM ground floor only
3-086	William Monk	9919 Reisterstown Rd, 260' to Olive Ln	RO 0.5 Total 0.5	BL 0.5 Total 0.5	RO 0.5 Total 0.5	RO 0.5 Total 0.5	See Issues 3-028, 3-087, 3-088, 3-089, 3-090
3-087	William Monk	9915 Reisterstown Rd, 430' to Olive Ln	RO 0.3 Total 0.3	BL 0.3 Total 0.3	RO 0.3 Total 0.3	RO 0.3 Total 0.3	See Issues 3-028, 3-086, 3-088, 3-089, 3-090
3-088	William Monk	9921 Reisterstown Rd, 195' to Olive Ln	RO 0.5 Total 0.5	BL 0.5 Total 0.5	RO 0.5 Total 0.5	RO 0.5 Total 0.5	See Issues 3-028, 3-086, 3-087, 3-089, 3-090
3-089	William Monk	9917 Reisterstown Rd, 350' to Olive Ln	RO 0.3 Total 0.3	BL 0.3 Total 0.3	RO 0.3 Total 0.3	RO 0.3 Total 0.3	See Issues 3-028, 3-086, 3-087, 3-088, 3-090
3-090	William Monk	9913 Reisterstown Rd, 500' to Olive Ln	RO 0.3 Total 0.3	BL 0.3 Total 0.3	RO 0.3 Total 0.3	RO 0.3 Total 0.3	See Issues 3-028, 3-086, 3-087, 3-088, 3-089
3-091	Jon & Laura Meadowcroft	20228 Middletown Rd, 1360' north west of Beckleysville Rd	RC 2 0.2 Total 0.2	BL CR 0.2 Total 0.2	BL CR 0.2 Total 0.2	BL CR 0.2 Total 0.2	

Baltimore County 2000 Compr .ensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comm
3-092	Gerald R. Veydt	4 Prairie Ct									
			RC 4	4 6	RC 5	4 6	RC 4	4 6	RC 4	4.6	
			Total	4 6	Total	4 6	Total	4.6	Total	4.6	
3-093	David B Shapiro	11501 Reisterstown Rd. 450' south east of Timber Grove Rd									See Issue 3-064
			RO	0 6	BL	0 6	RO	0.6	RO	0.6	
			Total	0 6	Total	0 6	Total	0.6	Total	0.6	
3-094	Robert L. & Mary Carolyn Miller, Jr	11825 Reisterstown Rd, 100' south of Cherry Hill Rd									See Issues 3-036, 3-096, 3-097, 3-098, 3-099, 3-100
			DR 3.5	0.1	BL	0.4	DR 3 5	0.1	DR 3.5	0.1	
			RO	0.3	Total	0.4	RO	0 3	RO	0 3	
			Total	0.4			Total	0.4	Total	0.4	
3-095	Stanley C . Dillon	9530-9534 Lyons Mill Rd, west of Lyons Heart Rd									
			DR 5 5	7 0	DR 16	7 0	DR 5.5	7 0	DR 5 5	7.0	
			Total	7 0	Total	7 0	Total	7 0	Total	7.0	
3-096	Village Builders 98 LLC	11823 Reisterstown Rd, 200' south of Cherry Hill Rd									See Issues 3-036, 3-094, 3-097, 3-098, 3-099, 3-100
			DR 3.5	0.1	BL	0.3	DR 3.5	0.1	DR 3 5	0.1	
			RO	0.2	Total	0.3	RO	0.2	RO	0.2	
			Total	0 3			Total	0.3	Total	0.3	
3-097	Village Builders 98 LLC	11825 Reisterstown Rd, 130' south of Cherry Hill Rd									See Issues 3-036, 3-094, 3-096, 3-098, 3-099, 3-100
			RO	0.3	BL	0 4	RO	0.3	RO	0.3	
			DR 3.5	0.1	Total	0.4	DR 3.5	0.1	DR 3.5	0.1	
			Total	0 4			Total	0.4	Total	0.4	
3-098	Village Builders 98 LLC	1 E. Cherry Hill Rd, southeast corner of Reisterstown Rd and Cherry Hill Rd									See Issues 3-036, 3-094, 3-096, 3-097, 3-099, 3-100
			RO	0 3	BL	0 3	RO	0.3	RO	0.3	
			Total	0.3	Total	0 3	Total	0.3	Total	0.3	
3-099	Village Builders 98 LLC	3 E. Cherry Hill Rd, 220' northeast of Reisterstown Rd									See Issues 3-036, 3-094, 3-096, 3-097, 3-098, 3-100
			DR 3.5	0.3	BL	0.3	DR 3.5	0 3	DR 3 5	0.3	
			Total	0.3	Total	0.3	Total	0.3	Total	0.3	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-100	Village Builders 98 LLC	5 Cherry Hill Rd, 285' northeast of Reisterstown Rd									See Issues 3-036, 3-094, 3-096, 3-097, 3-098, 3-099
			DR 3.5	0.3	BL	0.3	DR 3.5	0.3	DR 3.5	0.3	
			Total	0.3	Total	0.3	Total	0.3	Total	0.3	
3-101	Ward Development Co	West side of Hanover Pk, north of Butler Rd									See Issues 3-080, 3-102, 3-103, 3-104 See Hanover Pike Corridor Study
			BR CR	0.6	ML	9.5	BR CR	0.6	BR CR	0.6	
			RC 2	8.9	Total	9.5	RC 2	8.9	RC 2	8.9	
			Total	9.5			Total	9.5	Total	9.5	
3-102	Ward Development Co	West side of Hanover Pk, north of Butler Rd									See Issues 3-080, 3-101, 3-103, 3-104 See Hanover Pike Corridor Study
			RC 2	10.0	ML	10.0	RC 2	10.0	RC 2	10.0	
			Total	10.0	Total	10.0	Total	10.0	Total	10.0	
3-103	Ward Development Co	West side of Hanover Pk, north of Butler Rd									See Issues 3-080, 3-101, 3-102, 3-104 See Hanover Pike Corridor Study
			RC 2	62.7	ML	62.7	RC 2	62.7	RC 2	62.7	
			Total	62.7	Total	62.7	Total	62.7	Total	62.7	
3-104	Ward Development Co	13302 Hanover Pk									See Issues 3-080, 3-101, 3-102, 3-103 See Hanover Pike Corridor Study
			RC 4	2.0	RC 5	101.1	RC 4	2.0	RC 4	2.0	
			RC 2	99.1	Total	101.1	RC 2	99.1	RC 2	99.1	
			Total	101.1			Total	101.1	Total	101.1	
3-105	Summit Capital LLC	4508 Painters Mill Rd, 450' north of Lyons Mill Rd									See Issue 3-106 Covenant Agreement
			RAE 1	2.0	BL	2.0	OR 2	2.0	OR 2	2.0	
			Total	2.0	Total	2.0	Total	2.0	Total	2.0	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-106	Summit Capital, LLC	4514 Painters Mill Rd, 700' northeast of Lyons Mill Rd	RAE 1 1.5 Total 1.5	BL 1.5 Total 1.5	OR 2 1.5 Total 1.5	OR 2 1.5 Total 1.5	See Issue 3-105 Covenant Agreement
3-107	Gunpowder Valley Conservancy	16351 Matthews Rd	RC 5 58.5 Total 58.5	RC 4 58.5 Total 58.5	RC 2 or RC 7 58.5 Total 58.5	RC 7 58.5 Total 58.5	See Issue 3-128
3-108	Falls Road Community Association	Beaver Dam Run Watershed Area	RC 5 2,440.0 Total 2,440.0	RC 4 2,440.0 Total 2,440.0	RC 5 2,440.0 Total 2,440.0	RC 4 1,364.0 RC 5 1,076.0 Total 2,440.0	See Issues 3-061, 3-070, 3-083, 3-159 Overlay Adopted
3-109	Garrison Realty Investors, LLC	North side of Reisterstown Rd, 1100' northwest of Greenspring Valley Rd	ML IM 0.1 Total 0.1	BM IM 0.1 Total 0.1	BM 0.1 Total 0.1	BM 0.1 Total 0.1	See Issue 3-074
3-110	James L. Rouse	3012 & 3016 Anderson Rd, 750' to Zelda Ct	RC 2 26.3 Total 26.3	RC 4 26.3 Total 26.3	RC 2 26.3 Total 26.3	RC 2 26.3 Total 26.3	
3-111	Harrison & Grass	15 Gwynnbrook Ave, southeast corner of Walk Ave and Gwynnbrook Ave	DR 3.5 0.3 Total 0.3	BM 0.3 Total 0.3	DR 3.5 0.3 Total 0.3	DR 3.5 0.3 Total 0.3	See Issues 3-017, 3-112, 3-113, 3-114, 3-115, 3-116, 3-151
3-112	Harrison & Grass	12 Walk Ave, west side of Walk Ave 400' south of Gwynnbrook Ave	DR 3.5 0.6 Total 0.6	BM 0.6 Total 0.6	DR 3.5 0.6 Total 0.6	DR 3.5 0.6 Total 0.6	See Issues 3-017, 3-111, 3-113, 3-114, 3-115, 3-116, 3-151
3-113	Harrison & Grass	6 Walk Ave, west side of Walk Ave 200' south of Gwynnbrook Ave	DR 3.5 0.5 Total 0.5	BM 0.5 Total 0.5	DR 3.5 0.5 Total 0.5	DR 3.5 0.5 Total 0.5	See Issues 3-017, 3-111, 3-112, 3-114, 3-115, 3-116, 3-151

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-114	Harrison & Grass	11123 Reisterstown Rd, east side of Reisterstown Rd 416' south of Gwynnbrook Ave	OR 2 1.0 Total 1.0	BM 1.0 Total 1.0	OR 2 1.0 Total 1.0	OR 2 1.0 Total 1.0	See Issues 3-017, 3-111, 3-112, 3-113, 3-115, 3-116, 3-151
3-115	Harrison & Grass	11117 Reisterstown Rd, east side of Reisterstown Rd 695' south of Gwynnbrook Ave	OR 2 0.5 Total 0.5	BM 0.5 Total 0.5	OR 2 0.5 Total 0.5	OR 2 0.5 Total 0.5	See Issues 3-017, 3-111, 3-112, 3-113, 3-114, 3-116, 3-151
3-116	Harrison & Grass	11115 Reisterstown Rd, north side of Reisterstown Rd 700' south of Gwynnbrook Ave	OR 2 0.5 Total 0.5	BM 0.5 Total 0.5	OR 2 0.5 Total 0.5	OR 2 0.5 Total 0.5	See Issues 3-017, 3-111, 3-112, 3-113, 3-114, 3-115, 3-151
3-117	Craig Piette	400 Delight Meadows Rd	DR 1 13.9 Total 13.9	RC 4 RC 5 or 13.9 Total 13.9	DR 1 13.9 Total 13.9	RC 5 13.9 Total 13.9	
3-118	John Owings Jr	10728 Reisterstown Rd	DR 3.5 0.7 BL 1.1 Total 1.8	BM 1.8 Total 1.8	DR 3.5 0.7 BL 1.1 Total 1.8	BM 1.8 Total 1.8	
3-119	John Owings Jr	West Cherry Hill Rd and Tarragon Rd, 30' to Franklin Blvd	DR 16 0.5 Total 0.5	DR 5.5 0.5 Total 0.5	DR 5.5 0.5 Total 0.5	DR 5.5 0.5 Total 0.5	
3-120	703 Ventures LLC	703 Main St, 50' to Walstan Rd	RO 0.3 Total 0.3	CB 0.3 Total 0.3	CB 0.3 Total 0.3	CB 0.3 Total 0.3	Covenant Agreement
3-121	Staff	East side of Slab Bridge Rd, north of Flintstone Rd	RC 4 646.0 Total 646.0	RC 2 646.0 Total 646.0	RC 2 646.0 Total 646.0	RC 4 646.0 Total 646.0	
3-122	Staff	Between Millers Mill Rd and South Ruhl Rd, north of Freeland Rd	RC 4 580.0 Total 580.0	RC 2 580.0 Total 580.0	RC 2 580.0 Total 580.0	RC 4 580.0 Total 580.0	

Baltimore County 2000 Comprehensive Zoning Map Issues

	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-123	Thomas Rafailides	York Rd @ I-83	BL CR 7.1 Total 7.1	BL 7.1 Total 7.1	BL CR 7.1 Total 7.1	RC 4 7.1 Total 7.1	See Issue 3-054
3-124	SJS Development Company	10995 Owings Mills Blvd opposite Groffs Ln	ML IM 10.0 Total 10.0	BM IM 10.0 Total 10.0	ML IM 10.0 Total 10.0	ML IM 10.0 Total 10.0	
3-125	Robert G. Holt	317 Nicodemus Rd, 315' to Foxhaven Ct	DR 2 4.9 Total 4.9	DR 5.5 4.9 Total 4.9	DR 3.5 4.9 Total 4.9	DR 2 4.9 Total 4.9	
3-126	Charles & Shirley Murray	520 Main St, 150' to Stocksdale Rd	DR 3.5 0.2 Total 0.2	BR AS 0.2 Total 0.2	DR 3.5 0.2 Total 0.2	BR 0.1 DR 3.5 0.1 Total 0.2	Overlay Adopted
3-127	Planning Board	East side of Old York Rd, south side of Openshaw Rd	RCC 2.1 Total 2.1	RCC 2.1 Total 2.1	RCC 2.1 Total 2.1	RCC 2.1 Total 2.1	
3-128	Planning Board	North and south side of Corbett Rd, west of Gunpowder Falls	BL 1.4 RC 5 1,897.0 RC 4 1,873.0 Total 3,771.4	RC 2 3,771.4 Total 3,771.4	BL CR 1.4 RC 4 469.0 RC 5 845.0 RC 4 or RC 6 1,052.0 RC 2 or RC 7 1,404.0 Total 3,771.4	RC 2 383.0 RC 5 65.5 RC 7 3,168.5 RC 4 153.0 BL CR 1.4 Total 3,771.4	See Issue 3-107 Overlay Adopted
3-129	Planning Board	North of Quaker Bottom Rd, between I-83 and York Rd	BL CR 3.0 RC 5 909.0 RC 4 280.0 RC 2 482.0 Total 1,674.0	RC 2 1,674.0 Total 1,674.0	BL CR 3.0 RC 2 1,610.0 RC 5 61.0 Total 1,674.0	BL CR 3.0 RC 2 670.3 RC 4 356.6 RC 5 644.1 Total 1,674.0	Overlay Adopted

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-130	Staff	North side of Garrett Rd, west of Vernon Rd									
			RC 4	84.0	RC 2 or	84.0	RC 2	84.0	RC 2	84.0	
			Total	84.0	RC 4		Total	84.0	Total	84.0	
					Total	84.0					
3-131	Staff	North of Stablersville Rd, west of Downes Rd									
			RC 4	121.0	RC 2 or	121.0	RC 2	121.0	RC 2	121.0	
			Total	121.0	RC 4		Total	121.0	Total	121.0	
					Total	121.0					
3-132	Staff	North and south side of Harris Mill Rd at Deer Creek									
			RC 4	807.0	RC 2	807.0	RC 2	807.0	RC 7	807.0	
			Total	807.0	Total	807.0	Total	807.0	Total	807.0	
3-133	Staff	East side of Reisterstown Rd, south of Groffs Mill Rd									
			DR 16	6.0	DR 1	6.0	ML	6.0	DR 16	6.0	
			Total	6.0	Total	6.0	Total	6.0	Total	6.0	
3-134	Staff	East side of Reisterstown Rd, north of Pleasant Ridge Rd									See Issues 3-059, 3-135
			DR 16	13.9	DR 16	13.9	O 3	13.9	O 3	13.9	
			Total	13.9	Total	13.9	Total	13.9	Total	13.9	
3-135	Staff	East side of Reisterstown Rd, 950' south of Enchanted Hills Rd									See Issues 3-059, 3-134
			OR 1	1.3	OR 1	1.3	BL	1.3	BL	1.3	
			Total	1.3	Total	1.3	Total	1.3	Total	1.3	
3-136	Staff	North side of Lyons Mill Rd, west of Owings Mills Blvd									
			DR 16	26.5	DR 3.5 or	26.5	DR 16	26.5	DR 5.5	26.5	
			Total	26.5	DR 5.5		Total	26.5	Total	26.5	
					DR 16						
					Total	26.5					
3-137	Staff	South side of Lyons Mill Rd, west side of Painters Mill Blvd									See Issue 3-143
			DR 16	64.8	DR 2 or	64.8	DR 16	64.8	DR 16	64.8	
			Total	64.8	DR 3.5		Total	64.8	Total	64.8	
					Total	64.8					
3-138	Staff	South side of Dolfield Rd, east of Red Run Stream									
			RAE 2	16.4	ML IM	16.4	RAE 2	16.4	ML	16.4	
			Total	16.4	Total	16.4	Total	16.4	Total	16.4	

Baltimore County 2000 Comprehensive Zoning Map Issues

Number	Owner, Petitioner	Location	Existing Zoning and Acres	Requested Zoning and Acres	Planning Board Recommendations	County Council Decisions	Comments
3-139	Staff	West side of Garrison Forest Rd, south of Crondall Ln	DR 1 269.0 Total 269.0	MLR or DR 1 269.0 Total 269.0	DR 1 269.0 Total 269.0	DR 1 269.0 Total 269.0	
3-140	Staff	North side of Westminster Pike, west side of Hanover Pike	BL AS 2.8 Total 2.8	BL 2.8 Total 2.8	BL AS 1.8 BL CCC 1.0 Total 2.8	BL AS 1.8 BL CCC 1.0 Total 2.8	Overlay Adopted
3-141	Staff	North side of Butler Rd, east side of railroad	RC 5 38.2 Total 38.2	RC 5 38.2 Total 38.2	RC 5 38.2 Total 38.2	RC 5 38.2 Total 38.2	See Issues 3-065, 3-081
3-142	Staff	East side of Hanover Pike, 250' north of Mt. Gilead Rd	BL CR 2.1 Total 2.1	BL CR 2.1 Total 2.1	RC 2 0.6 BL CR 1.5 Total 2.1	RC 2 2.1 Total 2.1	
3-143	County Council	South side of Lyons Mill Rd, west of Owings Mills Blvd	DR 5.5 99.3 Total 99.3	DR 3.5 99.3 Total 99.3	DR 5.5 99.3 Total 99.3	DR 3.5 99.3 Total 99.3	See Issue 3-137
3-144	County Council	East and west sides of Stevenson Rd, north of Hillside Rd	BL 10.5 Total 10.5	BL CR 10.5 Total 10.5	BL 10.5 Total 10.5	BL 10.5 Total 10.5	
3-145	County Council	North side of Seminary Ave, east of Mays Chapel Rd	RC 5 18.1 Total 18.1	RC 5 18.1 Total 18.1	RC 5 18.1 Total 18.1	DR 1 18.1 Total 18.1	See Issue 3-051 Covenant Agreement
3-146	County Council	North side of Shawan Rd, west of York Rd	BM 95.2 Total 95.2	BM CCC 95.2 Total 95.2	BM CCC 95.2 Total 95.2	BM 93.8 BM CCC 1.4 Total 95.2	See Issue 3-031 Overlay Adopted
3-147	County Council	South side of Ashland Rd, east of York Rd	DR 3.5 31.3 Total 31.3	DR 3.5 31.3 Total 31.3	DR 2 31.3 Total 31.3	RC 4 31.3 Total 31.3	

Baltimore County 2000 Comprehensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-148	County Council	24 Old Tollgate Rd. north side of Old Tollgate Rd at Tollgate Rd									
			DR 3.5	14.0	DR 3.5	14.0	DR 3.5	14.0	DR 3.5	14.0	
			Total	14.0	Total	14.0	Total	14.0	Total	14.0	
3-149	County Council	East and west side of Franklin Blvd, south of Nicodemus Rd									See Issue 3-155
			BM	18.0	BM	18.0	BM	18.0	BM	18.0	
			OR 2	9.0	OR 2	9.0	OR 2	9.0	OR 2	9.0	
			DR 16	16.0	DR 16	16.0	DR 16	16.0	DR 16	16.0	
			DR 3.5	30.0	DR 3.5	30.0	DR 3.5	30.0	DR 3.5	30.0	
			OR 1	6.3	OR 1	6.3	OR 1	6.3	OR 1	6.3	
			DR 10.5	13.0	DR 10.5	13.0	DR 10.5	13.0	DR 10.5	13.0	
			DR 1	32.7	DR 1	32.7	DR 1	32.7	DR 1	32.7	
			Total	125.0	Total	125.0	Total	125.0	Total	125.0	
3-150	County Council	11245 Greenspring Ave, east side of Greenspring Ave at West Spring Way									
			RC 5	112.0	RC 5	112.0	RC 5	112.0	RC 5	112.0	
			Total	112.0	Total	112.0	Total	112.0	Total	112.0	
3-151	County Council	11117 Reisterstown Rd, east side of Reisterstown Rd, 695' south of Gwynnbrook Rd									See issues 3-017, 3-111, 3-112, 3-113, 3-114, 3-115, 3-116
			OR 2	0.4	BM	0.4	OR 2	0.4	OR 2	0.4	
			Total	0.4	Total	0.4	Total	0.4	Total	0.4	
3-152	County Council	East and west side of Owings Mills Blvd at Gwynnbrook Ave									
			DR 1	19.0	DR 1	19.0	DR 1	19.0	DR 1	19.0	
			DR 2	92.0	DR 2	92.0	DR 2	92.0	DR 2	92.0	
			ML IM	114.0	ML IM	114.0	ML IM	114.0	ML IM	114.0	
			DR 3.5	120.0	DR 3.5	120.0	DR 3.5	120.0	DR 3.5	120.0	
			Total	345.0	Total	345.0	Total	345.0	Total	345.0	
3-153	County Council	1601 Nicodemus Rd, at Ivy Mill Rd									
			RC 4	126.6	RC 4	126.6	RC 4	126.6	RC 2	126.6	
			Total	126.6	Total	126.6	Total	126.6	Total	126.6	
3-154	County Council	108 Main St, west side of Reisterstown Rd at Chatsworth Ave									
			DR 3.5	0.3	DR 3.5	0.3	BL	1.0	BL	1.0	
			BL	0.7	BL	0.7	Total	1.0	Total	1.0	
			Total	1.0	Total	1.0					

Baltimore County 2000 Compr ensive Zoning Map Issues

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-155	County Council	North side of Church Rd at West Cherry Hill Rd									See Issues 3-063, 3-149
			OR 1	64 0	O 3	64 0	OR 1	64 0	OR 1	64.0	
			Total	64 0	Total	64 0	Total	64.0	Total	64.0	
3-156	County Council	East side of I-795 at Berrymans Ln									
			DR 2	7 8	DR 2	7 8	DR 2	7 8	DR 2	7 8	
			DR 5 5	9 9	DR 5 5	9 9	DR 5 5	9.9	DR 5.5	9 9	
			DR 3.5	51 5	DR 3.5	51 5	DR 3.5	51.5	DR 3 5	51.5	
			Total	69.2	Total	69 2	Total	69.2	Total	69.2	
3-157	County Council	North side of Reisterstown Rd, 1300' west of Greenspring Valley Rd									Overlay Adopted
			DR 3.5	6.1	BM	6 1	DR 3.5	1.2	DR 3 5	1.2	
			Total	6 1	Total	6 1	BM	4 9	BM	4.9	
							Total	6 1	Total	6 1	
3-158	County Council	4 Gwynnbrook Ave, north side Gwynnbrook Ave at Reisterstown Rd									
			DR 16	0.7	BM	2.0	DR 16	0.7	DR 16	0 7	
			DR 3.5	1 3	Total	2.0	DR 3.5	1.3	DR 3 5	1.3	
			Total	2.0			Total	2.0	Total	2 0	
3-159	County Council	13015 Beaver Dam Rd, south side of Beaver Dam Rd, west of I-83									
			RC 4	22.7	RC 5	22.7	RC 4	22.7	RC 4	22.7	
			Total	22.7	Total	22.7	Total	22.7	Total	22.7	
3-160	County Council	North side of Baublitz Rd, east of Greenspring Ave									See Issue 3-108 Overlay Adopted
			RC 5	526.0	RC 4	526.0	RC 5	526 0	RC 5	245.0	
			Total	526.0	Total	526 0	Total	526.0	RC 4	281.0	
									Total	526 0	
3-161	County Council	15225 Tanyard Rd, east side of Tanyard Rd at Pearces Ln									
			RC 2	141.4	RC 2	141 4	RC 2	141.4	RC 2	141 4	
			Total	141 4	Total	141 4	Total	141.4	Total	141.4	
3-162	County Council	403 Falls Rd, south side of Falls Rd, 350' west of Old Barn Rd									
			RC 4	2 1	RC 2	2.1	RC 2	2.1	RC 2	2 1	
			Total	2 1	Total	2 1	Total	2.1	Total	2.1	

Issue Number	Owner, Petitioner	Location	Existing Zoning and Acres		Requested Zoning and Acres		Planning Board Recommendations		County Council Decisions		Comments
3-163	County Council	5425 Mt. Gilead Rd, west side of Mt. Gilead Rd. west of Hanover Pike									
			RC 4	77 0	RC 2	77.0	RC 4	77 0	RC 4	77.0	
			Total	77 0	Total	77.0	Total	77 0	Total	77.0	
3-164	County Council	East and west side of York Rd, 1300' south of Everett Rd									
			RC 5	277.0	RC 2	277.0	RC 5	277.0	RC 5	277.0	
			Total	277 0	Total	277.0	Total	277 0	Total	277.0	

COMPREHENSIVE ZONING MAP PROCESS

EVERY FOUR YEARS, AS REQUIRED BY THE BALTIMORE COUNTY CODE. THE COUNTY COUNCIL REVIEWS AND REVISES THE COUNTY'S COMPREHENSIVE ZONING MAPS

FILING PERIODS

August 2, 1999 through January 18, 2000

Baltimore County law provides that, during the OPEN FILING PERIOD [August 2, to November 1], any person, association, corporation, County agency or other entity may, upon payment of the specified fee, file a petition for zoning reclassification on any property in the County. Certain information must be filed with the petition, all of which becomes a matter of public record identified by an Issue Number. From November 1 through November 30 additional Issues can be raised, but only by the members of the Baltimore County Planning Board. From December 1, 1999 through January 18, 2000, Issues may be raised only by the members of the County Council.

LOG OF ISSUES – PRELIMINARY RECOMMENDATIONS

January 18 through March 31, 2000

Each of the Issues raised during the filing periods is analyzed by County staff. Summary data about each Issue, along with the *preliminary* staff recommendations, are published in the "Log of Issues." The Log and accompanying maps comprise a report by the County Planning Board for the purpose of public hearings in April. Also during this period, notice is mailed to the owners of those properties which are listed in the log but which were not filed by the owner or the owner's agent.

PLANNING BOARD PUBLIC HEARINGS

April 3 through April 28, 2000

The Baltimore County Planning Board schedules a public hearing in each Councilmanic District during the month of April. Testimony is limited to those Issues within the district for which the hearing is held.

PLANNING BOARD REVIEW AND RECOMMENDATIONS

May 1 through June 30, 2000

At a series of work sessions, open to the public, the Planning Board reviews and discusses the various Issues. A recommendation on each Issue must be formally adopted by the Planning Board before June 30.

PC 3

TRANSMITTAL PERIOD

July, 2000

The Planning Board's recommendations on each Issue must be transmitted to the County Council within 20 days after the Board's vote. A revised edition of the Log of Issues is published to serve as the basis for the Council's public hearings in September.

COUNTY COUNCIL REVIEW

August, 2000

The County Council has sole authority to determine the final zoning on each property. The Council may accept, reject, or modify the recommendations of the Planning Board. These options include retaining the existing zoning or applying to a property any zone or combination of zones.

COUNTY COUNCIL PUBLIC HEARINGS

September, 2000

The County Council schedules a public hearing in each Councilmanic District during the month of September. Testimony is limited to those Issues within the district for which the hearing is held.

COUNTY COUNCIL DECISIONS

October, 2000

The County Council vote on each Issue must occur before October 16, 2000. As adopted by legislative action of the County Council, the revised Comprehensive Zoning Map takes effect 45 days after being signed into law by the County Executive.

FINAL LOG AND MAPS

November, 2000

After the Council's vote, the Office of Planning prepares the final official amended Zoning maps and publishes the final edition of the Log of Issues containing all of the decisions of the County Council.

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For additional information, please contact the Baltimore County Office of Planning, County Courts Building, Room 406, Towson, Maryland 21204

410-887-3480
website:www.co.ba.md.us.

2000 COMPREHENSIVE ZONING MAP PROCESS APPLICATION

This form and the required materials must be presented in person

Baltimore County Office of Planning
401 Bosley Avenue, Suite 406
Towson Maryland 21204
410-887-3480
www.co.ba.md.us

OFFICE USE ONLY	
Issue No. 3-148	Received on 1/18/2000
Council District 3rd	Fee (non-refundable)
Planner Hughey	Receipt No.

APPLICANT INFORMATION

County Council 1. Name	6. Attorney or Representative
2. Organization (if applicable)	Firm Name (if applicable)
3. Mailing Address	Address
4. City, State, Zip Code	City, State, Zip Code
5. Home Phone	Business Phone
5a. Business Phone	

PROPERTY INFORMATION

Lee & Maud Jones 7. Property Owner's Name	24 Old Tollgate Rd. 8. Property Street Address
13.97 ac 9. Total Acreage of Property	N. side Old Tollgate Rd. @ Tollgate Rd 10. Distance to nearest street/intersection (give name)
04041004 5675 11. Property Tax Number (12 Digits)	Map 58 P. 376 12. Tax Map Number / Parcel Number
Property Tax Number	Tax Map Number / Parcel Number
Property Tax Number	Tax Map Number / Parcel Number

RECLASSIFICATION INFORMATION

13.97 ac 13. Acreage of land requested for rezoning	2C 14. 1000' scale zoning map no.	NW 12-I 200' scale zoning map no.
13.97 ac DR3.5 15. Existing zoning (acres per zone)	13.97 ac DR3.5 16. Requested zoning (acres per zone)	
residential 17. Existing use of parcel	residential 18. Proposed use of parcel	
19. Zoning history (issue/case no., year, type)		

THE INFORMATION SHOWN ON THIS FORM IS ACCURATE AND COMPLETE TO THE BEST OF MY KNOWLEDGE

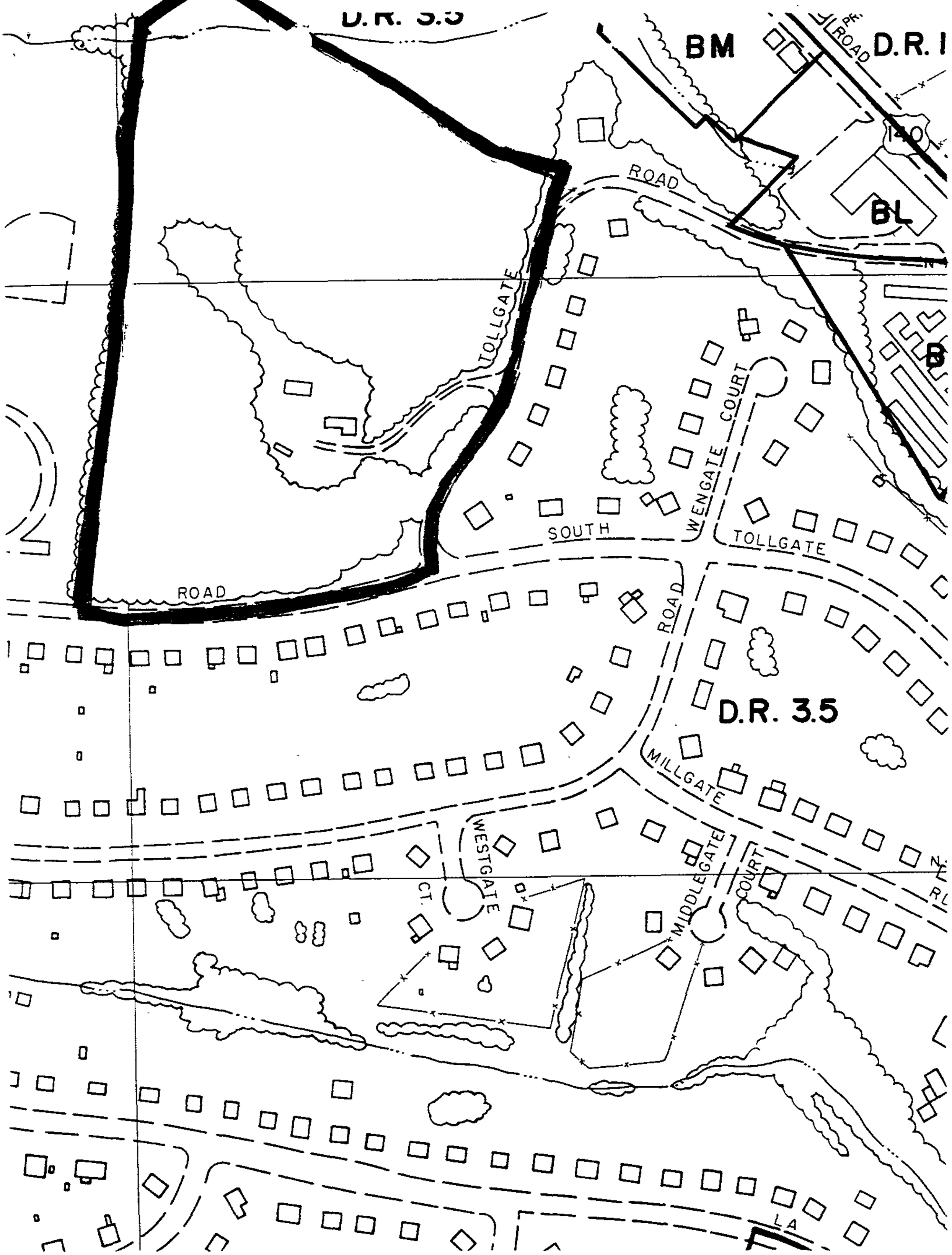
(SIGNATURE) Date

OWNER ACKNOWLEDGEMENT: Are you the owner of the property? No____ Yes____ If you are the owner, review and sign below.

1. I hereby grant permission to Baltimore County for any required inspections of my property in regard to this subject-zoning request.
2. I hereby acknowledge that if any rezoning occurs, a change in the property tax assessment and /or transfer taxes may result for which the property owner would be responsible. Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all county, state, and federal requirements in effect at that time must be satisfied.
3. I hereby acknowledge that the County Council may apply any zoning classification on the subject property upon adoption of the comprehensive zoning maps.

Owner's Name (Please Print) Signature Date

PC4A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WENGATE
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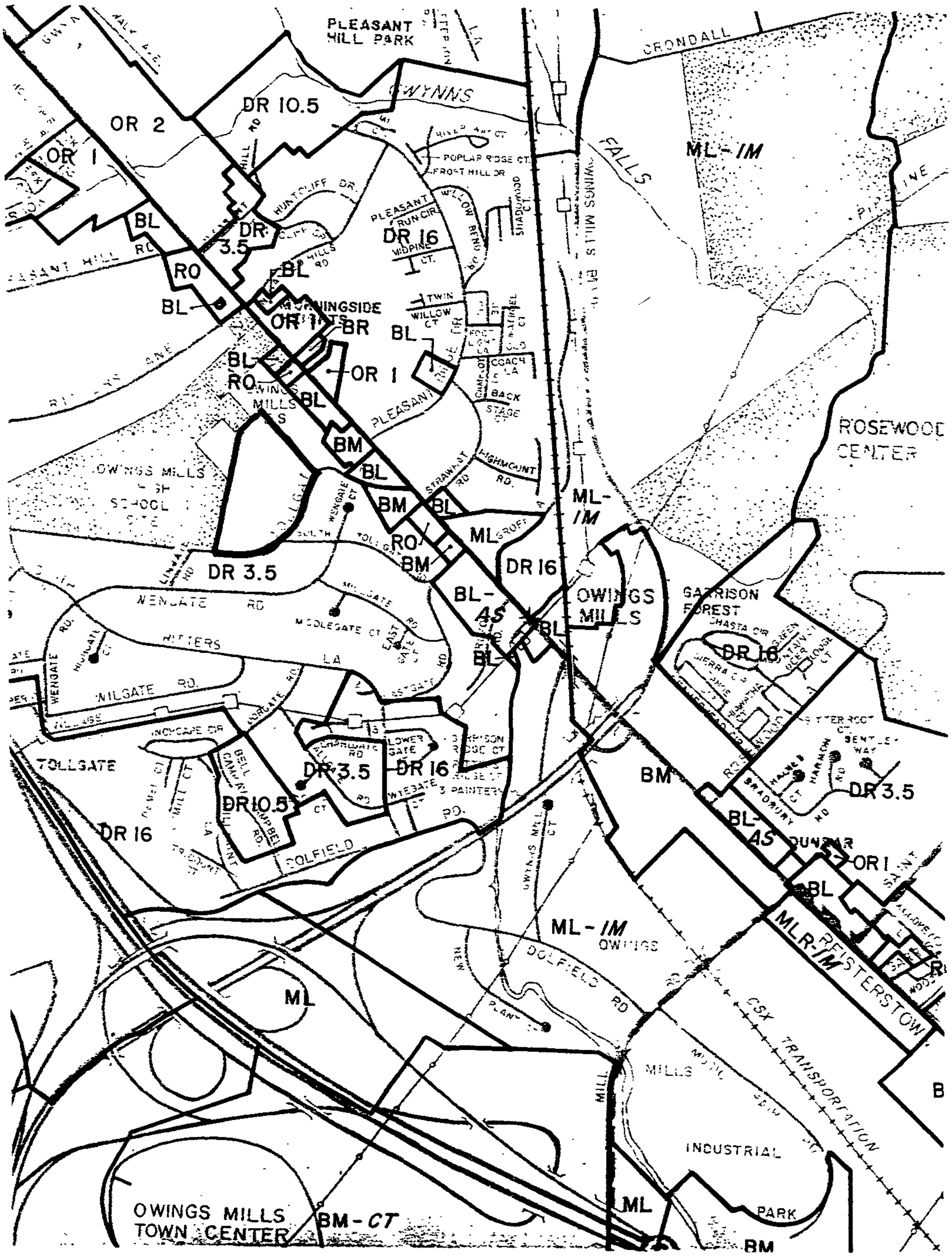
WESTGATE
CT.
MIDDLEGATE
COURT
LA


PLEASANT HILL PARK
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GWYNNS
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DR 16
ML-IM
DR 3.5
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OWINGS MILLS
GARRISON FOREST
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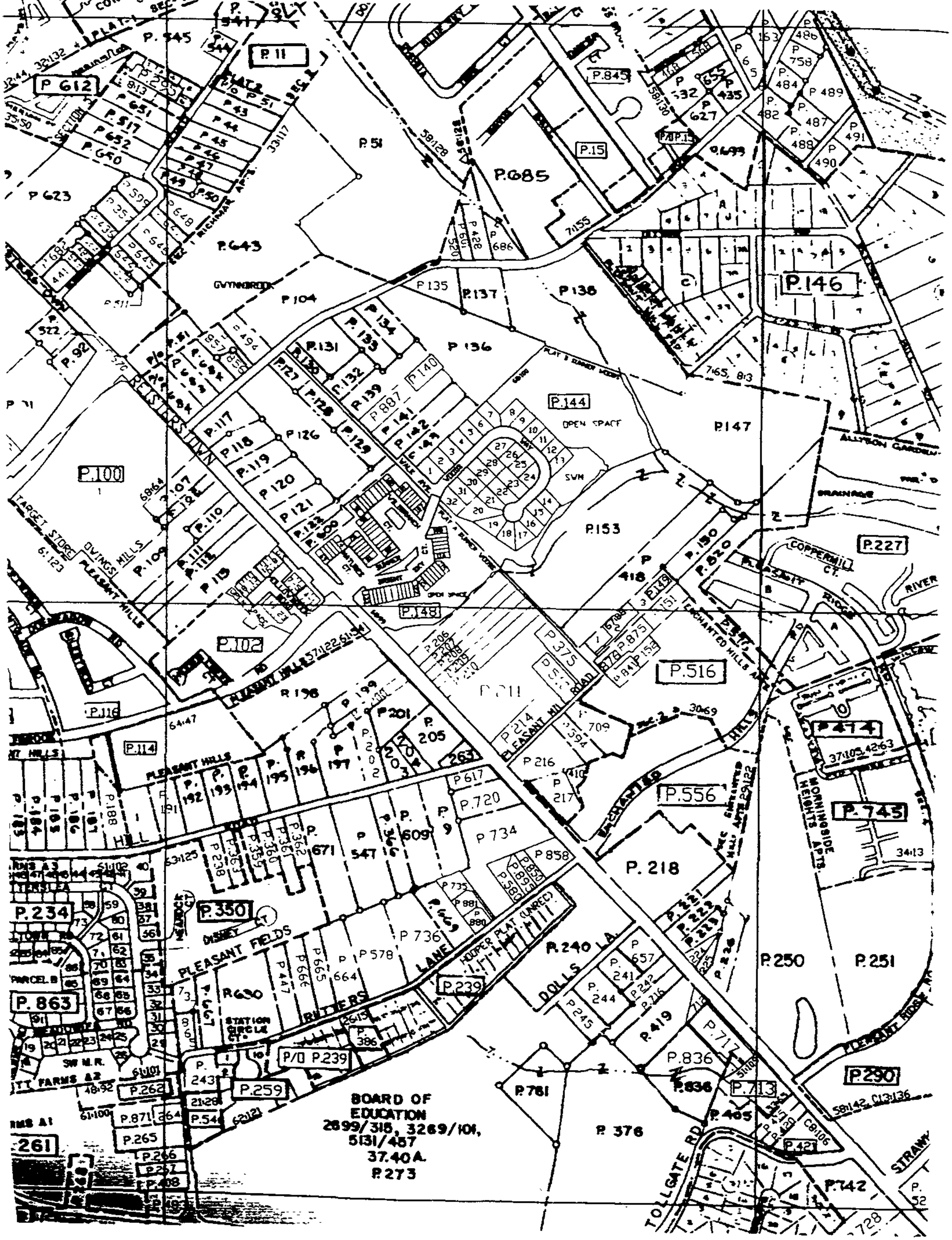
ROSEWOOD CENTER
TOLLGATE
INDUSTRIAL
PARK
CSX TRANSPORTATION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OPEN SPACE
P.147
P.100
P.153
P.227
P.148
P.102
P.516
P.211
P.198
P.114
P.556
P.474
P.745
P.218
P.234
P.350
P.863
P.239
P.240
P.250
P.251
P.419
P.836
P.713
P.290
P.261
P.259
P.376
P.742
BOARD OF
EDUCATION
2899/315, 3269/101,
5131/457
37.40 A.
P.273
PLEASANT FIELDS
PLEASANT HILLS
DOLLS LANE
TOLLGATE RD
ENCHANTED HILLS
MORNINGSIDE HEIGHTS APTS.
ALLYSON GARDENS
COPPERMILL CT.
RIVER
TARGET STORE
DIVINGS MILLS
PLEASANT HILLS
STATION CIRCLE CT.
HOPPER PLAT (UNRECD)

BALTIMORE COUNTY COUNCIL MINUTES
LEGISLATIVE SESSION 2000, SPECIAL SESSION
OCTOBER 10, 2000 7:00 P.M.

****

A. The meeting was called to order by Chairman Bartenfelder at 7:00 P.M. The Chairman asked the audience to rise for a moment of silent meditation and the Pledge of Allegiance to the Flag. There were approximately 100 persons in attendance and the following Councilmembers were present:

S.G. SAMUEL MOXLEY	FIRST DISTRICT
KEVIN KAMENETZ	SECOND DISTRICT
T. BRYAN MCINTIRE	THIRD DISTRICT
WAYNE M. SKINNER	FOURTH DISTRICT
VINCENT J. GARDINA	FIFTH DISTRICT
JOSEPH BARTENFELDER	SIXTH DISTRICT
JOHN OLSZEWSKI, SR.	SEVENTH DISTRICT

B. CALL OF BILLS FOR FINAL READING AND VOTE

Bill 87-00 - Comprehensive Zoning Maps - First District, was called. Councilman Moxley moved to accept the Planning Board's recommendation on the following issues:

1-001 1-002 1-004 1-006 1-007 1-010 1-012 1-013 1-014 1-016
1-018 1-021 1-023 1-024 1-025 1-026 1-029 1-031 1-032 1-034
1-035 1-037 1-039 1-040 1-041 1-044 1-046 1-054 1-056 1-059
1-060 1-064 1-066 1-068 1-070 1-071

Councilman Kamenetz seconded the motion and these issues were passed unanimously.

Councilman Moxley then moved the following changes in the First District Comprehensive Zoning Map:

Issue 1-003: I move to change the Planning Board's recommendation from DR 2 to DR 1. Motion was seconded by Councilman Kamenetz and passed unanimously.

Issue 1-005: I move to change the Planning Board's recommendation from DR 16 (4.0 ac.) and DR 5.5 (2.2 ac.) to DR 16 (4.0 ac.) and DR 3.5 (2.2 ac.), as shown on the overlay. Motion was seconded by Councilman Kamenetz and passed unanimously.

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Bill 89-00 - Comprehensive Zoning Maps - Third District, was called. Councilman McIntire moved to accept the Planning Board's recommendation on the following issues:

3-001	3-002	3-003	3-004	3-006	3-007	3-008	3-009	3-010	3-011	3-012
3-014	3-015	3-016	3-017	3-019	3-020	3-024	3-025	3-026	3-029	3-030
3-032	3-033	3-035	3-036	3-037	3-038	3-039	3-041	3-043	3-044	3-045
3-046	3-047	3-048	3-050	3-052	3-058	3-060	3-061	3-062	3-065	3-067
3-068	3-069	3-070	3-071	3-072	3-073	3-074	3-075	3-076	3-077	3-078
3-079	3-080	3-083	3-084	3-086	3-087	3-088	3-089	3-090	3-091	3-092
3-093	3-094	3-095	3-096	3-097	3-098	3-099	3-100	3-101	3-102	3-103
3-104	3-105	3-106	3-107	3-109	3-110	3-111	3-112	3-113	3-114	3-115
3-116	3-119	3-120	3-124	3-127	3-130	3-131	3-134	3-135	3-137	3-139
3-140	3-141	3-144	3-148	3-149	3-150	3-151	3-152	3-154	3-155	3-156
3-157	3-158	3-159	3-161	3-162	3-163	3-164				

Councilman Skinner seconded the motion and these issues were passed unanimously.

Councilman McIntire then moved the following changes in the Third District Comprehensive Zoning Map:

Issue 3-005: I move to change the Planning Board's recommendation from RC4 (111.0 ac.) and DR 1 (132.0 ac.) to DR 1 (132.0 ac.) and RC 5 (111 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-013: I move to change the Planning Board's recommendation from BR to MLR IM. Motion was made by Councilman Skinner and passed unanimously.

Issue 3-018: I move to change the Planning Board's recommendation from ROA to RC 4. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-021: I move to change the Planning Board's recommendation from RC 5 (25.9 ac.) and ML (13.7 ac.) to RC 5 (25.9 ac.), DR 10.5 (7 ac.) and ML (6.6 ac.), as shown on the overlay. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-022: I move to change the Planning Board's recommendation from RC 5 (52.8 ac.) and RO (1.6 ac.) to DR 3.5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-023: I move to change the Planning Board's recommendation from DR 2 (9.0 ac.) and RC 4 (10.9 ac.) to RC 5. Motion was seconded by Councilman Skinner and passed unanimously.

Issue 3-027: I move to change the Planning Board's recommendation from DR 3.5 (0.3 ac.) and BL (1.0 ac.) to O3. Motion was seconded by Councilman Skinner and passed unanimously.

FINAL Report of the
Baltimore County Planning Board
Adopted October 20, 1977

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY CODE: MODIFICATION OF "CHANGE-MISTAKE" ZONING RULE; COMPLIANCE WITH SUBMITTED PLAN AFTER REZONING BY PETITION

Baltimore County Office of Planning and Zoning
Towson, Maryland 21204

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Towson, Maryland 21204

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Baltimore County Office of Central Services

October, 1977

PROPOSED AMENDMENTS TO THE BALTIMORE COUNTY CODE: MODIFICATION OF "CHANGE-MISTAKE" ZONING RULE; COMPLIANCE WITH SUBMITTED PLAN AFTER REZONING BY PETITION

A Final Report of the Baltimore County Planning Board[1]

DISCUSSION

This report recommends legislation addressing two issues that frequently arise in petition rezoning proceedings: vagueness in the so-called "change-mistake" rule, and the lack of authority to zone property with stipulations regarding its use.

For many years, Baltimore Countians have been suffering the painful consequences of rezoning decisions based on widely varying interpretations of the "change-mistake" rule. This is the rule that allows rezoning of property when it is shown that there has been a change in the neighborhood since the property was last zoned, or that the last zoning of the property was simply a mistake. A major problem with the rule as it has been all-too-frequently interpreted over the years is that it not only allows rezoning, but actually seems to encourage it—even though the new zoning may not be consistent with public policy. Considering the way the rule has been employed, it appears to be a grossly inadequate guide for those who must decide whether and in what manner to grant zoning reclassifications.

The rule is not among the laws of Baltimore County, and until recently was not even to be found in the statutes of Maryland; it was established by Maryland courts because of the absence of legislated guidelines.

It is in an attempt to fill that void that the Planning Board now recommends legislation setting forth the rule along with factors that would have to be considered in applying it. (The Maryland statute in which the rule now appears does not apply to chartered counties, such as Baltimore County.)

* * *

Under present law, a petitioner who submits a plan showing the proposed use or development of his property is not required to comply with that plan after the property is rezoned; the plan, in the eyes of Maryland courts, is "admissible...solely to demonstrate one of the possible permitted uses of the property if rezoning is granted."[2] The reason for this is that the "uniformity clause" in zoning enabling legislation requires that all zoning regulations "shall be uniform for each class or kind of building or structure" throughout all zones of the same classification. Thus, if an electrical contractor's establishment is a permitted use in a B.L. zone in Baltimore County—as it is—it must be permitted in all B.L. zones, regardless of a petitioner's assertion that only a neighborhood drug store will occupy his property once it is zoned B.L.

For many years, Baltimore County's zoning authority was derived from the State Planning and Zoning Enabling Act (Article 66B of the Annotated Code of Maryland). After the County was chartered, primary authority was derived from the Express Powers Act (Article 25A of the

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1. Adopted October 20, 1977.
2. Hyson v. Montgomery County Council, 242 Md. 55 (1966). Quoted in ABRAMS, GUIDE TO MARYLAND ZONING DECISIONS 42 (1975).

Code), which contains a very broad grant of power "to enact local laws, for the protection and promotion of public safety, health, morals, and welfare, relating to zoning and planning." The extent to which the County's apparent freedom under Article 25A was restricted by the elaborate and highly specific provisions of Article 66B (containing the uniformity clause) seemed beyond determination. But it mattered little, since the County, in implementing the planning and zoning provision of Article 25A, rather slavishly adopted provisions of Article 66B, including the uniformity clause, as local law.

The situation changed considerably in 1970, however, when the State Enabling Act was completely revised—and made inapplicable to chartered counties. So the uniformity clause remains on the books only as local law.

The Planning Board proposes that the law be changed so that the uniformity clause does not apply in the case of a petitioner who submits a plan showing how his property is to be used if rezoned. The Board does not favor allowing the plan to be used as the primary basis of the decision regarding the rezoning, however; the Board strongly believes that the change-mistake rule, as this report proposes it be clarified, should remain the first basis for that decision.

RECOMMENDATIONS

It is recommended that Section 22-22 of the Baltimore County Code 1968, as amended by Bills No. 72, 1969 and No. 42, 1970, be further amended as set forth below.

1. In Subsection (a), insert the following after the period:

   As used in this section, the term "use" includes development, except where otherwise indicated by the context.

2. Revise Subsection (b) to read as follows:

   (b) A petition for a zoning reclassification of a property (reclassification petition) may be filed with the zoning commissioner only by the legal owner of such property, or by his legally authorized representative. Each such petition shall include an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the planning board and the zoning commissioner of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail (see also subsection (j)). No such petition may be accepted for filing unless it meets the zoning commissioner's rules of practice and procedure, except that the petitioner may choose to submit plans that do not show any proposed use of the property under petition, regardless of any requirement in those rules to the contrary (see also subsection (l)).

3. Redesignate Subsection (j) as Subsection (k), and insert the following immediately preceding that subsection:

   (j) Before any property is reclassified pursuant to this section, the zoning commissioner must find (1) that there has occurred a substantial change in the

neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error; and (2) that the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities; compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program.

4. Immediately after Subsection (k), as redesignated above, add the following:

(l) If a zoning reclassification petition includes documentation relating to the proposed use of the property under petition, that documentation must include (1) elevation drawings and a plan satisfying the zoning commissioner's rules of practice and procedure and showing: locations, coverage, floor areas, heights, character, and exterior materials of all proposed structures and all existing structures to be retained; all existing structures to be removed; signs visible outdoors; all principal uses; hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light, and heat); parking and loading facilities; existing and proposed public and quasi-public facilities on and adjacent to the site, including storm-drain systems, water lines, sewerage, streets and drives, and railroad sidings; existing ponds and other bodies of water, watercourses, 100-year floodplains, major vegetation, and unusual natural formations, and proposed changes with respect to any of these; screening and landscaping; and existing topography and proposed major changes in grade; and (2) an environmental impact statement, as defined in the Baltimore county zoning regulations, that concerns the proposed use of the property under petition and that has been competently prepared by a professional planner or engineer of appropriate qualifications.

A plan submitted pursuant to this subsection may show the location of a precise building envelope (a clearly delimited area within which a building is to be entirely located but which is larger than the area covered by the building itself) in lieu of the precise location of a building; may show precise maxima and minima in lieu of fixed values; may set forth lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth.

(m) A zoning reclassification petition (including any documentation relating to the proposed use of the property under petition) may be amended only during

a required public hearing proceeding on the petition. When a proposed amendment to such a petition is introduced, the hearing proceeding shall immediately be suspended and, within 2 business days thereafter, the hearing authority shall transmit a copy of the proposal to the director of planning, who shall then promptly transmit copies to the members of the planning board. The director of planning shall also promptly refer the amendment to any other agency that he considers, upon reviewing files on the petition, to have an interest therein, together with a request that the agency provide him with comments on the amendment for distribution to the planning board, by a time he shall specify. Within 45 days after the copy of the amendment has been transmitted to the director of planning, the planning board shall adopt and transmit to the hearing authority a resolution embodying a report on the amendment. Any documentation that relates to the proposed use of the property under petition and that is submitted by the petitioner or his authorized agent after the initial filing of the petition shall be considered an amendment to the petition, whether or not documentation of that nature was included within the original petition, and shall be subject to the provisions of subsection (l) as well as this subsection.

(n) A property may be reclassified under this section only upon making the findings required under Subsection 22-22(j); a property may not be reclassified primarily on the basis of documentation relating to the property's proposed use. Any contrary provision of Section 22-19 notwithstanding, however, if the petition to reclassify the property does include such documentation and is granted, the property may be used only in accordance with the plan included within that documentation; the zoning classification of any such property will revert to the previous classification unless, within 3 years after the date of the final order granting the petition, the property is being used in accordance with the plan or, in a case where development is necessary to implement the plan, unless the development either is completed or has been substantially undertaken and is being diligently pursued to completion. The requirement that such a property be utilized in accordance with a plan and the provision that otherwise the classification of the property will revert will not be affected by the subsequent enactment of a zoning map (pursuant to section 22-21 or 22-21.1) unless the zone classification of the property is further changed by that map.

County Council of Baltimore County Maryland

Legislative Session 1978, Legislative Day No. 24

BILL NO. 122-78

Mr. John O'Rourke, Councilman

By the County Council, October 2, 1978

A BILL

ENTITLED

AN ACT to change the method of interim zoning reclassification, to provide the documentation requirements when documentation is included in a reclassification petition, to provide amendment procedure for a reclassification petition and to provide reclassification guidelines and conditions relating to use upon reclassification, by repealing and reenacting with amendments subsections (a) and (b) of Section 22-22, Article III. Zoning, title "Planning, Zoning and Subdivision Control" of the Baltimore County Code, 1968, as amended, by redesignating subsection (j) as new subsection (k) of said section, article, title and code and by adding new subsections (j), (l), (m) and (n) to said section, article, title and code.

WHEREAS, the rezoning of property is permitted when it is shown that there is a mistake in the original zoning or comprehensive rezoning or a substantial change in the character of the neighborhood, the basis for such rezoning being known as the "change-mistake" rule; and

WHEREAS, frequent interpretations of the "change-mistake" rule have allowed rezoning, even though the rezoning may not be consistent with public policy; and

WHEREAS, there is a need for legislative guidelines upon which to base the granting of rezoning petitions; and

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WHEREAS, the County Council has received a final report from the Baltimore County Planning Board, and has held a public hearing thereon recommending the adoption of legislation to clarify the use of the "change-mistake" rule in determining whether or not to grant a zoning reclassification and to specify the factors to be considered in making such determinations; and

WHEREAS, the County Council has found that the adoption of the legislation referred to herein is in the best interests of the citizens of Baltimore County; now therefore

SECTION 1. *Be it enacted by the County Council of Baltimore County, Maryland,* that subsections (a) and (b) of Section 22-22, Article III. Zoning, title "Planning, Zoning and Subdivision Control", of the Baltimore County Code, 1968, as amended, be and they are hereby repealed and re-enacted with amendments, to read as follows:

(a) The zoning commissioner shall have the power to make a change as to the district, division or zone within which a particular piece of property is classified (zoning reclassification) as hereinafter provided. *As used in this section, the term "use" includes development, except where otherwise indicated by the context.*

(b) A petition for a zoning reclassification of a property (reclassification petition) may be filed with the zoning commissioner only by the legal owner of such property, or by his legally authorized representative. Each such petition shall include an explanation of the reasons why, in the petitioner's opinion, the reclassification sought should be made, set forth in sufficient detail to properly advise the planning board and the zoning commissioner of the petitioner's case. Any allegation of change in conditions as justification for the action sought shall be supported in the petition by precise description of such change, and any allegation of error shall be so supported in similar detail *(see also subsection (j) of this section).* No such petition [by the owner of the property concerned shall] *may* be accepted for filing unless it meets the zoning commissioner's rules of practice and procedure, *except that the petitioner may choose to submit plans that do not show any proposed use of the property under petition, regardless of any requirement in those rules to the contrary (see also subsection (1)).*

SECTION 2. *Be it further enacted,* that subsection (j) of Section 22-22, Article III. Zoning, title "Planning, Zoning and Subdivision Control," of the Baltimore County Code, 1968, as

amended, be and it is hereby redesignated as new subsection (k).

SECTION 3. *Be it further enacted,* that new subsections (j), (l), (m) and (n), be and they are hereby added to Section 22-22, Article III. Zoning, title "Planning, Zoning and Subdivision Control" of the Baltimore County Code, 1968, as amended, said new subsections to read as follows:

(j) Before any property is reclassified pursuant to this section, the zoning commissioner must find (1) that there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified, or that the last classification of the property was established in error; and (2) that the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification is warranted may be made only upon consideration of factors relating to the purposes of the zoning regulations and maps, including, but not limited to, all of the following: population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and water-supply facilities, and the capital program.

(l) If a zoning reclassification petition includes documentation relating to the proposed use of the property under petition, that documentation must include (1) elevation drawings and a plan satisfying the zoning commissioner's rules of practice and procedure and showing: locations, coverage, floor areas, heights, character, and exterior materials of all proposed structures and all existing structures to be retained; all existing structures to be removed; signs visible outdoors; all principal uses; hours of operation, maximum number of employees, and maximum levels of emanations (including sound and other vibrations, dust, odors, gases, light, and heat); parking and loading facilities; existing and proposed public and quasi-public facilities on and adjacent to the site, including storm-drain systems, water lines, sewerage, streets and drives, and railroad sidings; existing ponds and other bodies of water, watercourses, 100-year flood-plains major vegetation, and unusual natural

formations, and proposed changes with respect to any of these; screening and landscaping; and existing topography and proposed major changes in grade; and (2) an environmental impact statement, as defined in the Baltimore County Zoning Regulations, that concerns the proposed use of the property under petition and that has been competently prepared by a professional planner or engineer of appropriate qualifications.

A plan submitted pursuant to this subsection may show the location of a precise building envelope (a clearly delimited area within which a building is to be entirely located but which is larger than the area covered by the building itself) in lieu of the precise location of a building; may show precise maxima and minima in lieu of fixed values; may set forth lists of precisely described possible uses of a given space, in lieu of specifying a single use; and may otherwise reasonably allow for flexibility or alternatives, provided that appropriate precise limits are set forth.

(m) A zoning reclassification petition (including any documentation relating to the proposed use of the property under petition) may be amended only during a required public hearing proceeding on the petition. When a proposed amendment to such a petition is introduced, the hearing proceeding shall immediately be suspended and, within 2 business days thereafter, the hearing authority shall transmit a copy of the proposal to the director of planning, who shall then promptly transmit copies to the members of the planning board. The director of planning shall also promptly refer the amendment to any other agency that he considers, upon reviewing files on the petition, to have an interest therein, together with a request that the agency provide him with comments on the amendment for distribution to the planning board, by a time he shall specify. Within 45 days after the copy of the amendment has been transmitted to the director of planning, the planning board shall adopt and transmit to the hearing authority a resolution embodying a report on the amendment. Any documentation that relates to the proposed use of the property under petition and that is submitted by the petitioner or his authorized agent after the initial filing of the petition shall be considered an amendment to the petition, whether or not documentation of that nature was included within the original petition, and shall be subject to the provisions of subsection (1) as well as this subsection.

(n) Property may be reclassified under this section only upon making the findings required under subsection (j) of this section. Property may not be reclassified solely on the basis of

documentation relating to the property's proposed use. However, any provision of Section 22-19 to the contrary notwithstanding, if the petition to reclassify the property does include such documentation and is granted, the property may be used only in accordance with the plan included within that documentation; the zoning classification of any such property will revert to the previous classification unless, within 3 years after the date of the final order granting the petition, the property is being used in accordance with the plan or, in a case where development is necessary to implement the plan, unless the development either is completed or has been substantially undertaken and is being diligently pursued to completion. The requirement that such a property be utilized in accordance with a plan, and the provision that otherwise the classification of the property will revert, will not be affected by the subsequent enactment of a zoning map, pursuant to Sections 22-21 or 22-21.1 of this Article unless the zone classification of the property is further changed by that map.

SECTION 4. *And be it further enacted,* that this Act shall take effect forty-five days after its enactment.

READ AND PASSED this 6th day of November, 1978

By Order

Thomas Toporovich, Secretary

PRESENTED to the County Executive for his approval this 8th day of November, 1978.

Thomas Toporovich, Secretary

APPROVED AND ENACTED: 11/13/78

Theodore G. Venetoulis,
County Executive

I HEREBY CERTIFY THAT BILL NO. 122-78 IS TRUE AND CORRECT AND WILL TAKE EFFECT ON DECEMBER 28, 1978.

Eugene W. Gallagher,

Chairman, County Council

EXPLANATION: *Italics indicate new matter added to existing law.*
[Brackets] indicate matter stricken from existing law.
CAPITALS indicate amendments to bill.
~~Strike-out~~ indicates matter stricken out of bill.

NW 12I 12H
11J 11H
2C

MAP 24

Joins Map 16 75°47'30" 860,000 FT

850,000 FT

Joins Map 23

Joins Map 32 76°47'30" 860,000 FT

39°25'00"

39°22'30"

MD GRID 360,000 FT

570,000 FT

580,000 FT

ROSEWOOD STATE CENTER

Baltimore City Police Acad

Rosewood Center

Owings Mills Co 310 & Rescue

Owings Mills HS

Mt Pleasant

Pleasant Hill Ud

Owings Mills ES

REISTERSTOWN ROAD

RED RUN BOULEVARD

OWINGS MILLS

Exit-4

Red Run

SOLDIERS DELIGHT NATURAL ENVIRONMENT AREA

Owings Mills Town Center

Owings Mills

OWINGS MILLS INDUSTRIAL PARK

WCBM Tower

Saint Thomas Shop Ctr

Valley Center Shop Ctr

OWINGS MILLS CORPORATE CAMPUS

Painters Mill ES, MS, HS (Site)

NORTHWEST REGIONAL PARK

Happy Acres

McDonogh

MILL ROAD

MCDONOGH ROAD

Branch

LYONS

Deer Park ES

Deer Park MS

Horsehead

FOXRIDGE

Liberty Road Co 46 Rescue

Randallstown HS

Wildwood Park

Randall Ridge ES (Site)

LIBERTY ROAD

DEER PARK CTR

Beth El Mem Park

Holy Family Cath & Sch

Colonial Bapt

Carriage Hill Park

RANDALLSTOWN

Randallstown Plaza

Randallstown ES

Randallstown Synagogue Center

Liberty Plaza

Randallstown Co 18 & Rescue

Brenbrook Plaza

Liberty Court Shop Ctr

Mt Olive

Randallstown Union Bethel

WBAL Tower

Scotts Level

Scotts Park

Church Lane ES

Crown Estates

Marella Branch

Falls

Gwynns

26 ROAD

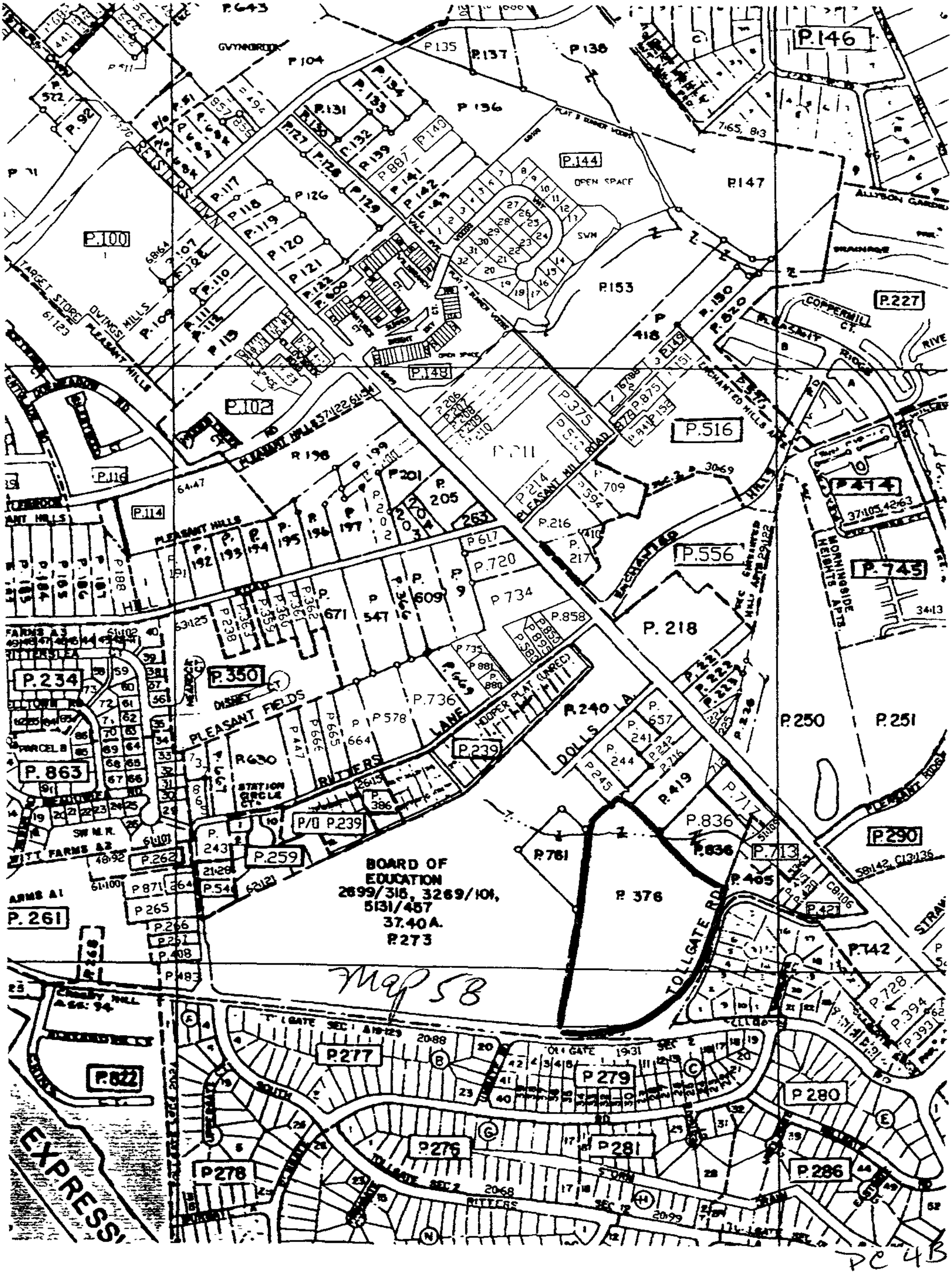
COURT

OLD

8-20500

28 © ALEXANDRIA DRAFTING CO
GRID 850 000 FT

PC 7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PC 4B

Real Property Information

Maryland Department of Assessments and Taxation
Real Property System

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BALTIMORE COUNTY
DISTRICT: 04 ACCT NO: 0410045675

Owner Information

Owner Name: JONES LEE R
JONES MAUD D

Use: RESIDENTIAL

Mailing Address: FAIR WARNING
24 OLD TOLLGATE RD
OWINGS MILLS MD 21117

Principal Residence: YES

Transferred
From: GORGAS L D **Date:** 11/30/1951 **Price:** $0

Deed Reference: 1) / 8412/ 450
2)

Special Tax Recapture:
* NONE *

Tax Exempt: NO

Location Information [View Map]

Premises Address:
24 OLD TOLLGATE RD

Zoning:

Legal Description:
13.971 AC NS
TOLLGATE RD
1700 E RITTERS LA

Map	Grid	Parcel	Subdiv	Sect	Block	Lot	Group	Plat No:
58	14	376					80	Plat Ref:

Special Tax Areas

Town:
Ad Valorem:

Primary Structure Data

Year Built:	Enclosed Area:	Property Land Area:	County Use:
1851	1,908 SF	13.97 AC	04

Value Information

	Base Value	Current Value As Of 01/01/1998	Phase-In Value As Of 07/01/2000	Phase-in Assessments As Of 07/01/1999	Phase-in Assessments As Of 07/01/2000
Land:	92,420	92,420			
Impts:	39,250	41,540			
Total:	131,670	133,960	133,960	53,270	53,580
Pref Land:	0	0	0	0	0

Partial Exempt Assessments

	Code	07/01/1999	07/01/2000
County	000	0	0
State	000	0	0
Municipal	000	0	0

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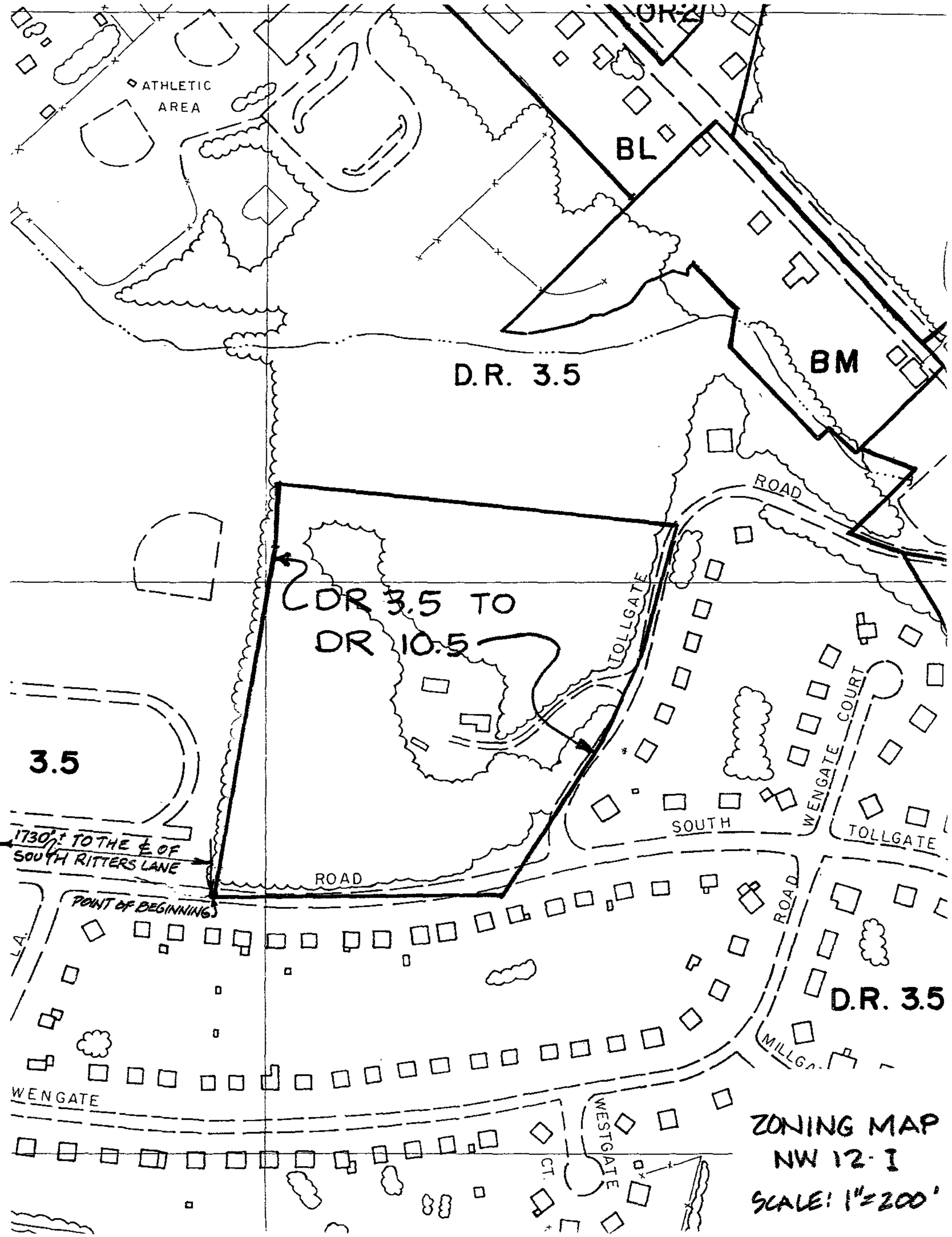
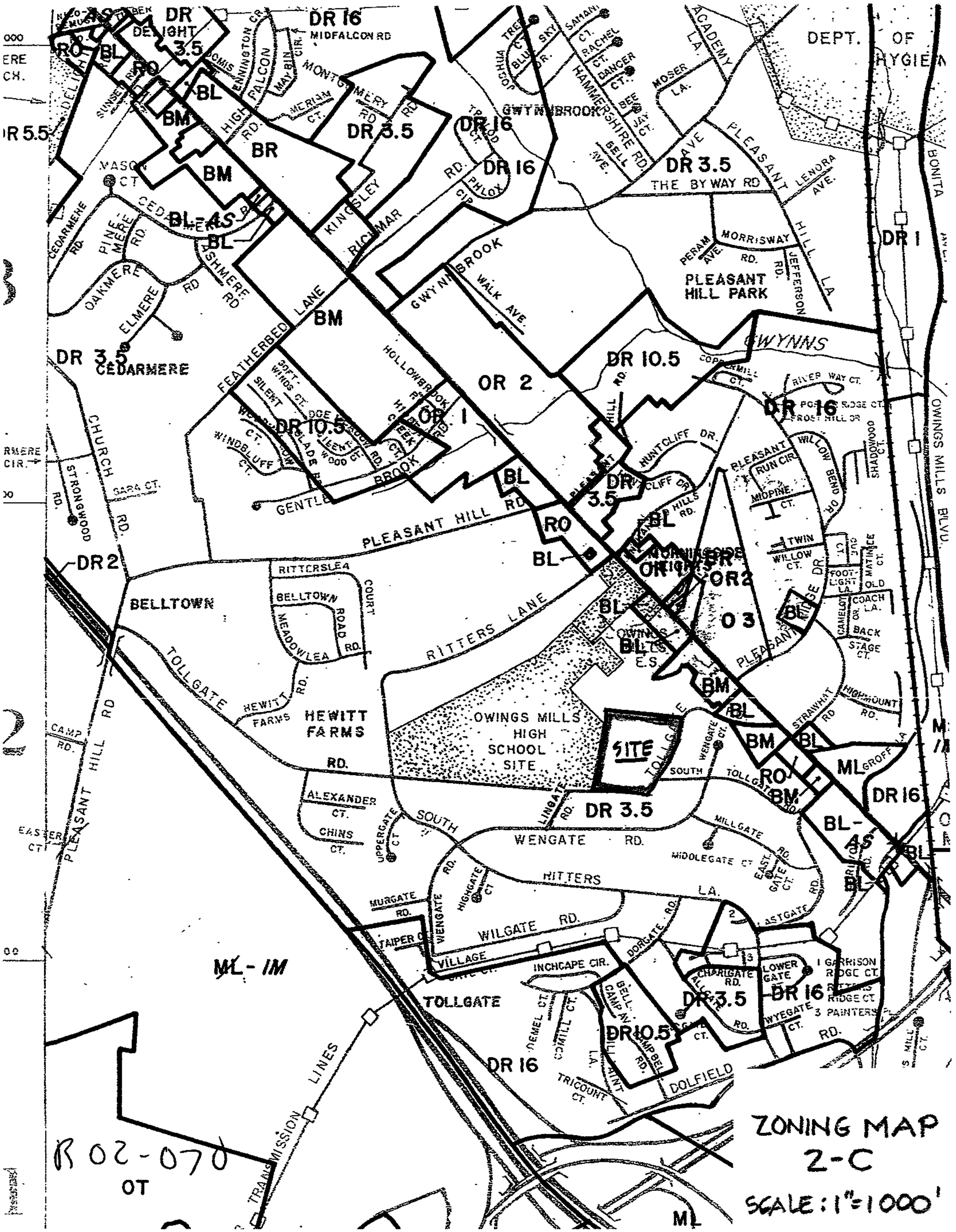

ATHLETIC AREA
BL
BM
D.R. 3.5
ROAD
DR 3.5 TO DR 10.5
TOLLGATE
WENGATE COURT
SOUTH
TOLLGATE
3.5
1730'± TO THE ℄ OF SOUTH RITTERS LANE
ROAD
POINT OF BEGINNING
ROAD
D.R. 3.5
WENGATE
WESTGATE CT.
ZONING MAP
NW 12-I
SCALE: 1"=200'

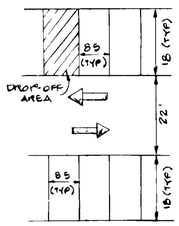

ZONING MAP
2-C
SCALE: 1"=1000'
R02-070
DR 16
DR 3.5
DR 10.5
DR 1
DR 2
OR 2
OR 1
OR 3
BL
BM
BR
RO
AS
ML
ML-IM
OT
DEPT. OF HYGIENE
PLEASANT HILL PARK
GWYNNS
GWYNNBROOK
MIDFALCON RD
MONTGOMERY RD
HIGH RD
KINGSLEY
RICHMAR
CEDARMERE
PINE MERE RD
OAKMERE RD
ELMERE RD
ASHMERE RD
FEATHERBED LANE
HOLLOWBROOK
GENTLE BROOK
CHURCH RD
STRONGWOOD RD
PLEASANT HILL RD
BELLTOWN
RITTERSLEA
BELLTOWN ROAD
MEADOWLEA RD
TOLLGATE RD
HEWITT FARMS
RITTERS LANE
OWINGS MILLS HIGH SCHOOL SITE
SITE
SOUTH TOLLGATE
WENGATE RD
MILLGATE RD
RITTERS LA.
WILGATE RD
VILLAGE
INCHCAPE CIR.
TOLLGATE
DOLFIELD
TRANSMISSION LINES
THE BYWAY RD
MORRISWAY RD
PLEASANT HILL LA
ACADEMY LA
HAMMERSHIRE RD
OWINGS MILLS BLVD
BONITA AVE
LENORA AVE
RIVER WAY CT
FROST HILL DR
HUNTCLIFF DR
PLEASANT RUN CIR
MIDPINE CT
WILLOW BEND DR
SHADOWOOD CT
TWIN WILLOW CT
FOOTLIGHT LA
MATINEE CT
OLD COACH LA
BACK STAGE CT
STRAWHAT RD
HIGHMOUNT RD
GROFF LA
CHARLGATE RD
LOWER GATE CT
GARRISON RIDGE CT
RITTERS RIDGE CT
3 PAINTERS
WYEGATE CT
DORGATE RD
EASTGATE RD
CAMPBELL RD
TRICOUNT CT
CAMP AV
BELL CT
DEMEL CT
COMILL CT
CAMP RD
EASTER CT
ALEXANDER CT
CHINS CT
UPPERGATE CT
MURGATE RD
HIGHGATE CT
TAIPER CT
MIDDLEGATE CT
EASTGATE CT
LINGATE RD
SOUTH WENGATE
WENGATE CT
SOFT WINDS CT
SILENT WOOD CT
WINDBLUFF CT
SARA CT
SUNSET RD
DOMIS RD
ENNINGTON CR
FALCON
MAY-BIN CIR
MERIAN CT
MASON CT
TROOD CT
PHLOX CIR
JOSHUA TREE CT
BLUE SKY CT
SAMANI CT
RACHEL CT
DANCER CT
BEE JAY CT
BELL AVE
MOSER LA
PERAM AVE
JEFFERSON RD
CEDARMERE CIR
DELIGHT

GENERAL NOTES

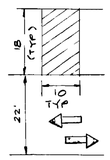
1. THE SUBJECT PROPERTY HAS NO ZONING CASE HISTORY
2. ALL FUTURE SIGNS WILL BE IN COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS
3. THE SUBJECT PROPERTY HAS NO PREVIOUS COMMERCIAL PERMITS
4. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
5. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN
6. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A KNOWN MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF A BASIC SERVICES MAP CURRENTLY EXISTS PER SECTION 4A02 (BCZR)
7. ALL RIGHT-OF-WAYS SHOWN ON-SITE ARE PRIVATE
8. PAVING OF DRIVEWAYS AND PARKING SHALL BE A DURABLE AND DUSTFREE SURFACE AND WILL BE PERMANENTLY STRIPED
9. THE SUBJECT PROPERTY IS IN COMPLIANCE WITH THE RESIDENTIAL TRANSITION AREA REGULATIONS
10. PROPOSED USE IS MULTI-FAMILY RESIDENTIAL USE ONLY HOURS OF OPERATION AND NUMBER OF EMPLOYEE REGULATIONS DO NOT APPLY
11. THE SUBJECT PROPERTY SHALL COMPLY WITH REGULATIONS REGARDING MAXIMUM LEVELS OF EMANATIONS (INCLUDING SOUND AND OTHER VIBRATIONS, DUST, ODORS, GASES, LIGHT AND HEAT
12. ANY PROPOSED BUILDINGS SHALL COMPLY WITH BUILDING CODES, AS WELL AS FIRE CODES, REQUIREMENTS WITH REGARD TO TYPE OF CONSTRUCTION, WINDOWS, ETC
13. STORM WATER MANAGEMENT WILL BE PROVIDED ON-SITE BY THE USE OF AN UNDERGROUND SWM FACILITY
14. PARKING SPACES FOR THE HANDICAPPED SHALL BE IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED AS CONTAINED IN THE CODE OF MARYLAND REGULATIONS, SECTION 08.01.07

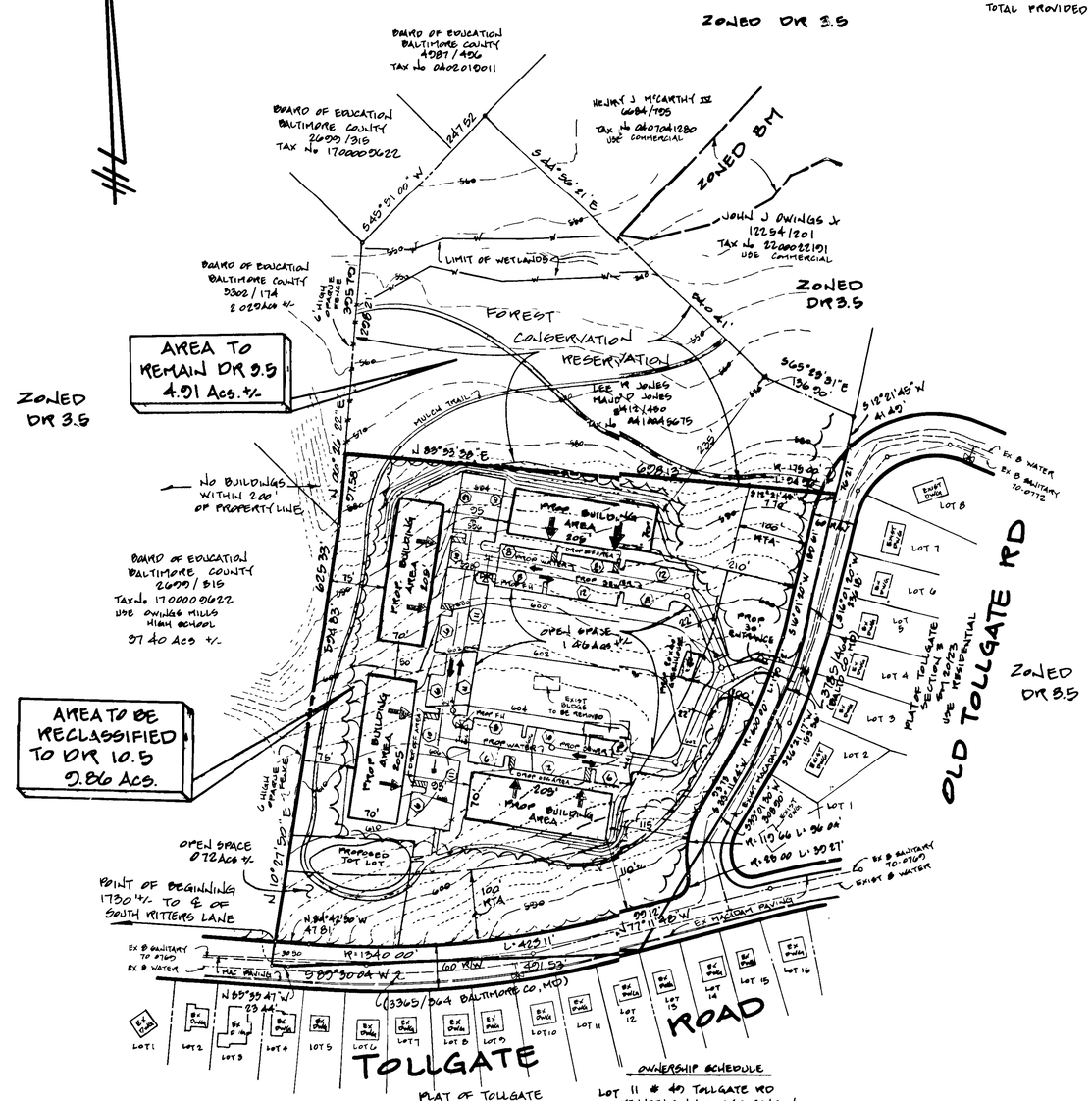
NOTE THE PROPOSED BUILDING AREA AS SHOWN ACCOMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS, SHTS 2 & 3 OF 4

TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA DETAIL
NOT TO SCALE





OWNERSHIP SCHEDULE

LOT 11 # 40 TOLLGATE RD
KENNETH C & AUDREY C SCHROTH
3185/202 TAX № 0419008480

LOT 12 # 47 TOLLGATE RD
JONACIANO CASTREJON & MARCOS A SANDOVAL JR
13096/168 TAX № 0402058010

LOT 13 # 45 TOLLGATE RD
JAMES H & PATRICIA C WILDERSON
8755/586 TAX № 0401056801

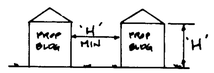
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 79
1.5 SPACES/UNIT x 79 UNITS = 118.5 SPS.
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15
TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

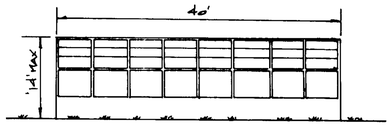
PARKING REQUIRED - ALTERNATE 'A'

1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (20% OR LESS)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES
TOTAL REQUIRED = 186 SPACES
TOTAL PROVIDED 196 SPACES

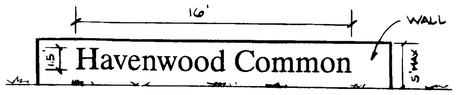


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS THE MINIMUM DISTANCE SHOWN ON THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

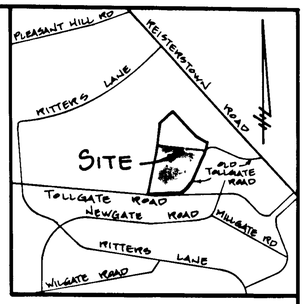


ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES
1. SIGN NOT TO EXCEED 25 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN IS ONE-SIDED



VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA

SITE AREA	2.86 ACS
DEED REFERENCE	8412/450
TAX ACCOUNT №	04 1006075
COUNCILMANIC DIST	3
EXISTING ZONING	MAP NW 13-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 2.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS
ALT. 'A' (1 BEDROOM & 2 BEDROOM)
ALT 'B' (1, 2 AND 3 BEDROOM)

OPEN SPACE REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 ACS

PROVIDED 95,000 SF OR 2.18 ACS

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

STATE OF MARYLAND — JOHN W. DUVALL — REG. NO. 6168

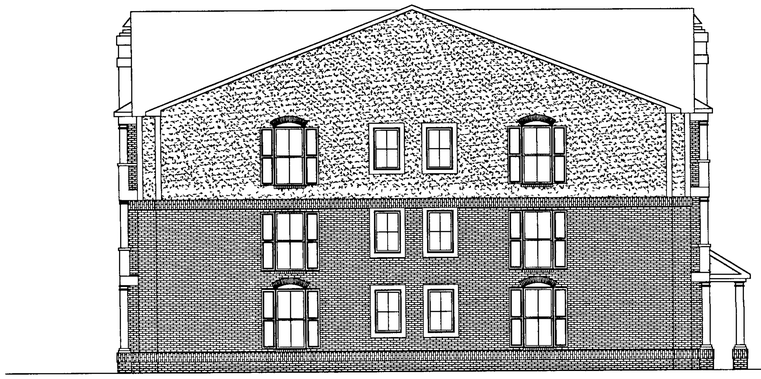
OWNER

LEE M. JONES
MAUD D JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

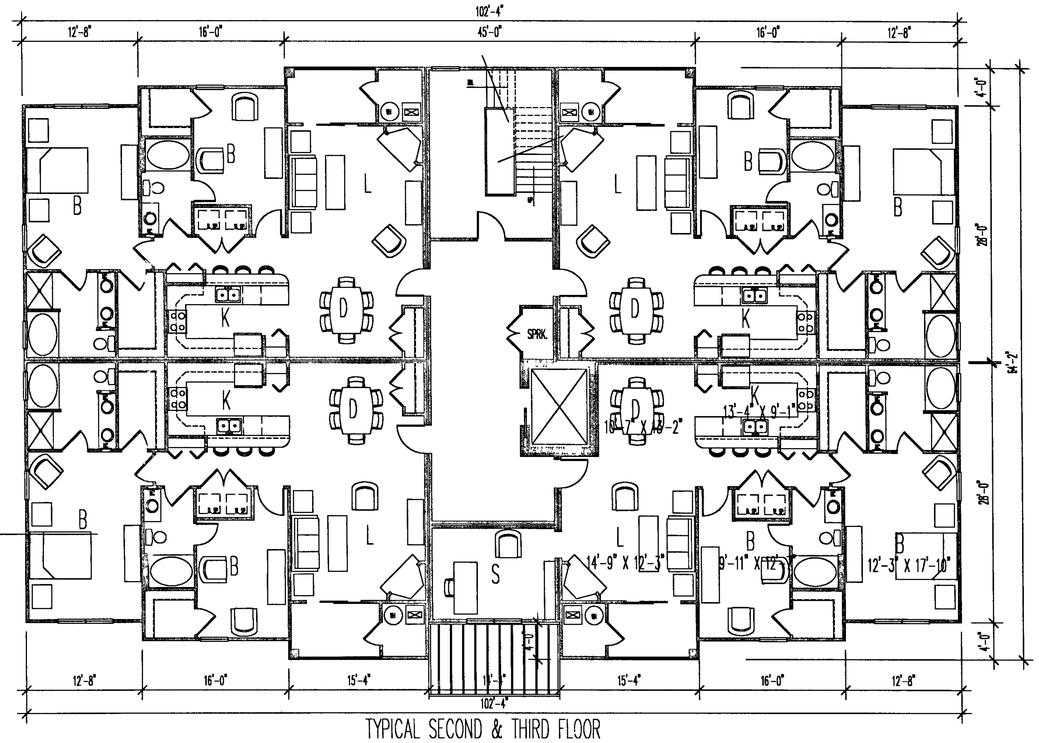
JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT № 3
ELECTION DISTRICT № 4 — BALTIMORE CO, MD
SCALE 1" = 100' — DATE JUNE 26, 2001
REV AUG 3, 2001 PER FILING CHGS
REV 8/8/01 PER ZONING OFFICE COMMENTS — SHEET 1 OF 4

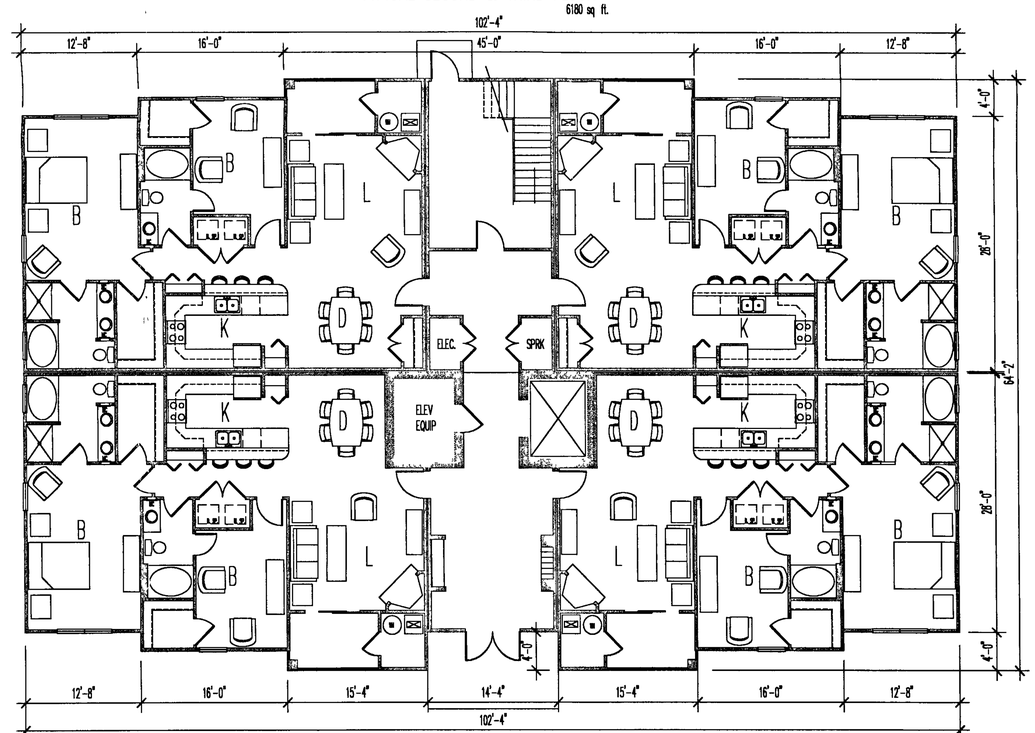


RIGHT SIDE ELEVATION
SCALE 1/8" = 1'
(TYPICAL)

LEGEND
B BEDROOM
K KITCHEN
L LIVINGROOM
D DINING ROOM
S STUDY



TYPICAL SECOND & THIRD FLOOR
6180 sq ft.



FIRST FLOOR - (TYPICAL)
6180 sq ft.

FRONT ELEVATION
SCALE 1/8" = 1'
(TYPICAL)

DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

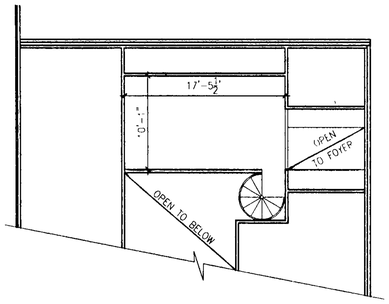
TOLLGATE ROAD
ALTERNATE 'A'

ELECTION DIST No 4
SCALE AS SHOWN

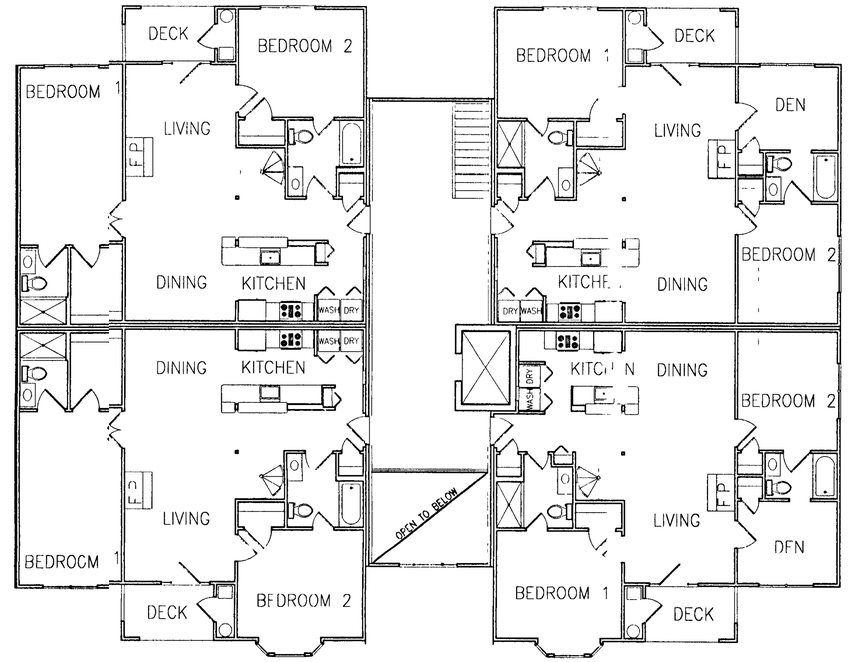
BALTIMORE CO., MD
DATE 7/20/01
SHEET 2 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

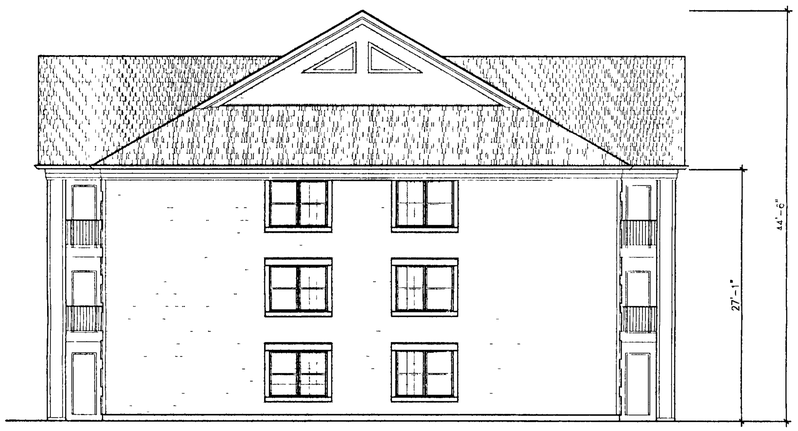
STATE OF MARYLAND
WILLIAM CAYLOR DUVALL
No. 12906
REGISTERED
PROFESSIONAL ENGINEER



3 A1 LOFT FLOOR PLAN (TYPICAL)
SCALE 1/8"=1'

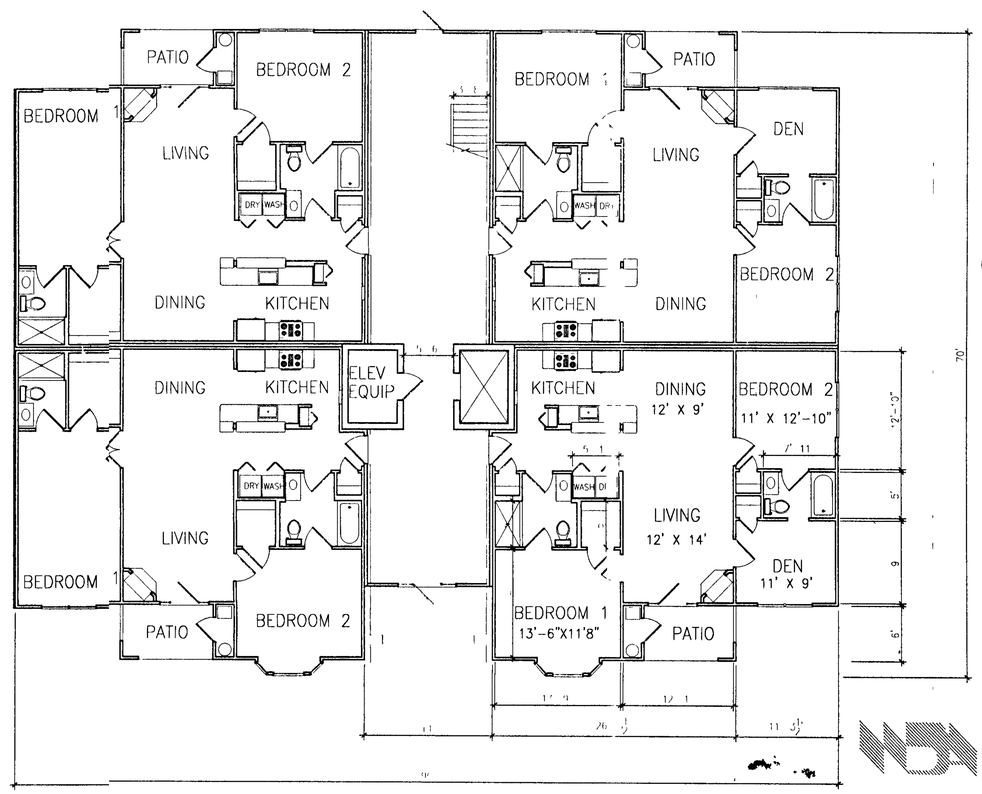


2 A1 3RD FLOOR PLAN (TYP.)
SCALE 1/8"=1' 5,250 S F



4 A1 SIDE ELEVATION
SCALE 1/8"=1'

5 A1 FRONT ELEVATION
SCALE 1/8"=1'



1 A1 1ST & 2ND FLOOR PLAN
SCALE 1/8"=1' 5,375 S F
(TYPICAL)

DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

TOLLGATE ROAD
ALTERNATE 'B'

ELECTION DIST No 4
SCALE AS SHOWN

BALTIMORE CO., MD
DATE 8/7/01
SHEET 3 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

GENERAL NOTES

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2. ALL FUTURE SIGNS WILL BE IN COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS
3. THE SUBJECT PROPERTY HAS NO PREVIOUS COMMERCIAL PERMITS
4. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
5. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN
6. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A KNOWN MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF A BASIC SERVICES MAP CURRENTLY EXISTS PER SECTION 424.02 (BCZR)
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8. PAVING OF DRIVEWAYS AND PARKING SHALL BE A DURABLE AND DUSTFREE SURFACE AND WILL BE PERMANENTLY STRIPED
9. THE SUBJECT PROPERTY IS IN COMPLIANCE WITH THE RESIDENTIAL TRANSITION AREA REGULATIONS.
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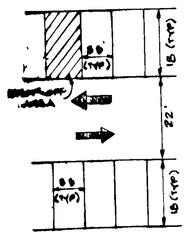
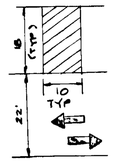
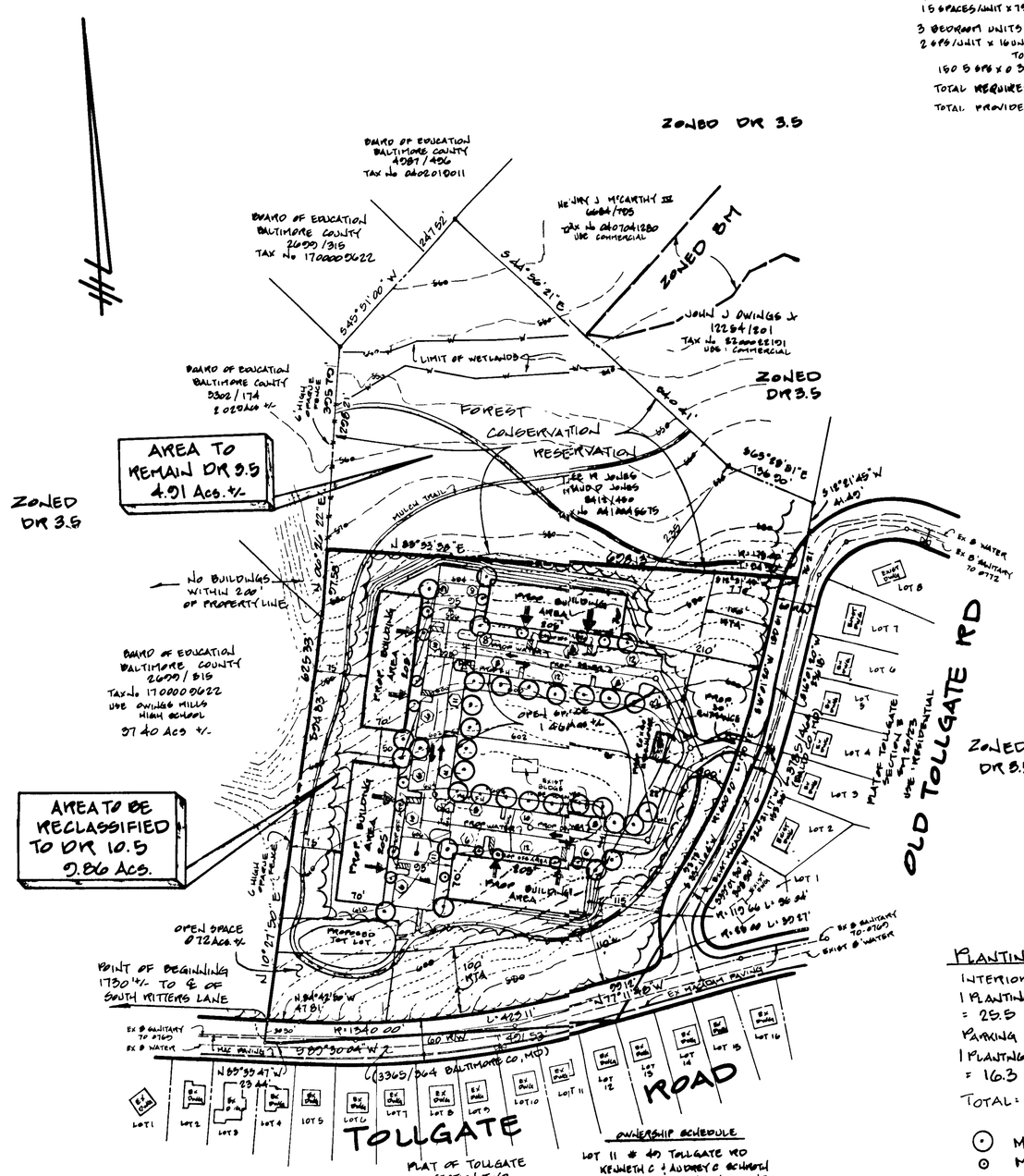
NOTE THE PROPOSED BUILDING AREA AS SHOWN ACCOMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS. SHTS 2 & 3 OF 4

TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA DETAIL
NOT TO SCALE





PLAT OF TOLLGATE SECTION TWO
PLAT 10/151
USE RESIDENTIAL

OWNERSHIP SCHEDULE

LOT 11 # 40 TOLLGATE RD
KENNETH C & AUDREY C SCHMITH
3185/802 TAX № 0419008080

LOT 12 # 47 TOLLGATE RD
DALMIANO CASTREJON &
MARCOS A SANDOVAL JR
13086/168 TAX № 0402058010

LOT 13 # 45 TOLLGATE RD
JAMES H & PATRICIA C WILDERSON
8755/586 TAX № 0401056801

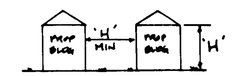
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 70
1.5 SPACES/UNIT x 70 UNITS = 118.5 SPS.
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15
TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

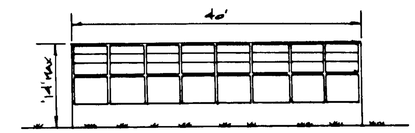
PARKING REQUIRED - ALTERNATE 'A'

1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (20% OR LESS)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES
TOTAL REQUIRED = 186 SPACES
TOTAL PROVIDED 196 SPACES

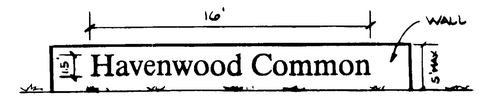


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS. THE MINIMUM DISTANCE SHOWN ON THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

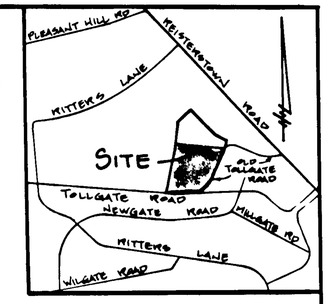


ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES
1. SIGN NOT TO EXCEED 25 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN IS NOT A VIDEO



VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA

SITE AREA	9.86 ACS
DEED REFERENCE	8412/450
TAX ACCOUNT №	04 1004 6675
COUNCILMANIC DIST	3
EXISTING ZONING	MAP NW 18-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 95 UNITS

OPEN SPACE REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 ACS.

ALT. 'A' (1 BEDROOM & 2 BEDROOM)
ALT 'B' (1, 2 AND 3 BEDROOM)

PROVIDED 95,000 SF OR 2.18 ACS

PLANTING CALCULATIONS

INTERIOR ROAD = 510 L.F.
1 PLANTING UNIT / 20 L.F. INTERIOR ROADWAY
= 25.5 PLANTING UNITS
PARKING SPACES = 196
1 PLANTING UNIT / 12 PARKING SPACES
= 16.3 PLANTING UNITS
TOTAL = 42 PLANTING UNITS

⊙ MAJOR TREE = 1 PLANTING UNIT
⊙ MINOR TREE = 1/2 PLANTING UNIT

PLANTING CONCEPT ONLY

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT № 3
ELECTION DISTRICT № 4 — BALTIMORE CO., MD
SCALE 1" = 100' — DATE: JUNE 26, 2001
REV: AUG 3, 2001 PER PLANNING COMM
SHEET 4 OF 4

REV 8/8/01 PER ZONING OFFICE COMMENTS

OWNER

LEE M. JONES
MAUD D JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
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TEL (410) 583-9571
FAX (410) 583-1513

STATE OF MARYLAND — WILLIAM J. WIEGMANN — REGISTERED PROFESSIONAL ENGINEER

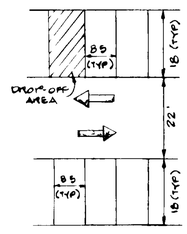
00120

GENERAL NOTES

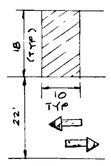
1. THE SUBJECT PROPERTY HAS NO ZONING CASE HISTORY
2. ALL FUTURE SIGNS WILL BE IN COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS
3. THE SUBJECT PROPERTY HAS NO PREVIOUS COMMERCIAL PERMITS
4. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA
5. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN
6. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A KNOWN MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF A BASIC SERVICES MAP CURRENTLY EXISTS PER SECTION 4A02 (BCZR)
7. ALL RIGHT-OF-WAYS SHOWN ON-SITE ARE PRIVATE
8. PAVING OF DRIVEWAYS AND PARKING SHALL BE A DURABLE AND DUSTFREE SURFACE AND WILL BE PERMANENTLY STRIPED
9. THE SUBJECT PROPERTY IS IN COMPLIANCE WITH THE RESIDENTIAL TRANSITION AREA REGULATIONS
10. PROPOSED USE IS MULTI-FAMILY RESIDENTIAL USE ONLY HOURS OF OPERATION AND NUMBER OF EMPLOYEE REGULATIONS DO NOT APPLY
11. THE SUBJECT PROPERTY SHALL COMPLY WITH REGULATIONS REGARDING MAXIMUM LEVELS OF EMANATIONS (INCLUDING SOUND AND OTHER VIBRATIONS, DUST, ODORS, GASES, LIGHT AND HEAT
12. ANY PROPOSED BUILDINGS SHALL COMPLY WITH BUILDING CODES, AS WELL AS FIRE CODES, REQUIREMENTS WITH REGARD TO TYPE OF CONSTRUCTION, WINDOWS, ETC
13. STORM WATER MANAGEMENT WILL BE PROVIDED ON-SITE BY THE USE OF AN UNDERGROUND SWM FACILITY
14. PARKING SPACES FOR THE HANDICAPPED SHALL BE IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED AS CONTAINED IN THE CODE OF MARYLAND REGULATIONS, SECTION 08.01.07

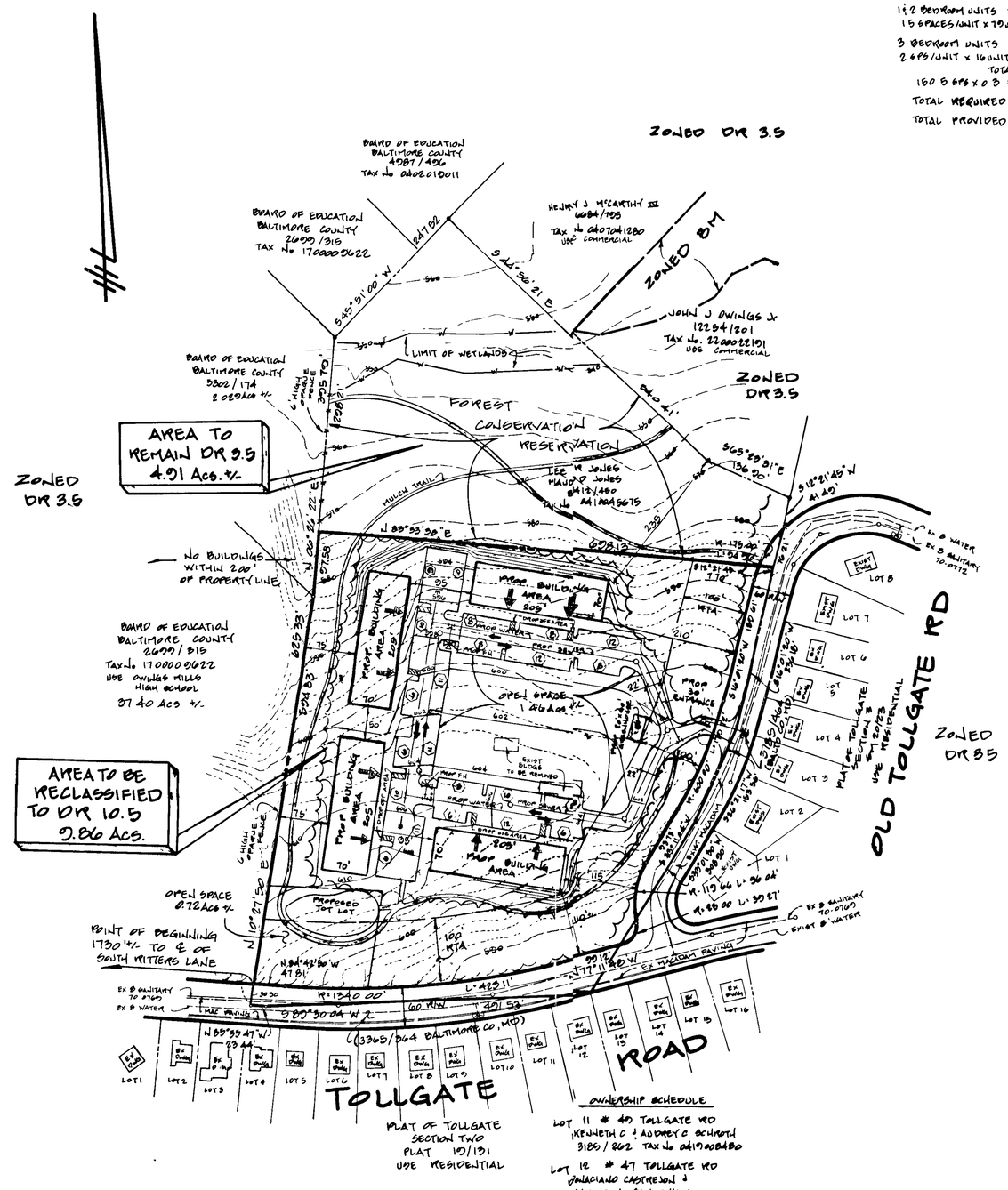
NOTE THE PROPOSED BUILDING AREA AS SHOWN ACCOMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS SHTS 2 & 3 OF 4

TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA - DETAIL
NOT TO SCALE





OWNERSHIP SCHEDULE

LOT 11 # 40 TOLLGATE RD
KENNETH C & AUDREY C SCHROTH
3185/262 TAX No 0419008480

LOT 12 # 47 TOLLGATE RD
DONACIANO CASTREJON & MARCOS A SANDOVAL JR
13656/168 TAX No 0402058010

LOT 13 # 45 TOLLGATE RD
JAMES H & PATRICIA C WILDERSON
8755/586 TAX No 0401056391

PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 70
1.5 SPACES/UNIT x 70 UNITS = 118.5 SPS

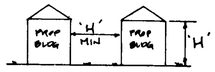
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15

TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

PARKING REQUIRED - ALTERNATE 'A'

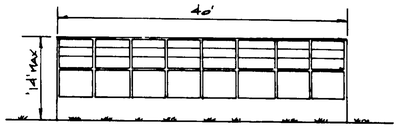
1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (2BR OR LESS)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES

TOTAL REQUIRED = 186 SPACES
TOTAL PROVIDED = 196 SPACES

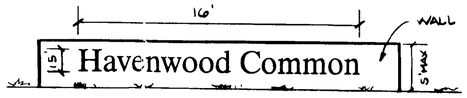


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS THE MINIMUM DISTANCE SHOWN ON THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

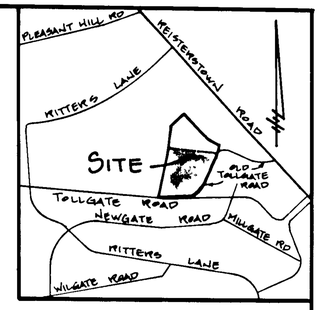


ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES
1. SIGN NOT TO EXCEED 25 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN IS ONE-SIDED



VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA

SITE AREA	9.86 Acs
DEED REFERENCE	8412/450
TAX ACCOUNT No	04 1005675
COUNCILMANIC DIST	3
EXISTING ZONING	MAP NW 18-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS
ALT 'A' (1 BEDROOM & 2 BEDROOM)
ALT 'B' (1,2 AND 3 BEDROOM)

OPEN SPACE REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 Acs

PROVIDED 95,000 SF OR 2.18 Acs

OLD PLAN
Amended in open hearing 10/25/01

OWNER
LEE M. JONES
MAUD D JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

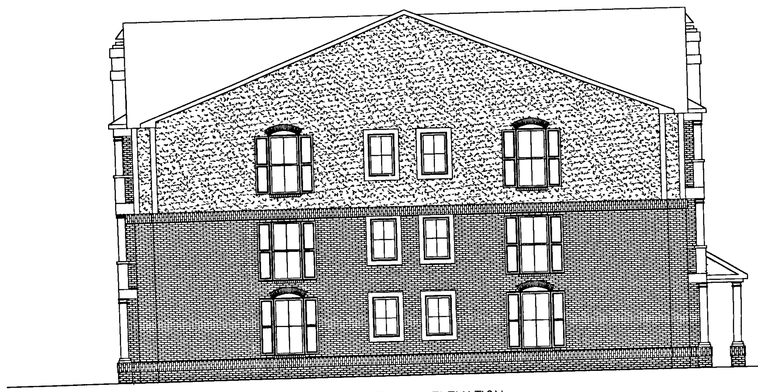
W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT No 3
ELECTION DISTRICT No 4 — BALTIMORE CO, MD
SCALE 1" = 100' — DATE JUNE 26, 2001
REV AUG 3, 2001 PER PLANNING COMM
REV 8/8/01 PER ZONING OFFICE COMMENTS
SHEET 1 OF 4

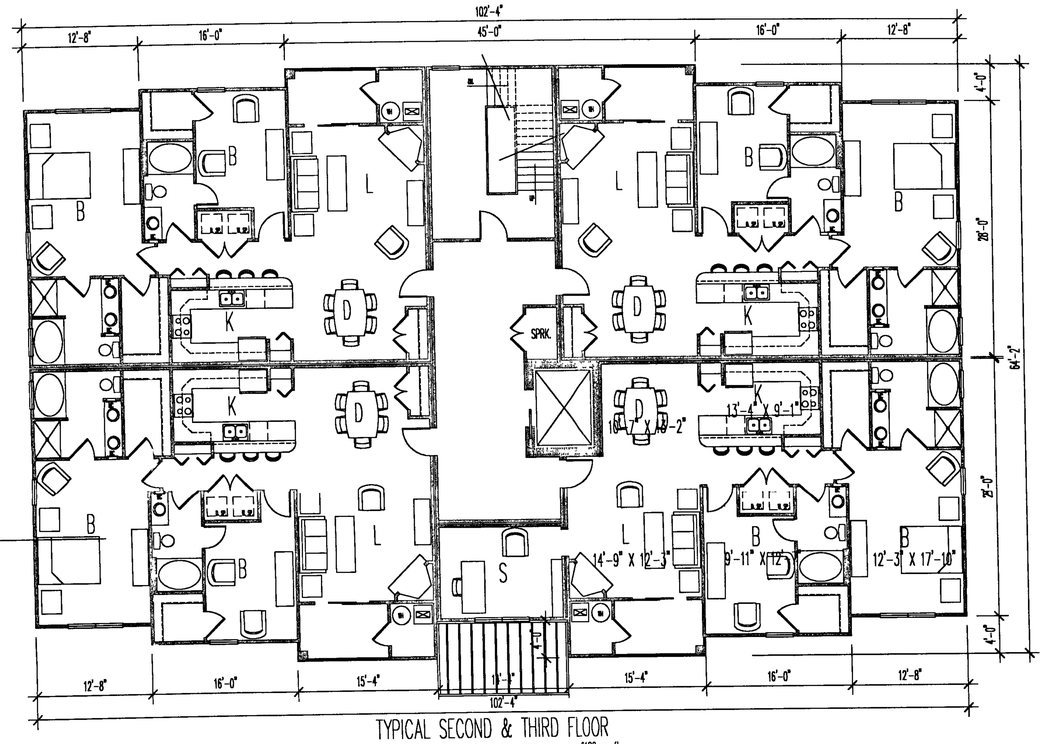
00120



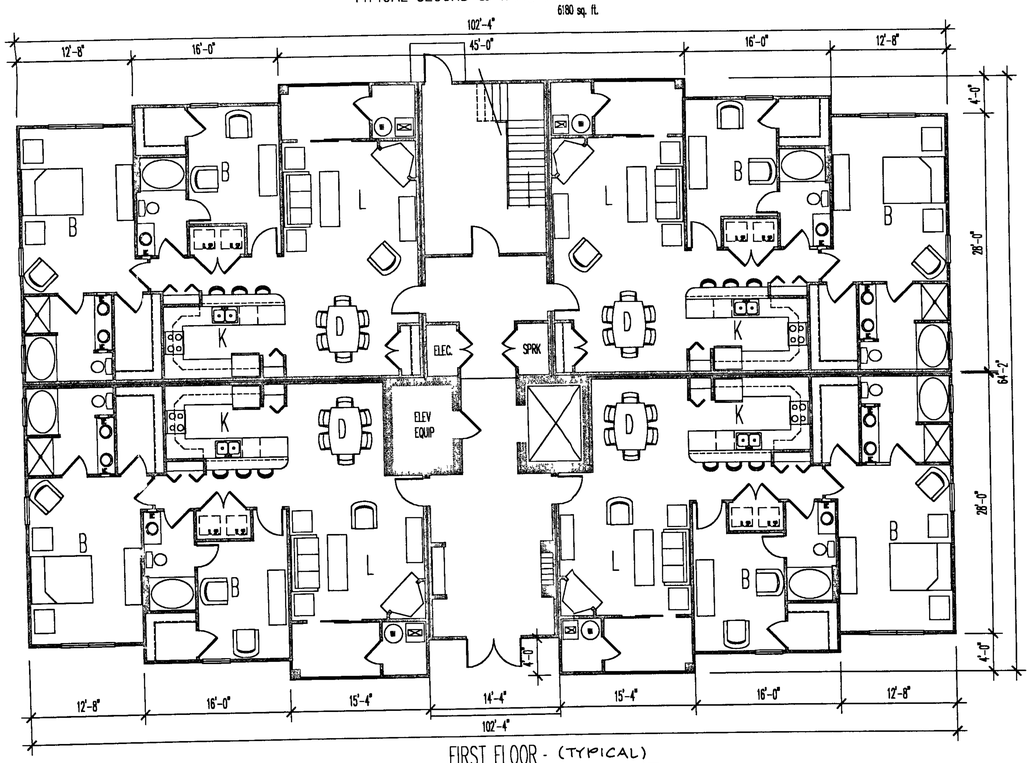
RIGHT SIDE ELEVATION
SCALE 1/8" = 1'
(TYPICAL)

B K L D S

LEGEND -
BEDROOM
KITCHEN
LIVINGROOM
DINING ROOM
STUDY



TYPICAL SECOND & THIRD FLOOR
6180 sq. ft.



FIRST FLOOR - (TYPICAL)
6180 sq. ft.

FRONT ELEVATION
SCALE 1/8" = 1'
(TYPICAL)

DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

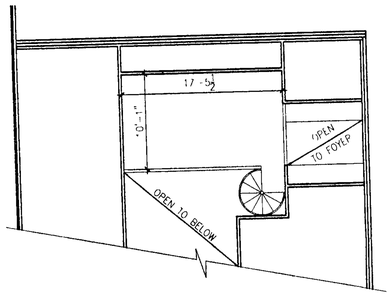
TOLLGATE ROAD
ALTERNATE 'A'

ELECTION DIST No 4
SCALE AS SHOWN

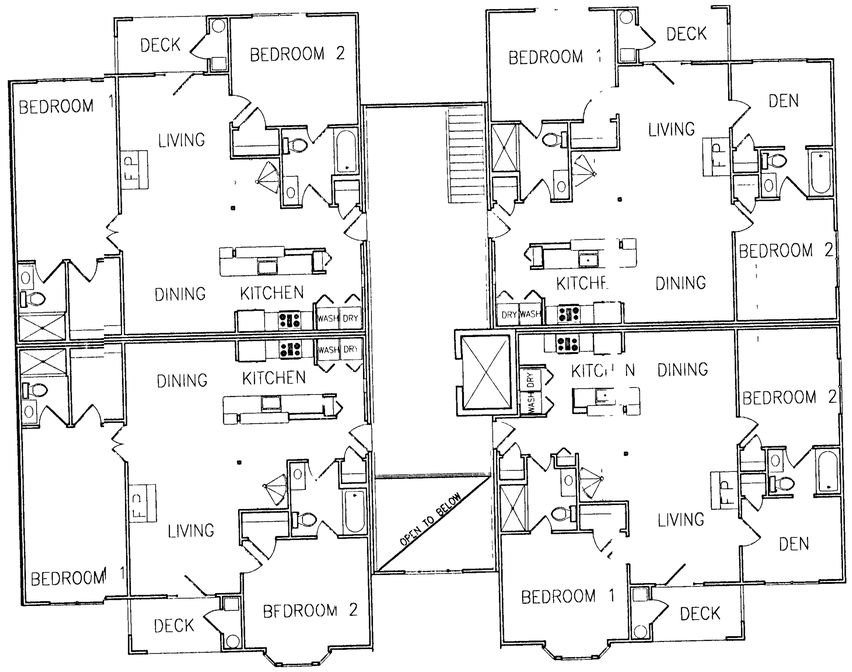
BALTIMORE CO, MD
DATE 7/20/01
SHEET 2 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

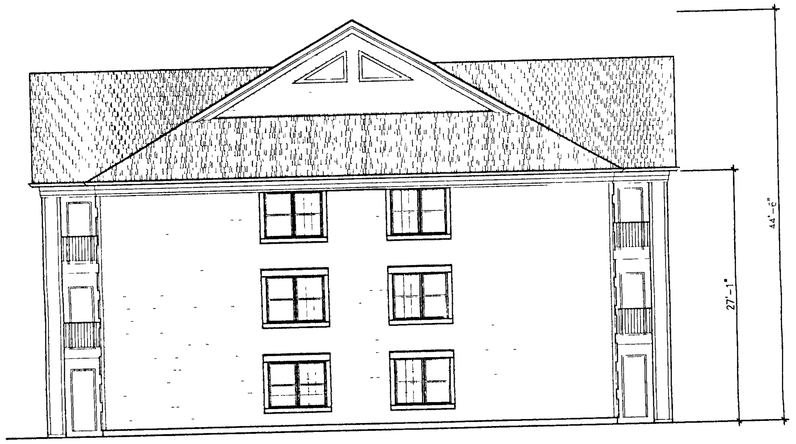
STATE OF MARYLAND
WILLIAM DUVALL CHAPMAN
No. 12908
REGISTERED
PROFESSIONAL ENGINEER



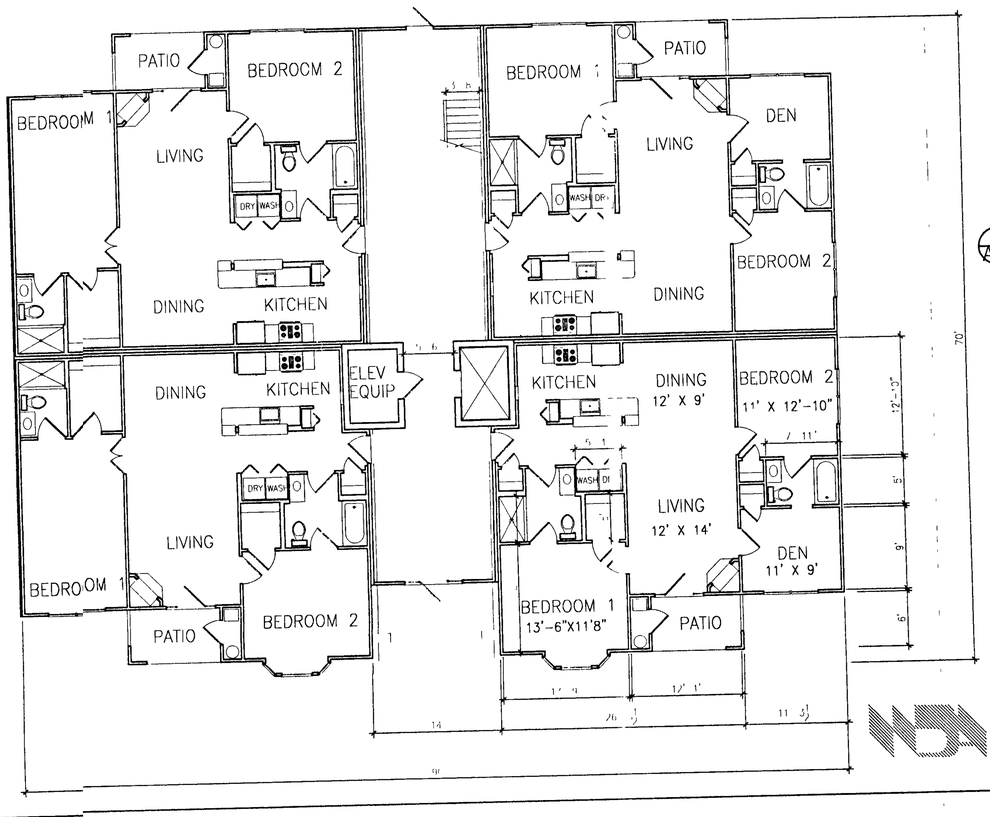
3 A1 LOFT FLOOR PLAN (TYPICAL)
SCALE 1/8"=1'



2 A1 3RD FLOOR PLAN (TYP.)
SCALE 1/8"=1'
5,250 SF



4 A1 SIDE ELEVATION
SCALE 1/8"=1'



1 A1 1ST & 2ND FLOOR PLAN
SCALE 1/8"=1'
5,375 S.F.
(TYPICAL)

5 A1 FRONT ELEVATION
SCALE 1/8"=1'

STATE OF MARYLAND
REGISTERED
PROFESSIONAL ENGINEER
No. 12906

DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

TOLLGATE ROAD
ALTERNATE 'B'

ELECTION DIST No 4
SCALE AS SHOWN

BALTIMORE CO., MD
DATE 8/7/01
SHEET 3 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1511

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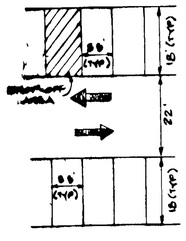
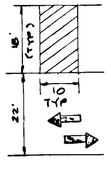
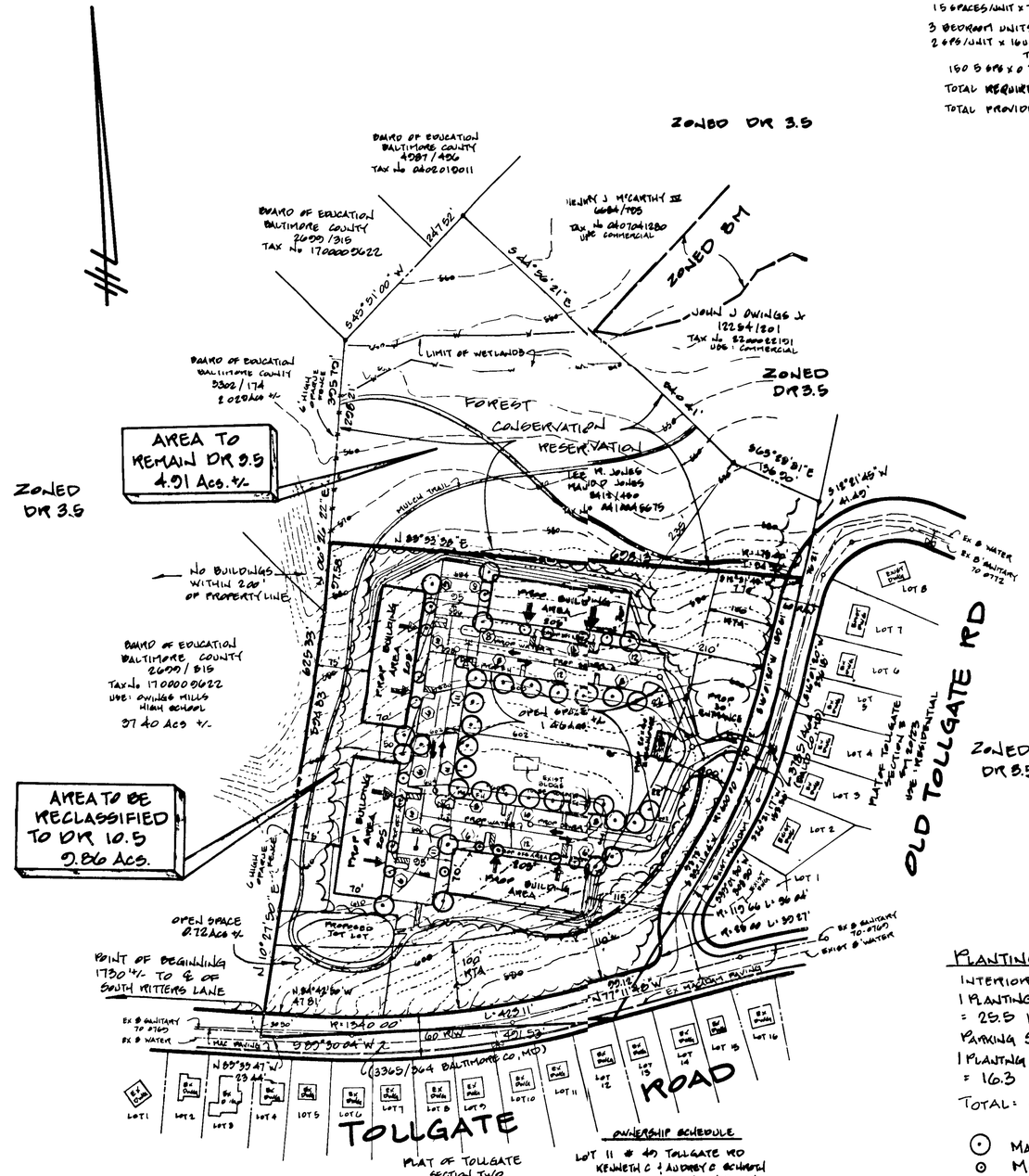
TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA DETAIL
NOT TO SCALE





PLAT OF TOLLGATE SECTION TWO PLAT 10/131 USE RESIDENTIAL

OWNERSHIP SCHEDULE

LOT 11 # 49 TOLLGATE RD
KENNETH C & AUDREY C SCHMITH
3155/802 TAX № 0410000880

LOT 12 # 47 TOLLGATE RD
DALIANO CASTREJON &
MARCOS A BANDOVAL JR
13006/168 TAX № 0402058010

LOT 13 # 45 TOLLGATE RD
JAMES H & PATRICIA C WILDERSON
8755/586 TAX № 0401056801

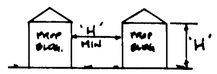
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 79
1.5 SPACES/UNIT x 79 UNITS = 118.5 SPS
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15
TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

PARKING REQUIRED - ALTERNATE 'A'

1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (2BR OR LESS)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES
TOTAL REQUIRED = 186 SPACES
TOTAL PROVIDED 196 SPACES



MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

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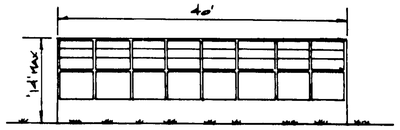
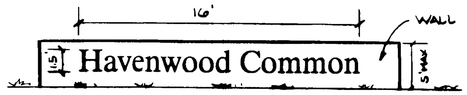
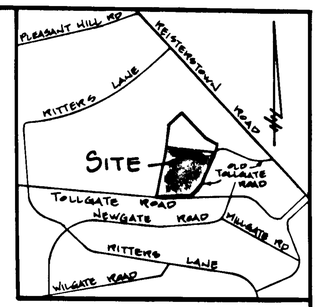


ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES
1. SIGN NOT TO EXCEED 65 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN TO BE DOUBLE-SIDED



VICINITY MAP
SCALE: 1" = 5000'

SITE DATA

SITE AREA	9.86 ACS
DEED REFERENCE	8412 / 450
TAX ACCOUNT №	04 1006675
COUNCILMANIC DIST	3
EXISTING ZONING	MAP NW 18-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS (ALT 'A' (1 BEDROOM & 2 BEDROOM), ALT 'B' (1, 2 AND 3 BEDROOM))

OPEN SPACE
REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 ACS.
PROVIDED 95,000 SF OR 2.18 ACS

PLANTING CALCULATIONS

INTERIOR ROAD: 510 L.F.
1 PLANTING UNIT / 20 L.F. INTERIOR ROADWAY
= 25.5 PLANTING UNITS
PARKING SPACES: 196
1 PLANTING UNIT / 12 PARKING SPACES
= 16.3 PLANTING UNITS
TOTAL: 42 PLANTING UNITS

⊙ MAJOR TREE: 1 PLANTING UNIT
⊙ MINOR TREE: ½ PLANTING UNIT

OWNER

LEE M. JONES
MAUD D JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

PLANTING CONCEPT ONLY

DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT № 3
ELECTION DISTRICT № 4 — BALTIMORE CO., MD
SCALE 1" = 100' — DATE JUNE 26, 2001
REV: AUG 3, 2001 FOR FILING COMP
SHEET 4 OF 4
REV 8/8/01 PER ZONING OFFICE COMMENTS

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

STATE OF MARYLAND PROFESSIONAL ENGINEER

00120

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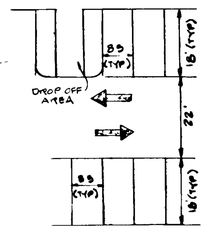
15. LOCATION OF WALKWAYS, BENCHES, LIGHTING AND OTHER AMENITIES PROVIDED WITHIN THE ACTIVE OPEN SPACE TO BE DETERMINED
16. THE PLANNED UNITS WILL BE AGE RESTRICTED (MINIMUM AGE 55 YEARS.)
17. BEFORE FINAL DESIGN, SPECIMEN TREES WILL BE LOCATED ALL RESOURCES AVAILABLE TO SAVE SUCH TREES WILL BE IMPLEMENTED
18. ALL UNITS ARE FOR SALE OR RENT

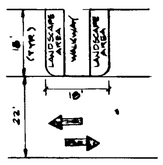
NOTE. EACH BUILDING (2 BUILDING LAYOUTS PLACED SIDE BY SIDE) WILL BE 3 STYS, AND CONTAIN 24 UNITS.
* THERE WILL BE A TOTAL OF 96 UNITS WITH 1 UNIT (LOCATION TO BE DETERMINED) TO BE RESERVED FOR A COMMUNITY AREA

NOTE THE PROPOSED BUILDING AREA AS SHOWN ACCOMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS, SHTS 2 & 3 OF 4 THE BUILDING AREA REPRESENTS 2 IDENTICAL BUILDING LAYOUTS PLACED SIDE BY SIDE TO FORM ONE BUILDING.

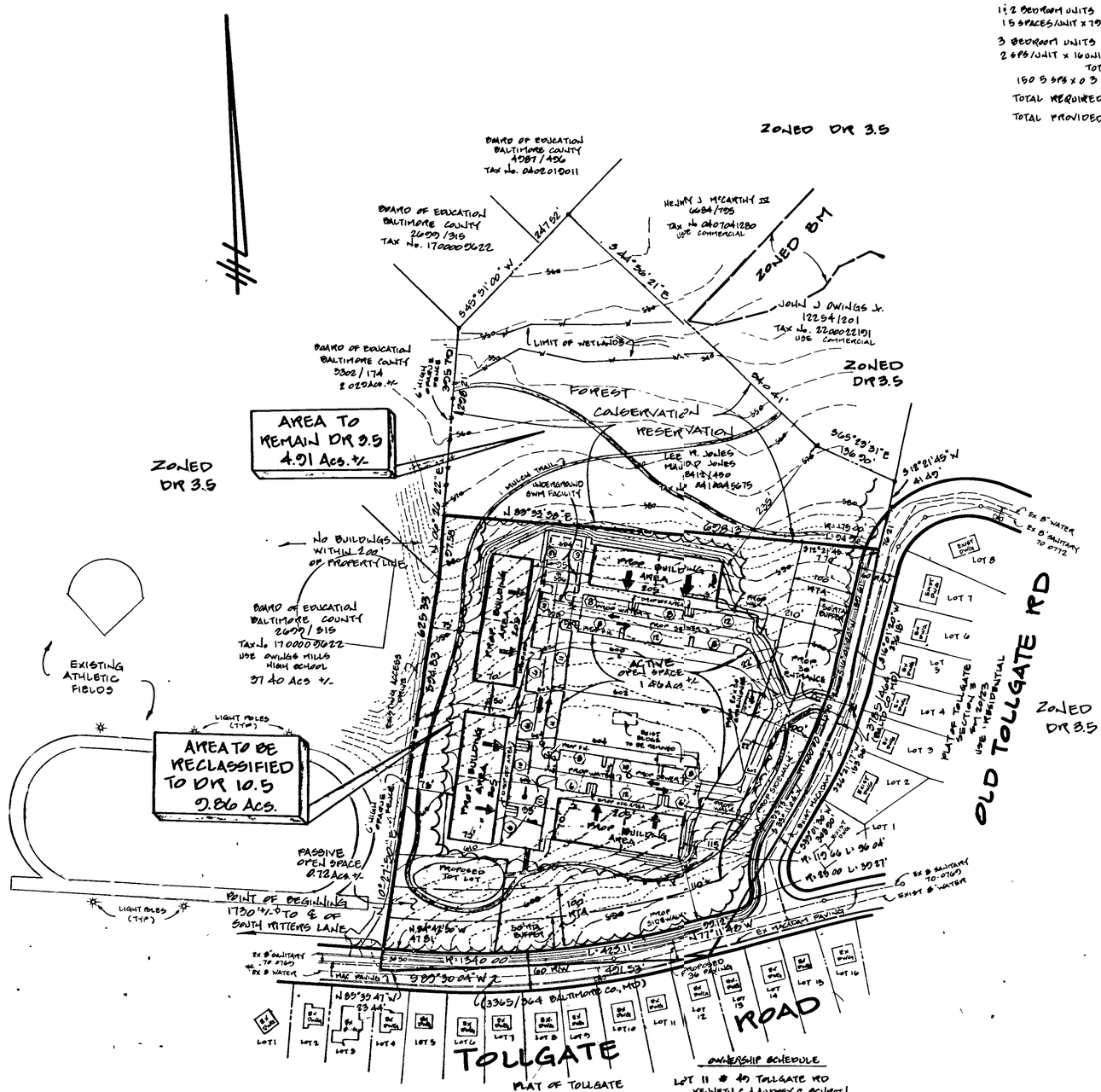
TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA - DETAIL
NOT TO SCALE



* DROP-OFF AREAS TO BE LOCATED AT BUILDING ENTRANCES



OWNERSHIP SCHEDULE

LOT 11 # 49 TOLLGATE RD
KENNETH C & AUDREY C SCHROTH
3185/202 TAX No. 0419006180

LOT 12 # 47 TOLLGATE RD
ONLACIANO CASTREJON &
MARCOS A SANDOVAL JR
13686/168 TAX No. 0402058010

LOT 13 # 45 TOLLGATE RD
JAMES H & PATRICIAC WILDERSON
8755/586 TAX No. 0401056301

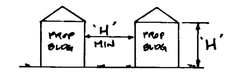
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 70
1.5 SPACES/UNIT x 79 UNITS = 118.5 SPS.
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15
TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

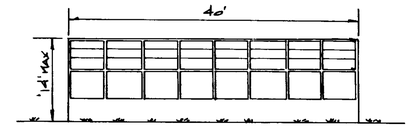
PARKING REQUIRED - ALTERNATE 'A'

1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (20% OR LESS)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES
TOTAL REQUIRED = 186 SPACES
TOTAL PROVIDED 196 SPACES

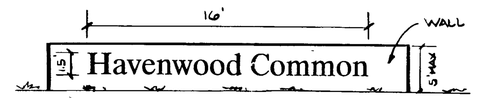


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS THE MINIMUM DISTANCE SHOWN ON THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

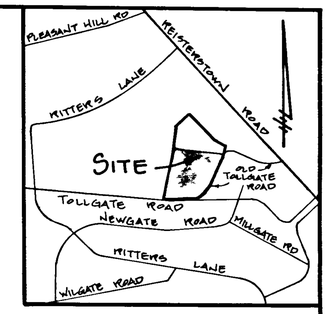


ELEVATION
20'x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES:
1. SIGN NOT TO EXCEED 25 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN IS ONE-SIDED



VICINITY MAP
SCALE: 1" = 5,000'

SITE DATA

SITE AREA	9.86 Acs
DEED REFERENCE	8412/450
TAX ACCOUNT No	04 1004675
COUNCILMANIC DIST	3
EXISTING ZONING	MAP NW12-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS
ALT. 'A' (1 BEDROOM & 2 BEDROOM)
ALT 'B' (1, 2 AND 3 BEDROOM)

OPEN SPACE REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 Acs

PROVIDED 95,000 SF OR 2.18 Acs

OWNER

LEE M. JONES
MAUD D. JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

W. DUVALL & ASSOCIATES, INC.
ENGINEERS . SURVEYORS . LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL. (410) 583-9571
FAX (410) 583-1513

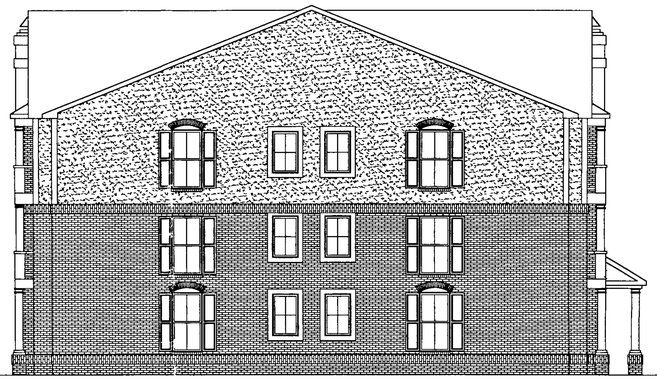
STATE OF MARYLAND REGISTERED PROFESSIONAL ENGINEER

AMENDED
DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT No 3
ELECTION DISTRICT No 4 — BALTIMORE CO, MD
SCALE 1" = 100' — DATE: JUNE 26, 2001
REV: AUG 3, 2001 PER PLANNING COMP
REV 10/4/01 PER OFFICE OF PLANNING COMMENTS
REV 8/8/01 PER ZONING OFFICE COMMENTS
SHEET 1 OF 4

00120

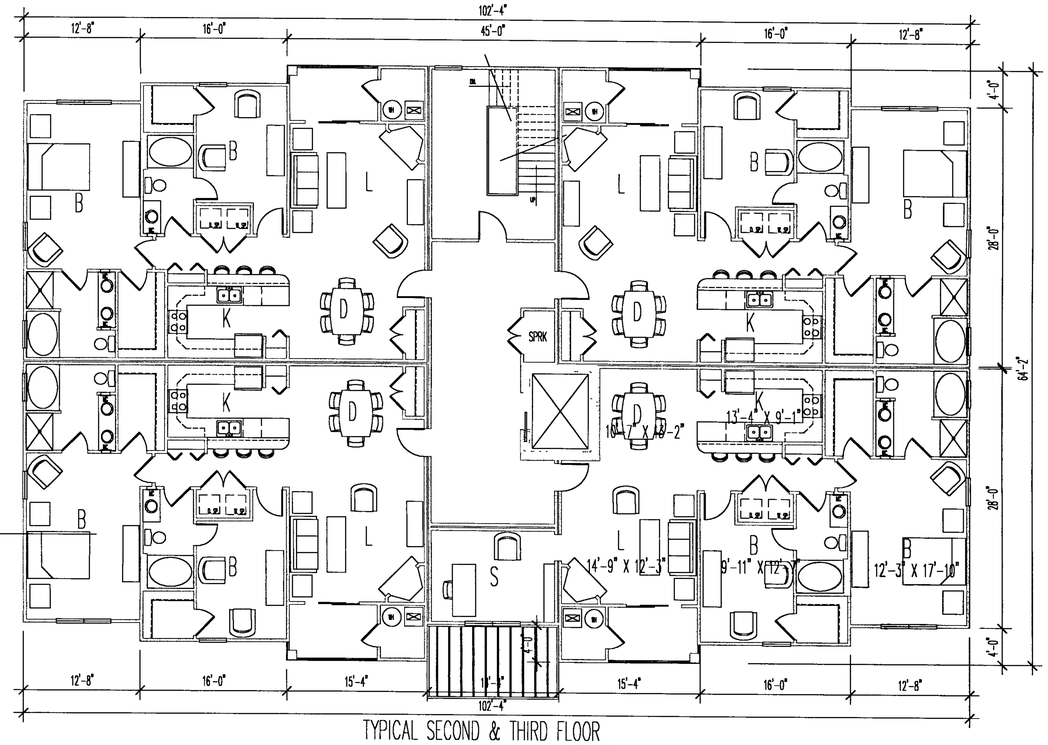


RIGHT SIDE ELEVATION
SCALE 1/8" = 1'
(TYPICAL)

NOTE : EACH BUILDING WILL COMPOSE OF 2 IDENTICAL BUILDING LAYOUTS PLACED SIDE BY SIDE TO FORM ONE 3 STORY, 24 UNIT BUILDING

B K L D S

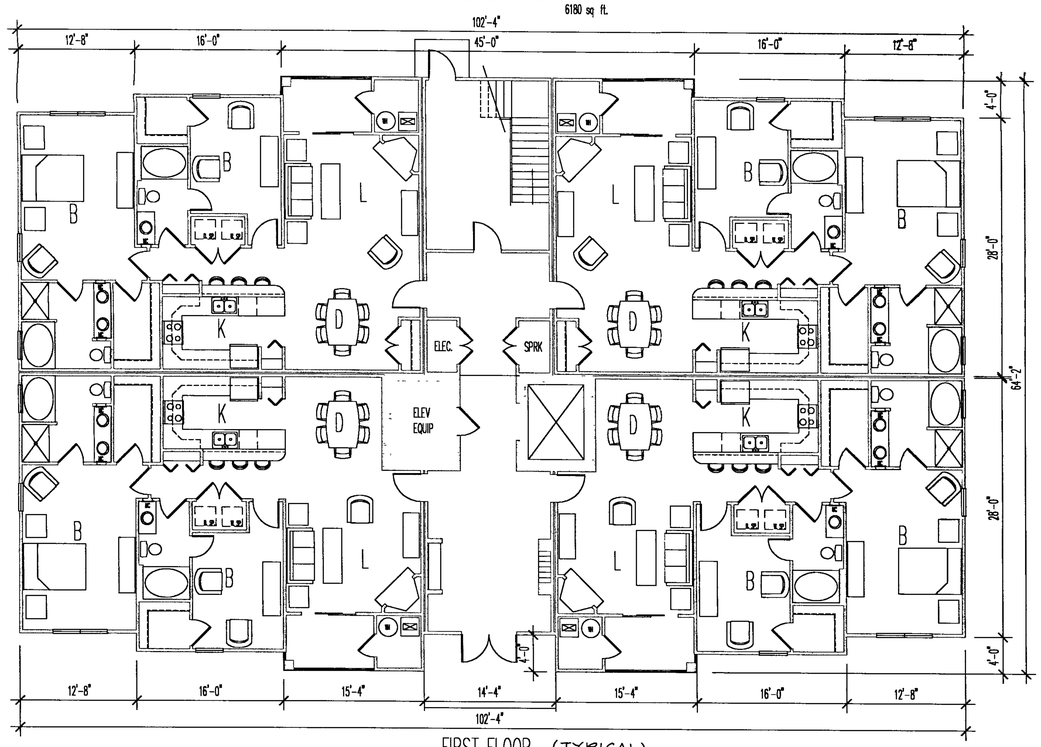
LEGEND
BEDROOM
KITCHEN
LIVINGROOM
DINING ROOM
STUDY



TYPICAL SECOND & THIRD FLOOR
6180 sq ft.

BUILDING LAYOUT	MIRROR IMAGE OF BUILDING LAYOUT
102'-4"	102'-4"

FRONT ELEVATION
SCALE 1/8" = 1'
(TYPICAL)



FIRST FLOOR - (TYPICAL)
6180 sq ft.

AMENDED
DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

TOLLGATE ROAD
ALTERNATE 'A'

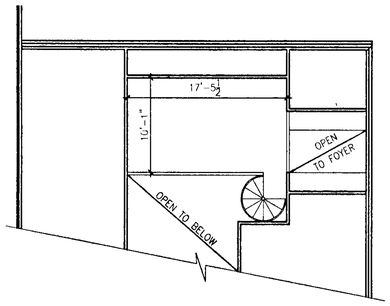
ELECTION DIST No 4
SCALE AS SHOWN
REV 10/4/01 PER PLANNING OFFICE COMMENTS

BALTIMORE CO, MD
DATE 7/20/01
SHEET 2 OF 4

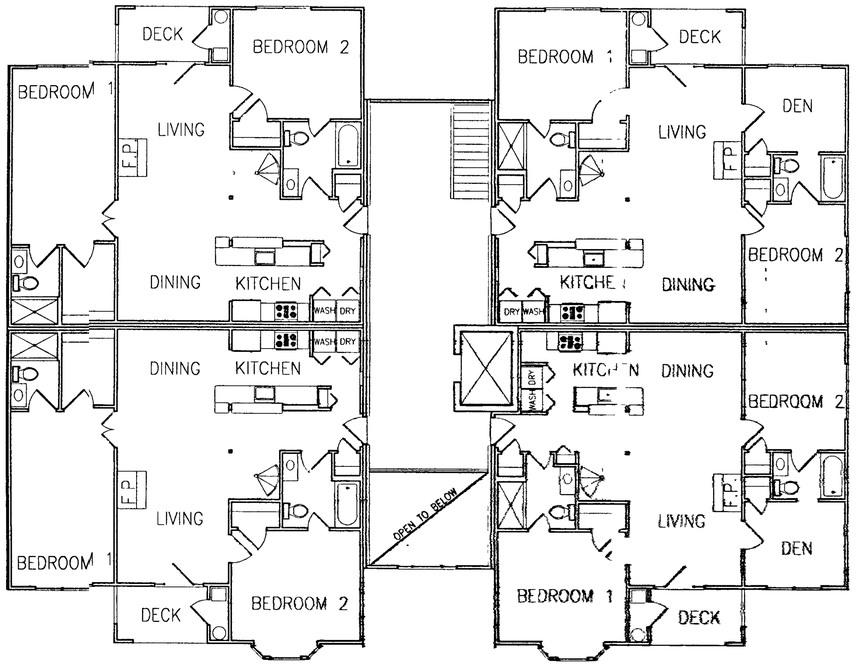
W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL. (410) 583-9571
FAX (410) 583-1513

STATE OF MARYLAND
WILLIAM DUVALL
No. 12908
REGISTERED PROFESSIONAL ENGINEER

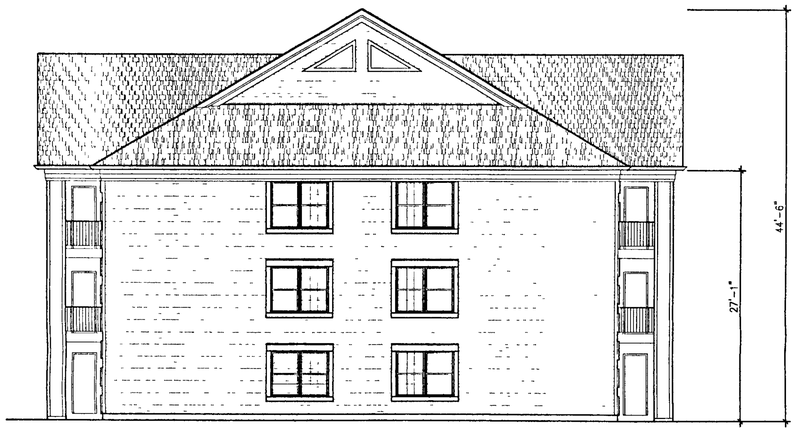
00129



3/A1 LOFT FLOOR PLAN (TYPICAL)
SCALE 1/8"=1'

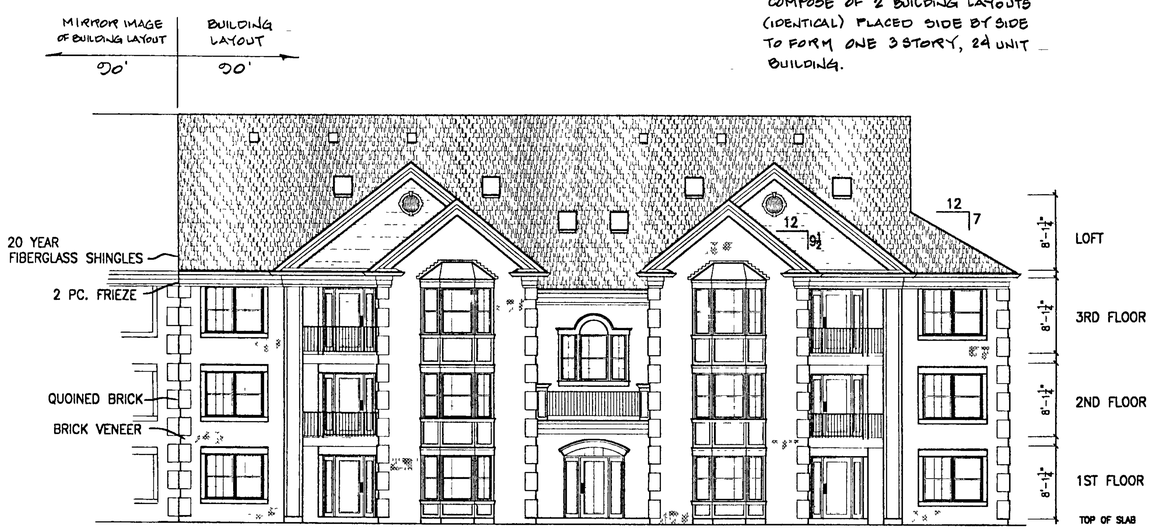


2/A1 3RD FLOOR PLAN (TYP.)
SCALE 1/8"=1' 5,250 S.F.

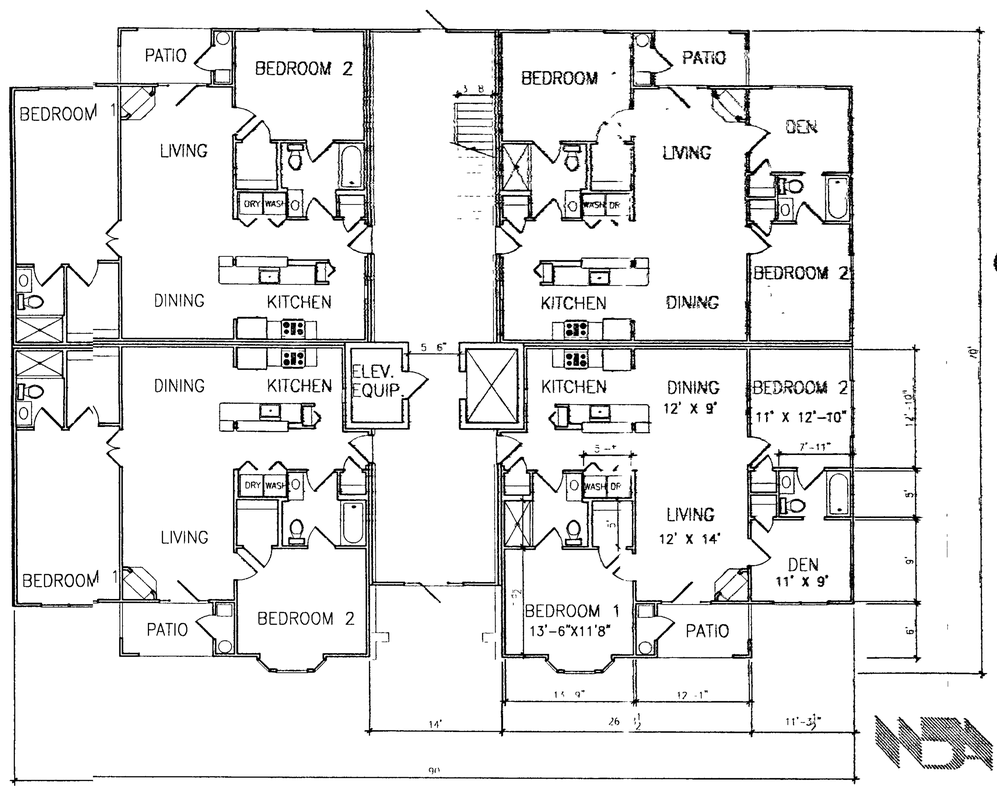


4/A1 SIDE ELEVATION
SCALE 1/8"=1'

NOTE: EACH BUILDING WILL BE COMPOSE OF 2 BUILDING LAYOUTS (IDENTICAL) PLACED SIDE BY SIDE TO FORM ONE 3 STORY, 24 UNIT BUILDING.



5/A1 FRONT ELEVATION
SCALE 1/8"=1'



1/A1 1ST & 2ND FLOOR PLAN
SCALE 1/8"=1' 5,375 S.F.
(TYPICAL)

AMENDED
DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'B'

REV. 10/4/01 PER OFFICE OF PLANNING COMMENTS
ELECTION DIST No 4
SCALE: AS SHOWN
BALTIMORE CO., MD
DATE 8/7/01
SHEET 3 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON MARYLAND 21286
TEL. (410) 583-9571
FAX (410) 583-1511

GENERAL NOTES

THE SUBJECT PROPERTY HAS NO ZONING CASE HISTORY.

ALL FUTURE SIGNS WILL BE IN COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS

THE SUBJECT PROPERTY HAS NO PREVIOUS COMMERCIAL PERMITS

THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA

THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN

THE SUBJECT PROPERTY DOES NOT LIE WITHIN A KNOWN MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF A BASIC SERVICES MAP CURRENTLY EXISTS PER SECTION 4A02 (BCZR)

ALL RIGHT-OF-WAYS SHOWN ON-SITE ARE PRIVATE

PAVING OF DRIVEWAYS AND PARKING SHALL BE A DURABLE AND DUSTFREE SURFACE AND WILL BE PERMANENTLY STRIPED.

THE SUBJECT PROPERTY IS IN COMPLIANCE WITH THE RESIDENTIAL TRANSITION AREA REGULATIONS

PROPOSED USE IS MULTI-FAMILY RESIDENTIAL USE ONLY HOURS OF OPERATION AND NUMBER OF EMPLOYEE REGULATIONS DO NOT APPLY

THE SUBJECT PROPERTY SHALL COMPLY WITH REGULATIONS REGARDING MAXIMUM LEVELS OF EMANATIONS (INCLUDING SOUND AND OTHER VIBRATIONS, DUST, ODORS, GASES, LIGHT AND HEAT

ANY PROPOSED BUILDINGS SHALL COMPLY WITH BUILDING CODES, AS WELL AS FIRE CODES, REQUIREMENTS WITH REGARD TO TYPE OF CONSTRUCTION, WINDOWS, ETC

STORM WATER MANAGEMENT WILL BE PROVIDED ON-SITE BY THE USE OF AN UNDERGROUND SWM FACILITY.

PARKING SPACES FOR THE HANDICAPPED SHALL BE IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED AS CONTAINED IN THE CODE OF MARYLAND REGULATIONS, SECTION 05 01 07

LOCATION OF WALKWAYS, BENCHES, LIGHTING AND OTHER AMENITIES PROVIDED WITHIN THE ACTIVE OPEN SPACE TO BE DETERMINED.

THE PLANNED UNITS WILL BE AGE RESTRICTED (MINIMUM AGE 55 YEARS.)

BEFORE FINAL DESIGN, SPECIMEN TREES WILL BE LOCATED ALL RESOURCES AVAILABLE TO SAVE SUCH TREES WILL BE IMPLEMENTED

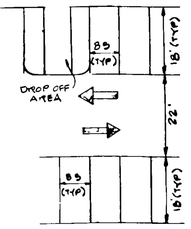
ALL UNITS ARE FOR SALE OR RENT

NOTE. EACH BUILDING (2 BUILDING LAYOUTS PLACED SIDE BY SIDE) WILL BE 3 STYS, AND CONTAIN 24 UNITS.

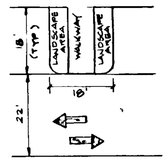
* THERE WILL BE A TOTAL OF 96 UNITS WITH 1 UNIT (LOCATION TO BE DETERMINED) TO BE RESERVED FOR A COMMUNITY AREA

NOTE THE PROPOSED BUILDING AREA AS SHOWN ACCOMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS. SHTS 2 & 3 OF 4 THE BUILDING AREA REPRESENTS 2 IDENTICAL BUILDING LAYOUTS PLACED SIDE BY SIDE TO FORM ONE BUILDING

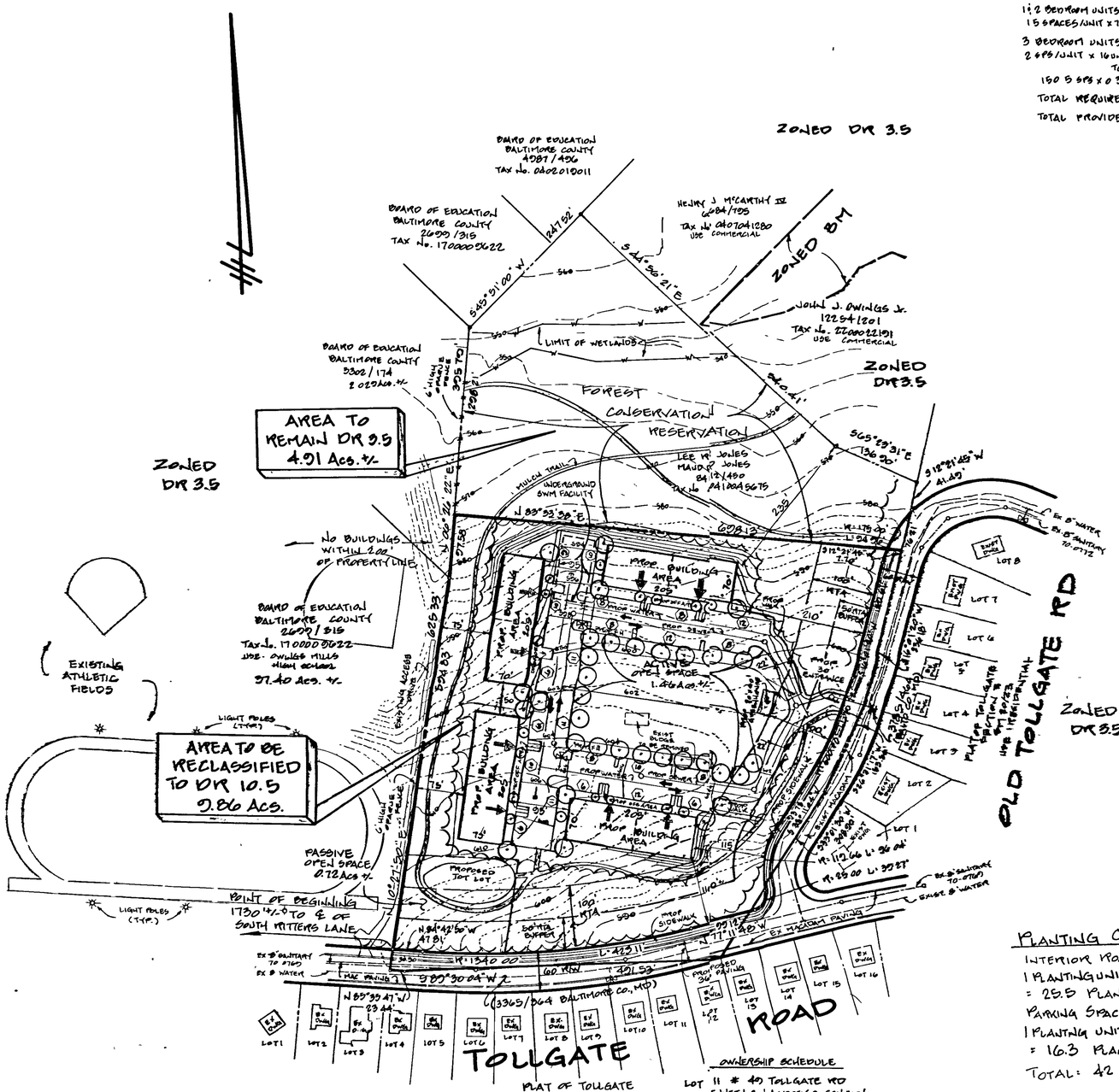
TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA - DETAIL
NOT TO SCALE



* DROP-OFF AREAS TO BE LOCATED AT BUILDING ENTRANCES



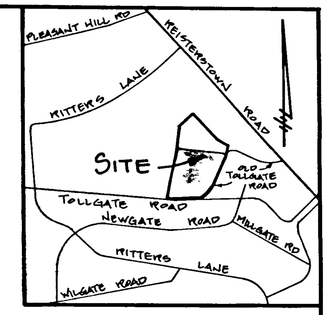
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

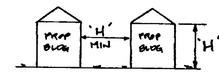
1 & 2 BEDROOM UNITS =	70
1.5 SPACES/UNIT x 70 UNITS =	118.5 SPS.
3 BEDROOM UNITS =	16
2 SPS/UNIT x 16 UNITS =	32.0 SPACES
TOTAL	150.5
150.5 SPS x 0.3 =	45.15
TOTAL REQUIRED =	196 SPACES
TOTAL PROVIDED =	196 SPACES

PARKING REQUIRED - ALTERNATE 'A'
1.5 SPACES PER UNIT

PROPOSED UNITS =	95 (20% OR LESS)
1.5 SPS/UNIT x 95 UNITS =	142.5 SPACES
142.5 SPS x 0.3 =	42.75 SPACES
TOTAL REQUIRED =	186 SPACES
TOTAL PROVIDED	196 SPACES



VICINITY MAP
SCALE: 1" = 1,000'

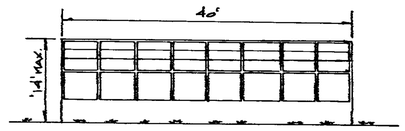


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

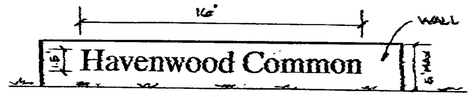
NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS THE MINIMUM DISTANCE SHOWN ON THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

SITE DATA

SITE AREA	9.86 ACS
DEED REFERENCE	8412/450
TAX ACCOUNT No.	04 1004 9675
COUNCILMANIC DIST.	3
EXISTING ZONING	MAP NW 12-I, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL



ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES:
1. SIGN NOT TO EXCEED 65 SQUARE FEET
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN IS NOT LIGHT-BOXED.

DENSITY CALCULATIONS

ALLOWED

DR 10.5 = 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS (ALT. 'A' (1 BEDROOM & 2 BEDROOM); ALT. 'B' (1, 2 AND 3 BEDROOM))

OPEN SPACE REQUIRED
95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 ACS

PROVIDED 95,000 SF OR 2.18 ACS.

PLANTING CALCULATIONS

INTERIOR ROAD: 510 L.F.
1 PLANTING UNIT / 20 L.F. INTERIOR ROADWAY
= 25.5 PLANTING UNITS
PARKING SPACES: 196
1 PLANTING UNIT / 12 PARKING SPACES
= 16.3 PLANTING UNITS
TOTAL: 42 PLANTING UNITS

⊙ MAJOR TREE = 1 PLANTING UNIT
⊙ MINOR TREE = 1/2 PLANTING UNIT

OWNER

LEE M. JONES
MAUD D. JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

PLANTING CONCEPT ONLY

AMENDED
DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT No 3
ELECTION DISTRICT No. 4 — BALTIMORE CO, MD
SCALE: 1" = 100' — DATE: JUNE 26, 2001
REV: AUG 3, 2001 PER PLANNING COMP.
REV 10/4/01 PER OFFICE OF PLANNING COMMENTS
REV 8/8/01 PER ZONING OFFICE COMMENTS
SHEET 4 OF 4

W. DUVALL & ASSOCIATES, INC.
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530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL. (410) 583-9571
FAX (410) 583-1513

00120

T-NW

T-SW

THIS MAP HAS BEEN REVISED IN SELECTED AREAS
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC BALTIMORE, MD 21210

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00 88-00 89-00, 90-00, 91-00, 92-00, 93-00,

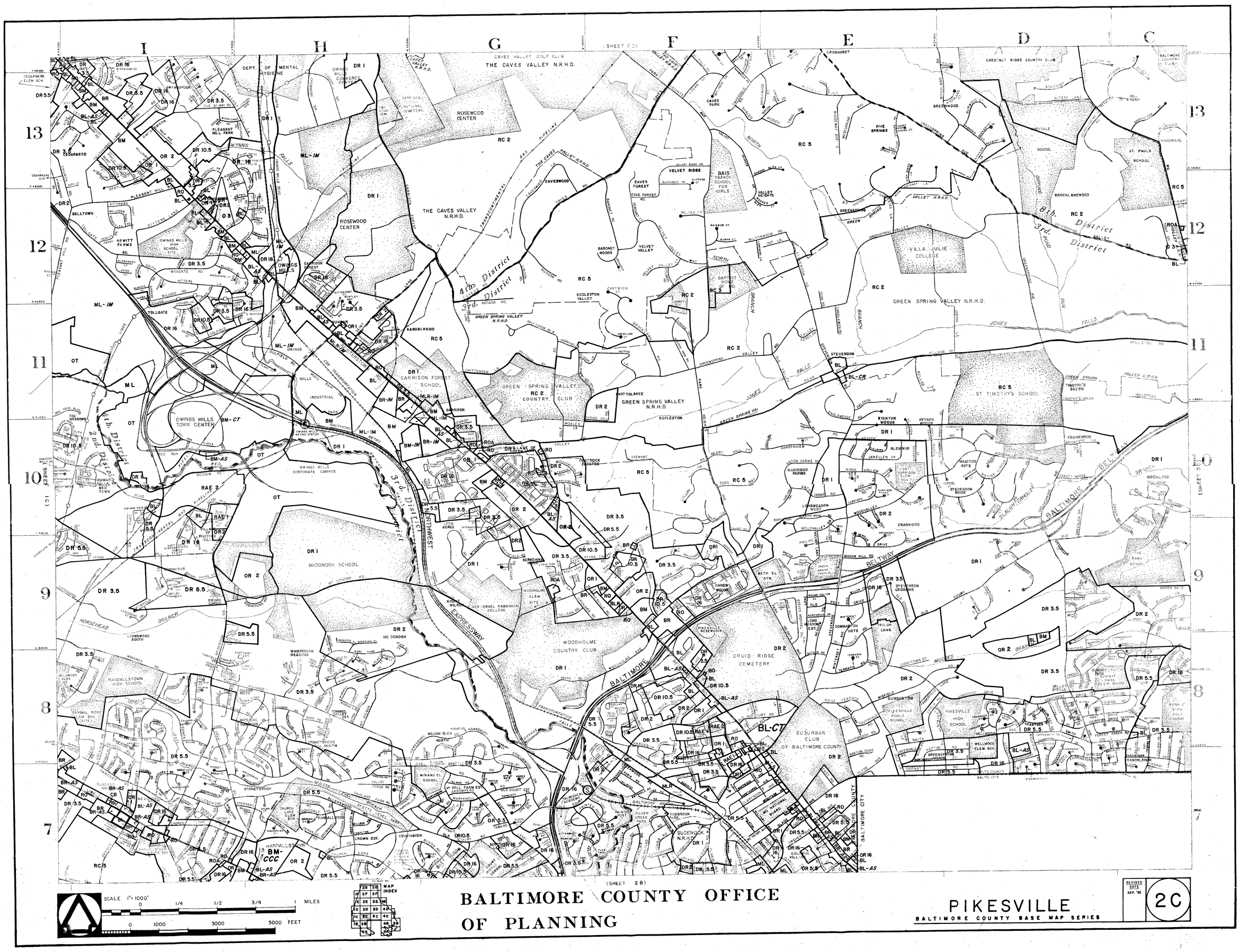
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BELLTOWN	N W 12-1
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 12 1

PC8


(SHEET 2D)
(SHEET 3C)
(SHEET 2B)
I H G F E D C
13 12 11 10 9 8 7
THE CAVES VALLEY N.R.H.D.
CAVES VALLEY GOLF CLUB
ROSEWOOD CENTER
DEPT. OF MENTAL HYGIENE
OWINGS MILLS COMMERCE CENTER
PLEASANT HILL PARK
CEDARMERE
BELLTOWN
HEWITT FARMS
OWINGS MILLS HIGH SCHOOL SITE
OWINGS MILLS
TOLLGATE
GARRISON FOREST
SANDALWOOD
GARRISON FOREST SCHOOL
OWINGS MILLS TOWN CENTER
OWINGS MILLS METRO STATION
OWINGS MILLS CORPORATE CAMPUS
McDONOGH SCHOOL
RANDALLSTOWN HIGH SCHOOL
RANDALLSTOWN
GREEN SPRING VALLEY COUNTRY CLUB
GREEN SPRING VALLEY N.R.H.D.
CHATOLANEE
CAVESWOOD
CAVES FOREST
VELVET RIDGE
BAIS YAAKOV SCHOOL FOR GIRLS
BARONET WOODS
VELVET VALLEY
ECCLESTON VALLEY
CAVES PARK
FIVE SPRINGS
GREENWOOD
CHESTNUT RIDGE COUNTRY CLUB
BALTIMORE COUNTRY CLUB
BROOKLANDWOOD
ST. PAUL'S SCHOOL
VILLA JULIE COLLEGE
BAPTIST HOME OF MD.
ST. TIMOTHY'S SCHOOL
TIMOTHY'S GREEN
STANTON WOODS
KEYSER WOODS
GLENMAR
HAYTON GATE
STEVENSON RIDGE
GARRISON FARMS
LOCHMEADOW WEST
CRANWOOD
BETH EL SYN.
STEVENSON CROSSING
DUMBARTON HGTS.
TIFILOH CONG.
WOODHOLME COUNTRY CLUB
DRUID RIDGE CEMETERY
PIKESVILLE RESERVOIR
SUBURBAN CLUB OF BALTIMORE COUNTY
PIKESVILLE HIGH SCHOOL
PIKESVILLE MIDDLE SCHOOL
WELLWOOD ELEM. SCH.
SUDBROOK N.R.H.D.
SILVER CREEK PARK
FLUDBROOK
COLONIAL VILLA
NOCKLAND
BRAMPTON
STONEYBROOK
WINAND EL. SCHOOL
COUNTHAVEN
CROWN EST.
BALTIMORE CITY
BALTIMORE COUNTY
BALTO. COUNTY
BALTO. CITY
BALTIMORE BELTWAY
NORTHWEST EXPRESSWAY
GREEN SPRING VALLEY N.R.H.D.
JONES FALLS
4th District
3rd District
2nd District
6th District
8th District
SCALE 1" = 1000'
0 1/4 1/2 3/4 1 MILES
0 1000 3000 5000 FEET
MAP INDEX
BALTIMORE COUNTY OFFICE OF PLANNING
PIKESVILLE
BALTIMORE COUNTY BASE MAP SERIES
REVISED DATE SEP. '95
2C

PC 9

SITE DATA

Existing Zoning and Maximum Density Permitted

Zone	Acres	Units Allowed	Units Proposed
Total			

SITE DEVELOPMENT PROPOSAL

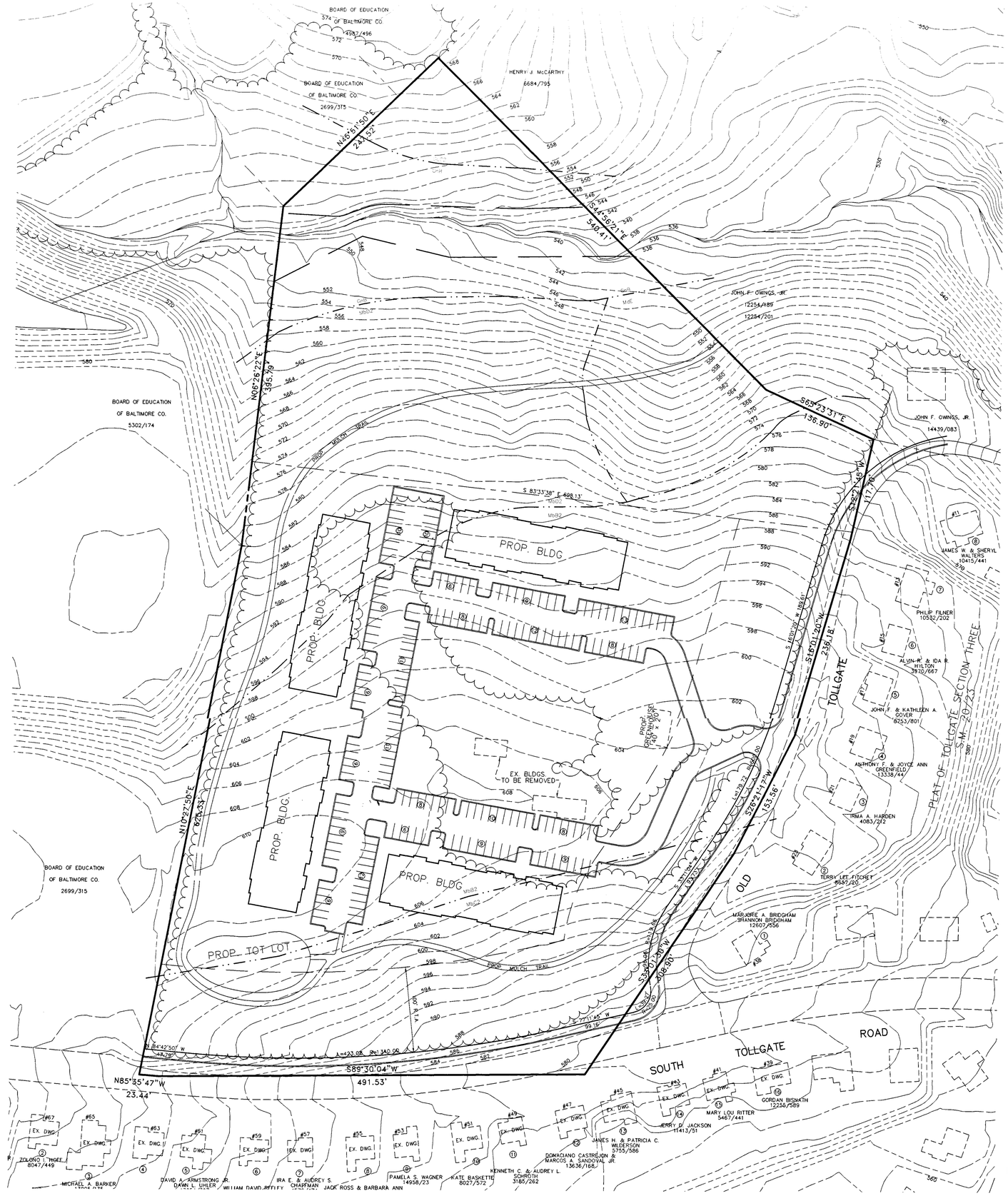
Dwelling Type	Proposed Units	Parking Required	Parking Proposed	Phase	Development Schedule
Total					

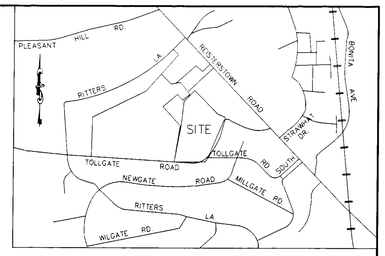
OPEN SPACE PROPOSAL

Open Space Type	Acres
Local Open Space	
Baltimore County Greenway/Easement	
Stormwater Management	
Total Provided	

ADDITIONAL INFORMATION

Anticipated Actions:
Variances
Waivers
Special Exceptions
Other
Consistency with design manuals



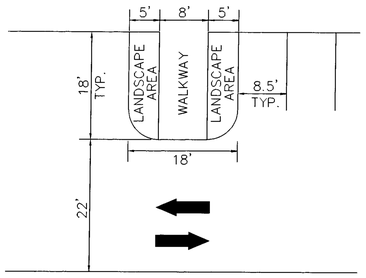


VICINITY MAP
1"=1000'

GENERAL NOTES

1. TOPOGRAPHY SHOWN ON SITE IS BASED ON BALTIMORE COUNTY GIS TILE 58a3
2. PROPERTY OUTLINE SHOWN IS TAKEN FROM DEED INFORMATION AND PLATS OF SURROUNDING PROPERTIES.
3. ENTIRE SITE IS ZONED DR 3.5.
4. SOIL LINE TAKEN FROM BALTIMORE COUNTY SOILS MAP NO. 27.
5. THERE ARE NO KNOWN ENDANGERED SPECIES HABITATS, ARCHEOLOGICAL OR HISTORICAL SITES OR CONTAMINATED AREAS ON THE SUBJECT PROPERTY.
6. THERE ARE NO KNOWN WELLS OR SEPTIC SYSTEMS ON SITE.
7. EXISTING LAND USE WITHIN 200' OF SITE IS SINGLE FAMILY RESIDENTIAL.
8. TOTAL AVERAGE DAILY TRIPS (A.D.T.'S) FOR THE SITE IS
9. FOREST CONSERVATION REQUIREMENTS WILL BE MET ON SITE.

TYPICAL PARKING & DROP-OFF AREA DETAIL
N.T.S.



DROP-OFF AREAS TO BE LOCATED AT BLDG. ENTRANCES

W. DUVALL & ASSOCIATES, INC.
ENGINEERS . SURVEYORS . LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
Phone: 410.583.9571
E-mail: wduvall@starpower.net

CONCEPT PLAN

JONES PROPERTY

COUNCILMANIC DISTRICT 3

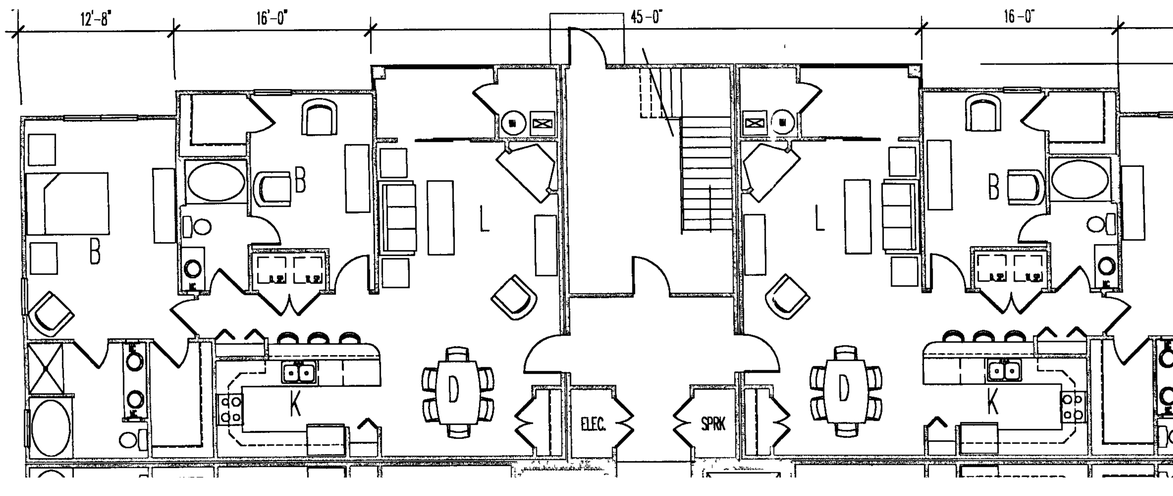
ELECTION DISTRICT 4
SCALE : 1"=50'

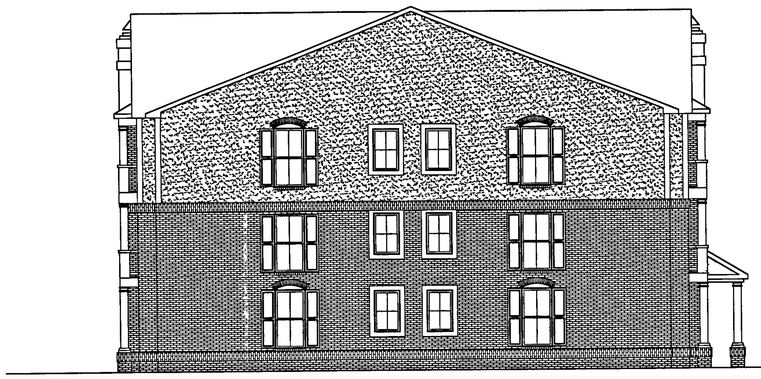
BALTIMORE COUNTY, MARYLAND
DATE : JANUARY 16, 2002

SHEET 1 OF 1

00129

BUILDING LAYOUT
MIRROR IMAGE OF BUILDING LAYOUT
102'-4"
102'-4"
TOP OF RIDGE

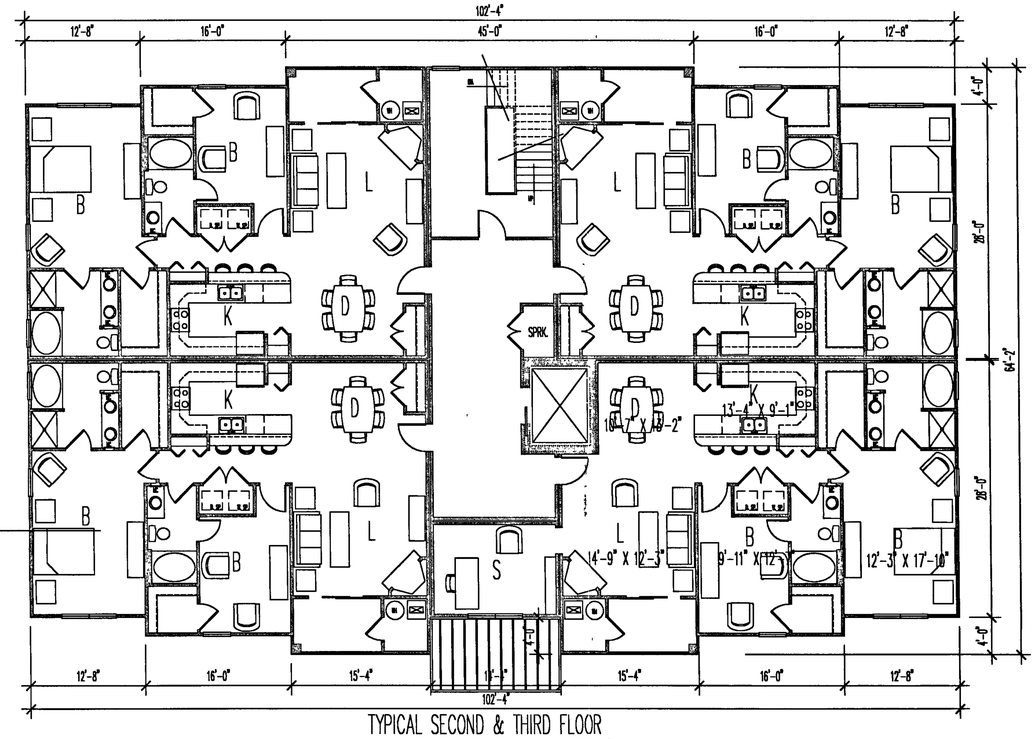

12'-8"
16'-0"
45'-0"
16'-0"
B
B
L
L
B
K
D
ELEC.
SPRK
D
K



RIGHT SIDE ELEVATION
SCALE: 1/8" = 1'
(TYPICAL)

NOTE: EACH BUILDING WILL COMPOSE OF 2 IDENTICAL BUILDING LAYOUTS PLACED SIDE BY SIDE TO FORM ONE 3 STORY, 24 UNIT BUILDING

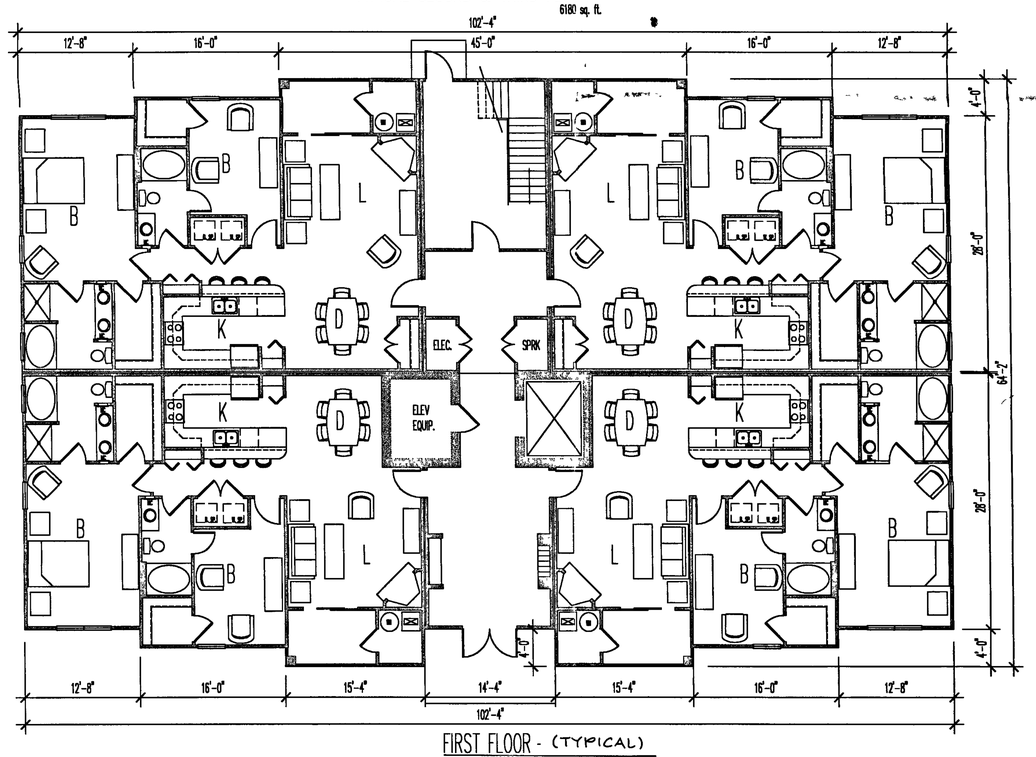
LEGEND
B BEDROOM
K KITCHEN
L LIVINGROOM
D DINING ROOM
S STUDY



TYPICAL SECOND & THIRD FLOOR
6180 sq. ft.

BUILDING LAYOUT	MIRROR IMAGE OF BUILDING LAYOUT
102'-4"	102'-4"

FRONT ELEVATION
SCALE 1/8" = 1'
(TYPICAL)



FIRST FLOOR - (TYPICAL)
6180 sq. ft.

AMENDED
DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY

TOLLGATE ROAD
ALTERNATE 'A'

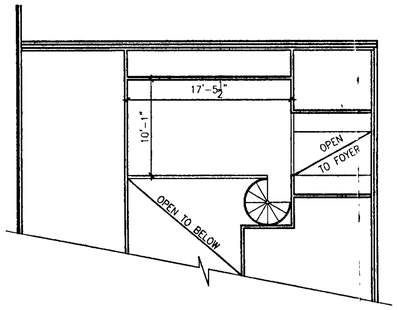
ELECTION DIST No 4
SCALE AS SHOWN
REV. 10/4/01 PER PLANNING OFFICE COMMENTS

BALTIMORE CO, MD
DATE 7/20/01
SHEET 2 OF 4

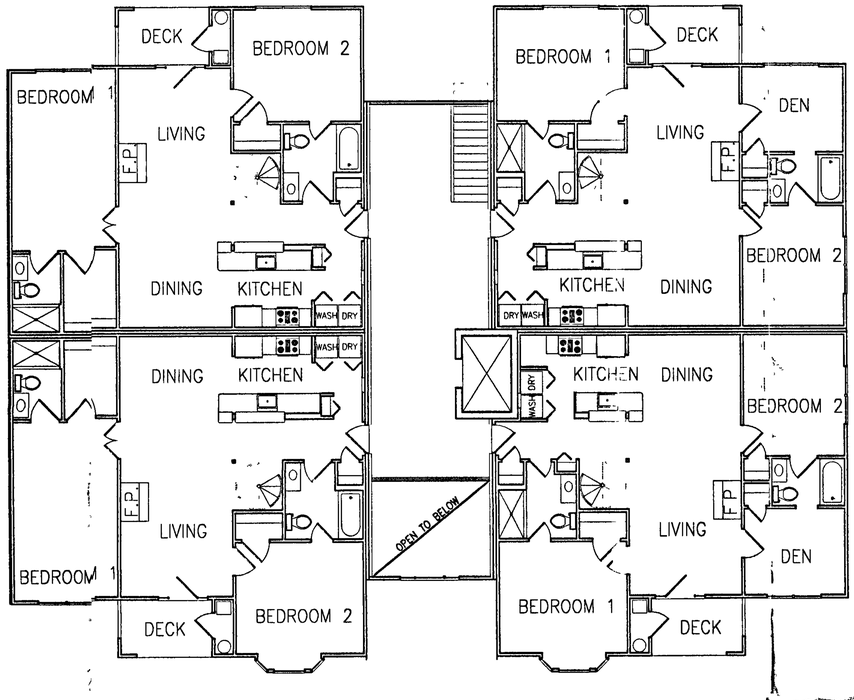
W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS . LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL. (410) 583-9571
FAX (410) 583-1513

STATE OF MARYLAND
PAUL A. DUVALL
No. 12908
REGISTERED PROFESSIONAL ENGINEER

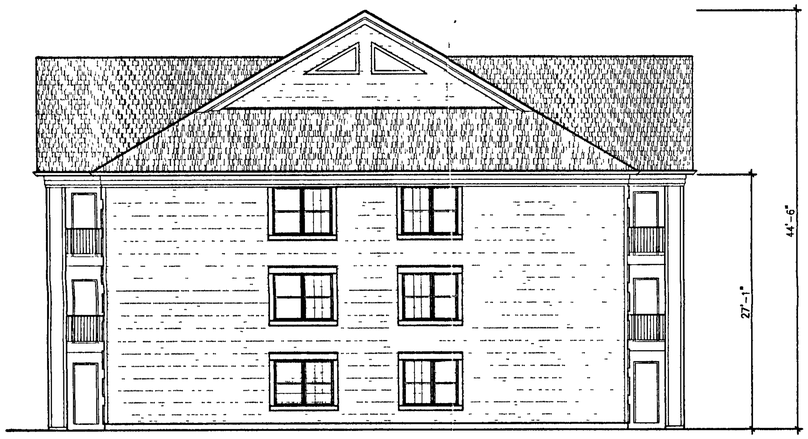
DOT
5



3/A1 LOFT FLOOR PLAN (TYPICAL)
SCALE 1/8"=1'

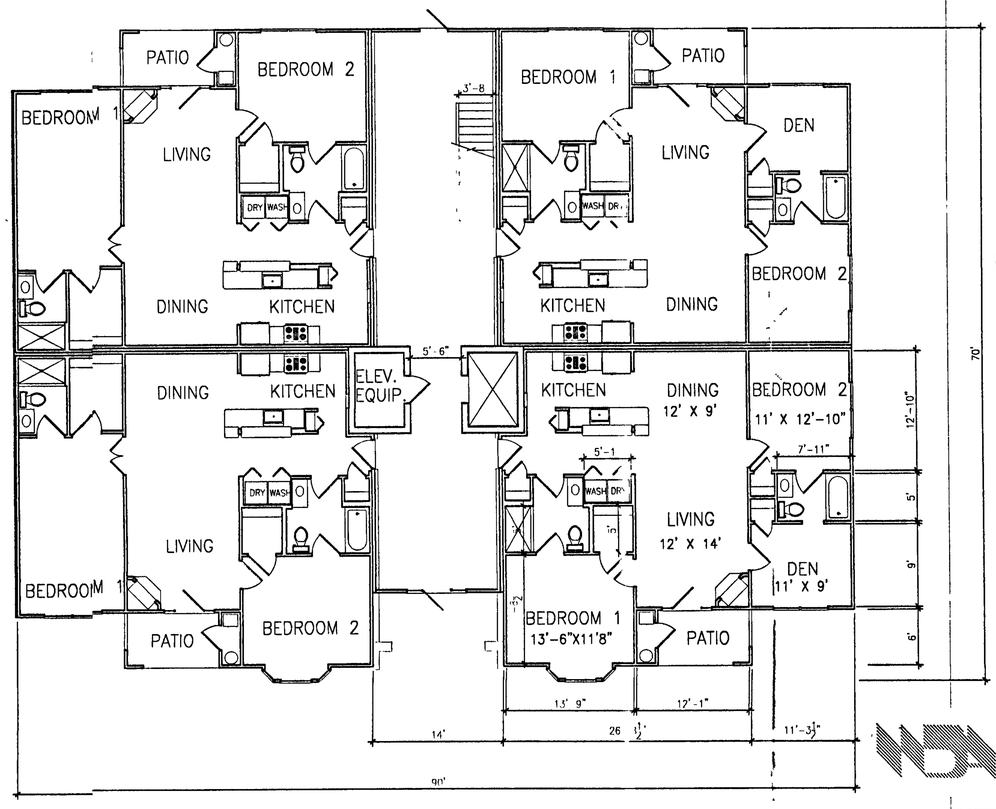


2/A1 3RD FLOOR PLAN (TYP.)
SCALE 1/8"=1' 5,250 S.F.



4/A1 SIDE ELEVATION
SCALE 1/8"=1'

NOTE: EACH BUILDING WILL BE COMPOSE OF 2 BUILDING LAYOUTS (IDENTICAL) PLACED SIDE BY SIDE TO FORM ONE 3 STORY, 24 UNIT BUILDING.



1/A1 1ST & 2ND FLOOR PLAN
SCALE 1/8"=1' 5,375 S.F.
(TYPICAL)

MIRROR IMAGE OF BUILDING LAYOUT	BUILDING LAYOUT
90'	90'

5/A1 FRONT ELEVATON
SCALE 1/8"=1'

STATE OF MARYLAND
REGISTERED PROFESSIONAL ENGINEER
No. 12906

AMENDED
DOCUMENTED PLAN TO ACCOMPANY
RECLASSIFICATION PETITION
ARCHITECTURAL PLAN

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'B'

REV. 10/4/01 PER OFFICE OF PLANNING COMMENTS
ELECTION DIST No 4 BALTIMORE CO., MD
SCALE AS SHOWN DATE: 8/7/01
SHEET 3 OF 4

W. DUVALL & ASSOCIATES, INC.
ENGINEERS SURVEYORS LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON MARYLAND 21286
TEL (410) 583-9571
FAX (410) 583-1513

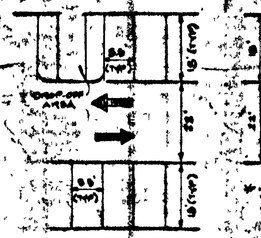
GENERAL NOTES

1. THE SUBJECT PROPERTY HAS NO ZONING CASE HISTORY.
2. ALL FUTURE SIGNS WILL BE IN COMPLIANCE WITH THE BALTIMORE COUNTY ZONING REGULATIONS
3. THE SUBJECT PROPERTY HAS NO PREVIOUS COMMERCIAL PERMITS.
4. THE SUBJECT PROPERTY IS NOT LOCATED IN THE CHESAPEAKE BAY CRITICAL AREA.
5. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A 100 YEAR FLOOD PLAIN.
6. THE SUBJECT PROPERTY DOES NOT LIE WITHIN A KNOWN MORATORIUM AREA OR IN AN AREA WHERE FAILURE OF A BASIC SERVICES MAP CURRENTLY EXISTS FOR SECTION 4.A02 (BCZR)
7. ALL RIGHT-OF-WAYS SHOWN ON-SITE ARE PRIVATE
8. PAVING OF DRIVEWAYS AND PARKING SHALL BE A DURABLE AND DUSTLESS SURFACE AND WILL BE PERMANENTLY STRIPED.
9. THE SUBJECT PROPERTY IS IN COMPLIANCE WITH THE RESIDENTIAL TRANSITIONAL AREA REGULATIONS.
10. PROPOSED USE IS MULTI-FAMILY RESIDENTIAL USE ONLY. HOURS OF OPERATION AND UNDER EMPLOYEE REGULATIONS DO NOT APPLY.
11. THE SUBJECT PROPERTY SHALL COMPLY WITH REGULATIONS REGARDING MAXIMUM LEVELS OF EMANATIONS (INCLUDING SOUND AND OTHER VIBRATIONS, DUST, SMOKE, GASES, LIGHT AND HEAT.
12. ANY PROPOSED BUILDINGS SHALL COMPLY WITH BUILDING CODES, AS WELL AS FIRE CODES, REQUIREMENTS WITH REGARD TO TYPE OF CONSTRUCTION, WINDOWS, ETC.
13. STORM WATER MANAGEMENT WILL BE PROVIDED ON-SITE BY THE USE OF AN UNDERGROUND SWM FACILITY.
14. PARKING SPACES FOR THE HANDICAPPED SHALL BE IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR THE HANDICAPPED AS CONTAINED IN THE CODE OF MARYLAND REGULATIONS, SECTION 05.01.07.
15. LOCATION OF WALKWAYS, BENCHES, LIGHTING AND OTHER AMENITIES PROVIDED WITHIN THE ACTIVE OPEN SPACE TO BE DETERMINED.
16. THE PLANNED UNITS WILL BE AGE RESTRICTED (MINIMUM AGE 55 YEARS.)
17. BEFORE FINAL DESIGN, SPECIMEN TREES WILL BE LOCATED. ALL RESOURCES AVAILABLE TO SAVE SUCH TREES WILL BE IMPLEMENTED.
18. ALL UNITS ARE FOR SALE OR RENT

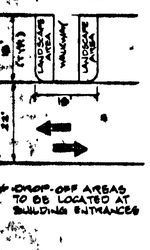
NOTE: EACH BUILDING (2 BUILDING LAYOUTS PLACED SIDE BY SIDE) WILL BE 2 STY'S, AND CONTAIN 24 UNITS.
* THERE WILL BE A TOTAL OF 96 UNITS WITH 1 UNIT (LOCATION TO BE DETERMINED) TO BE RESERVED FOR A COMMUNITY AREA

NOTE: THE PROPOSED BUILDING AREA AS SHOWN ACCOMMODATES BOTH ALTERNATE 'A' AND ALTERNATE 'B' BUILDING LAYOUTS. FOR SPECIFIC BUILDING DIMENSIONS REFER TO ARCHITECTURAL PLANS. SHEET 2 OF 4 THE BUILDING AREA REPRESENTS 2 IDENTICAL BUILDING LAYOUTS PLACED SIDE BY SIDE TO FORM ONE BUILDING.

TYPICAL PARKING DETAIL
NOT TO SCALE



DROP-OFF AREA DETAIL
NOT TO SCALE



* DROP-OFF AREAS TO BE LOCATED AT BUILDING ENTRANCES

W. DUVALL & ASSOCIATES, INC.
ENGINEERS . SURVEYORS . LAND PLANNERS
530 EAST JOPPA ROAD
TOWSON, MARYLAND 21286
TEL. (410) 583-9571
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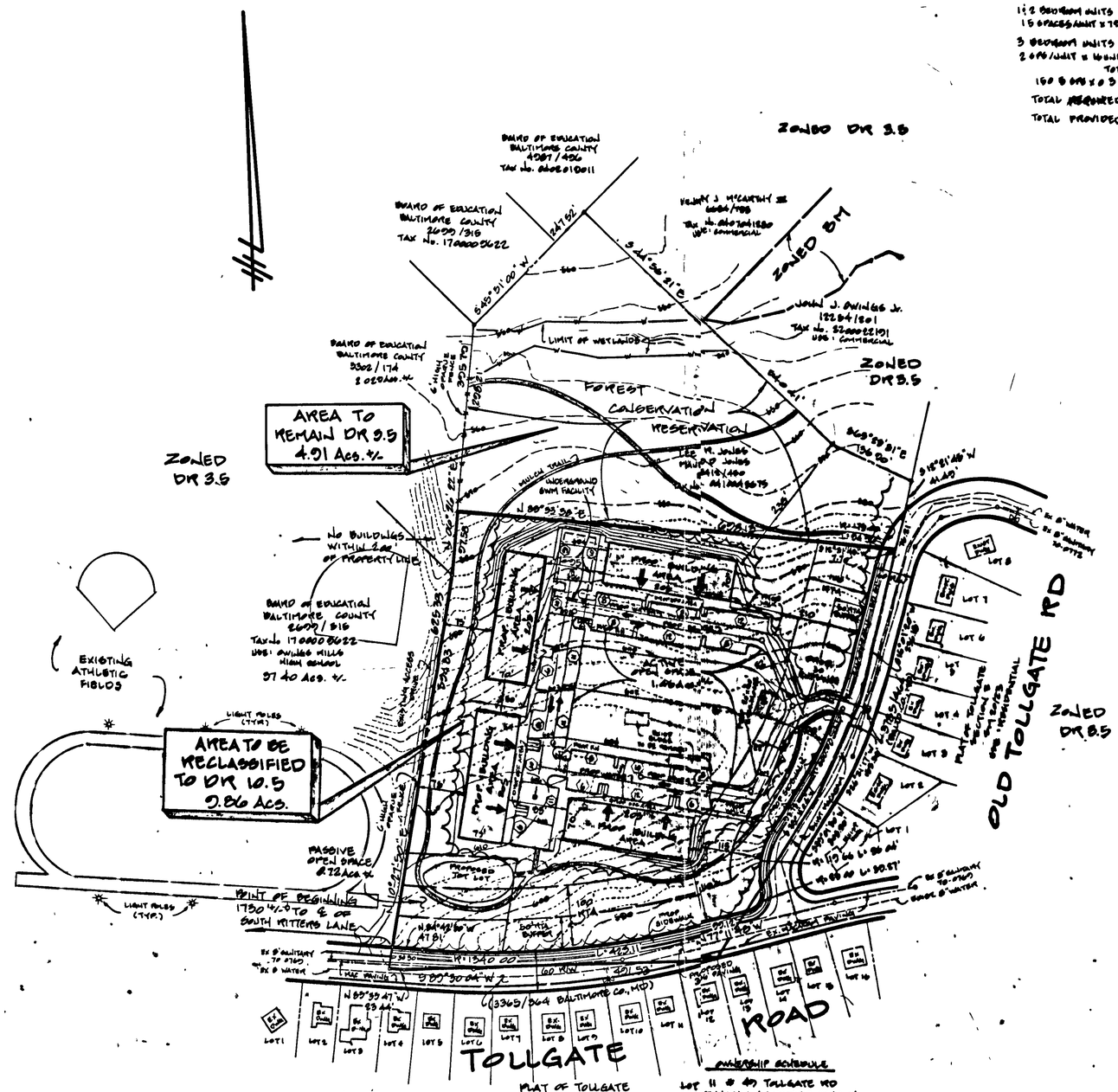
STATE OF MARYLAND REGISTERED PROFESSIONAL ENGINEER



OWNERSHIP SCHEDULE

LOT 11 # 49 TOLLGATE RD
KENNETH C. & AUDREY G. SCHWAB
3186/802 TAX No. 0402025080

LOT 12 # 47 TOLLGATE RD
WINGLAND CASTRESIAN & MARCUS A. SAUNDERS JR.
19000/160 TAX No. 0402025010

LOT 13 # 45 TOLLGATE RD
JAMES H. & PATRICIA C. WILDERSON
8755/386 TAX No. 0402025051

OWNER

LEE M. JONES
MAUD D. JONES
24 OLD TOLLGATE RD
OWINGS MILLS, MD
21117

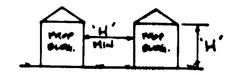
PARKING TABULATION

PARKING REQUIRED - ALTERNATE 'B'

1 & 2 BEDROOM UNITS = 70
1.5 SPACES/UNIT x 70 UNITS = 118.5 SPS.
3 BEDROOM UNITS = 16
2 SPS/UNIT x 16 UNITS = 32.0 SPACES
TOTAL 150.5
150.5 SPS x 0.3 = 45.15
TOTAL REQUIRED = 196 SPACES
TOTAL PROVIDED = 196 SPACES

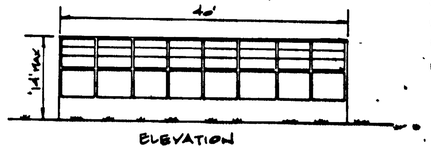
PARKING REQUIRED - ALTERNATE 'A'

1.5 SPACES PER UNIT
PROPOSED UNITS = 95 (2 BR or 1 BDRM)
1.5 SPS/UNIT x 95 UNITS = 142.5 SPACES
142.5 SPS x 0.3 = 42.75 SPACES
TOTAL REQUIRED = 185 SPACES
TOTAL PROVIDED 196 SPACES

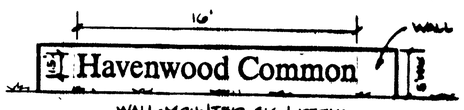


MINIMUM BUILDING SIDE TO SIDE SETBACK
NOT TO SCALE

NOTE: FOR SOFFIT HEIGHTS REFER TO ARCHITECTURAL DRAWINGS. THE MINIMUM DISTANCE SHOWN AS THE PLAN EXCEEDS THE REQUIREMENTS FOR BOTH ALTERNATES 'A' AND 'B'.

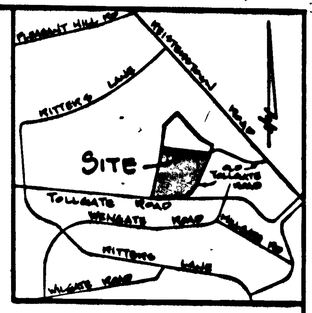


ELEVATION
20' x 40' GREENHOUSE
NOT TO SCALE



WALL-MOUNTED SIGN DETAIL
NOT TO SCALE

SIGN NOTES:
1. SIGN NOT TO EXCEED 36 SQUARE FEET.
2. SIGN TO BE ILLUMINATED BY SPOT LIGHTS LOCATED ON THE GROUND IN FRONT OF SIGN
3. SIGN TO BE ALL-SIDED



VICINITY MAP
SCALE: 1" = 1,000'

SITE DATA

SITE AREA	9.86 ACS
DEED REFERENCE	8412/450
TAX ACCOUNT No.	06. 1400406.70
COUNCILMANIC DIST.	3
EXISTING ZONING	RO AND DR 3.5, DR 3.5
PROPOSED ZONING	DR 10.5
PROPOSED USE	MULTI-FAMILY RESIDENTIAL

DENSITY CALCULATIONS

ALLOWED

DR 10.5 : 9.86 x 10.5 = 103 UNITS

PROPOSED

DR 10.5 — 95 UNITS (ALT. 'A' (1 BEDROOM & 2 BEDROOM); ALT. 'B' (1, 2 AND 3 BEDROOM))

OPEN SPACE REQUIRED

95 UNITS @ 1000 SF/UNIT = 95,000 SF OR 2.18 ACS.

PROVIDED 95,000 SF OR 2.18 ACS.

AMENDED
DOCUMENTED PLAN TO ACCOMPANY RECLASSIFICATION PETITION

JONES PROPERTY
TOLLGATE ROAD
ALTERNATE 'A' & 'B'

COUNCILMANIC DISTRICT No. 3
ELECTION DISTRICT No. 4 — BALTIMORE CO., MD
SCALE: 1" = 100'
DATE: JUNE 26, 2001
REV: AUG 2, 2001 PER PLANS COMP.
REV 10/4/01 PER COMMENTS OF PLANNING COMMENTS
REV 5/8/01 PER PARKING SPACE COMMENTS
SHEET 1 OF 4