IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

MAI TA No. 996 - Docket Misc. h/253

Under the authority of various Acts of the General Assembly, the County Commissioners in 1945 promulgated a comprehensive moning ordinance for Baltimore County. It established seven mones, four of varying residential classifications, one commercial and the other two industrial. With minor exceptions the third, fourth, fifth, sixth, seventh, eighth, tenth and eleventh election districts are zoned residential "A', that is cottago type, the most restricted classification.

The Parkhill Building Company comes 122 acres in the third district, lying generally south of Milford Will Road, approximately a mile from Pikos ville and adjoining Sudbrook Perk, an individual home development of long standing. This property was purchased by the fullding Company subsequent to the soning of the area. As Mr. William F. Chem in the sole owner of the company, the property will be referred to an bulerging to him. He filed an application with the Zoning Commissioner for a re-classification of this acreage from "A" residential to conservial, "B" residence, "C" residence and age residence. If approved this re-classification will persit the property to be developed first by a buffer group of cettages, then comi-detached homes, then spartments and group houses, with a chopping center, parking area, reads and other nacescary servicing facilities. Upon exceletion the development will contain approximately 1022 housing units, serving an estimated population of 3500 people. Er. Chow also come about 70 seres on the Milford Mill Road across from this property, which is now being developed for individual homes.

The Zoning Commissioner disapproved the re-classification because of his finding that the property was restricted against the proposed re-classi-

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fication uses, and as it was not available therefor even if the re-classification were granted, the application was pre-mature.

Upon appeal his action was reversed by a vote of two to one of the Board of Zoning Appeals, their order reciting merely:

"It appearing from the fasts and orderec address at the appeal hearing, that the puttion should have been greated as beratmitter provided, due to the fact that the greating of the same would not adversely affect educating encourage the being no well-in a present extension of health, safety, so community for the release of each posture of the community for the release of such postures.

The order then described the parcels by metes, bounds and acreage, and the permitted uses of each parcel. For example, the shopping center was described in that manner and designated "first parcel: chopping canter," Each of the other parcels was similarly described for its own particular use.

The re-classification was opposed by a number of residents in the affected area. In addition to Mr. Chew the other witnesses were Mr. Joseph D. Thompson, a Consulting Engineer, who testified as to the adequacy of the highways and midewalks; the Director of the Flanning Commission, who "testatively" approved the plans for the development, including the adequacy of the facilities; and six witnesses on behalf of the protestants. No testimony was presented by Mr. Chew to show the unadaptability of the property for use in its present classification. His testimony, was solely to the affect that multiple housing is badly needed in Ealtimore County for low we groups unable to afford individual homes, that this development is planned primarily for that purpose with all of the needs which such a development involves, simultaneously admitting the greater profit from the sale of the land, or the creation of ground rents thursdo, which would be thereby

On behalf of the protestants the evidence was that there is no need for the shopping center so far as the present community is concerned, that Sudbrook Park in an old line, valuable and substantial cottegs home community, the value of which would be substantially depreciated by the projected development, traffic on the main arteries would be tramendously

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increased, additional school facilities would be needed, that the property is equally available for cottage type development and that there has been no change in the conditions existing between the time of the "A" residential soming and the present. This testimony is undisputed.

The petition to review the approval of the Board of Zoning Appeals contains only the formal allegations that its action was invalid because

%c c \* \* is is an arbitrary and capticious act and a gross abuse of administrative discretion, that there is no evi-dence legally marticient to justify said orient, that the re-classification will not promote the health, safety, morals and general walfare, that it was note solaly for the benefit of millian P. Chew, that it was pre-cature became architations for building positis were not made price and price the same promise were not made price thereto and that a number of

This is the same form of every potition which has been filed in this court to review actions of the Board of Zoning Appeals. It will be considered as adequate for that purpose even though there is doubt as to its sufficiency, because the statute permitting such appeals requires that the petition for certifrari chall "specify the grounds of illegality." It can hardly be contended that such a petition mosts this requirement. However in view of prior approvals given to this form of procedure, it will be permitted in this instance.

The Court new however, directs attention to the fact that semething more than more formal conclusions should be stated in such petitions, that the facts which lead to these conclusions should at least be summarized. In the future, appeals in the present form may be held insufficient.

The case has been thoroughly presented. Elaborate and well considered briefs have been filed by the parties. In addition, the Hose Duildors Association of Maryland, Inc., was permitted to intervens as amicus cruias, and it has filed a briof supporting the re-classification While this corporation has no interest as such in the proceeding, it was pormitted to participate because of the Court's desire to obtain all of the assistance possible on the interesting questions involved.

A preliminary jurisdictional question has been raised by the

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IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Action of Board of Coming Appeals reversed

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June 13, 1952.

Case No. Miss. 996 ....

Edwin G. Kinter, vs Board of Zoning Appeals (Chew-3rd Dist)

grotestants. They contend that there is no right of appeal from the action of the Zoning Commissioner to the Board of Zoning Appeals because statutory prerequisites therete have been ignered. As to re-classification, it is provided that applications for building poralts shall first be submitted to the 20ming Commissioner for approval before any permit is issued and that in cases in which the permit applied for is for a use not paralitied under regulations than in effect, the Zening Commissioner may entertain a petition for the re-classification of such property. No application for a building permit was filed in this instance. It is further provided to after the hearing thereon the Zening Consissioner shall pass his order granting or refusing the re-classification which shall not become effective and binding until approved in writing by the County Commissioners. This too, has not yet been done here, and on these grounds the protestants dispute the validity of this appeal. It is manifest, however, that the proposed use of the property involved is in an area not permitted under the present goning regulations, and that it would have been meaningless to preliminarily apply for a building permit which would necessarily have been rejected. Therefore the filing of a re-classification potition without going through the formality of first filing an application for a building parait, could not possibly injure the protestants, and under the circumstances here existing was not a jurisdictional pro-requisite.

Even though re-classification is a legislative and not administrative procedure, and is actually not final until approved by the County Commissioners it does not follow that such approval should preceds either an appeal to the Zoning Board, or prior to an appeal to this Court from its action. The approval by the County Commissioners does not affect the legal. principles which govern this Court on such an appeal, and it is accordingly held that there is no legal necessity for them to approve the re-classification as a condition precedent to the appeal now under consideration. See ELLICOTT -vs- BALTIMORE 180 Md., 176. The protestants further contend

of the Sening Counterious: Chargership a requested classification. tend however, that when the louden considerationer has disapproved an application for re-classification, the loand of Zening Appeals lucks authority on statutory provisions that the Zowing Commissioner is the official charged with the cuty of recommending to obsenifications to the County Countinsioner In other words it is asserted that although an appeal exists to the Fourd of Zening Appeals, it is a futile and negating right, because even if the power to correct the error. Such a construction would be an absurdity. If the Board of Loning Appeals has subhirity to hear such appeals, as it plainly does, then it has equal authority to determine the validity and correctness loard of Towing Appeals, assign cartain rights and responsibilities to it, this consection is that the Pears does process the power to hear appeals from the action of the Coming Commissioner in granting or refusing applications for re-classification, and that in soing so it possesses all of the powers soccessary to covered any orrer legally or factually existing on the part of

All of the protestants' jurisdictional objections are rejected. Reference has been made to the fact that this oppeal involves a legislative rather than an administrative action.

It is important therefore to consider the scope and nature of the Court's rowing in such a proceeding. It is clearly not the same as in cases involving applications for special exceptions or special pormits. They fall in the administrative category. There the barden is clearly on the person applying for the openial consideration thereby permitted. A special exception means exactly what the ordinary grantical use of the words imply, a specially permitted use in a particular area without re-seming it, granted only for evershelming and convincing reasons not applying to the whole area, and based on "need", "hardship" and other related foundations. In reviewing appeals in thous situations, the court is required to view the record to see whether or not the proof supports the Board's action. The burden on such an applicant is heavy and its showing must be convincing and clear. For these reasons the decisions of the Court of Appeals in such cases, which have been submitted to me as controlling the decision in this case, are not in point. Typical of such cases are:

NEATH -vc- EALTHORE, 187 Md., 296; CITY -vs- WHRD, 191 Md., 632; OLEASON -vs- KESKICK ENFRONMENT ASSOCIATION,

On the other hand re-classification which simply means re-raning, being legislative in character, requires a different type of review. Here the legislative action must be sustained if it is reasonably debatable. The Board functions as experts, the Court is not outherized to substitute its judgment or discretion for that of the Board, even though independently it might arrive at a different conclusion, provided always there is substantial evidence to sustain the Scard. (HEATH VS. BALTILORS 107 Nd., 296.)

It will thus be observed that the Court's review of re-classification proceedings is more limited than in the case of special parmits or special exceptions. This does not mean that an appeal to the Court in such cases is a mere formality and that the Court lacks authority of any bind to decide the disputed questions. It does mean though that every intendment should be resolved in favor of the Poard's action, and that it should only be reversed where compelling reasons exist requiring such action and that in all other cases the judgment of the Board, being the judgment of experts, should be upheld. It is not the Court's duty, right or function to some or re-zone. It is the Court's function and right only to determine whether in re-zening the Board has properly applied the law governing such situations to the facts disclosed by the record. If reasonable debate is proper as to whether or not

detate can exist, and the record is barron of facts legally justifying the Board's action, that the Court can legitimately reverse it. In this respect the Court's function is closely analogous to that which it persufficient evidence to submit to the jury as to the existence of a given state of facts, the Court must do so even though independently it disbelieve those facts. In such cases it is only when tuch facts, even if believed, vardict on a matter of law. So here if there exist facts legally sufficient to support the determination of the Doard it reset be upheld, even though the Court disbelieves such facts and would itself have decided differently.

Court on appeal. The assumption on appeal here is that the Doord acted correctly and it may be argued that the burden is on those assailing its action to overcome that presumption. In my opinion however no burden of proof exists on oither applicant or protestants. The sum and substance of it all emenates, that the fourd acted on substantial evidence predicated upon legal considerations.

This naturally loads to the inquiry as to what legal principles determine the basis upon which the facts are to be judged. Upon what consideratiens, as a matter of law, may re-classification be permitted?

In CHTATT v. MARYLAND JOCKEY CLUB, 179 Md., 390, the Court of Appeals indicated that re-morning, so far as applied to the reduction of burdansons regulations, was not to be tested by the same requirements which must be shown to exist to justify the imposition of the soming regulations. It announced the

"Restrictions imposed by the State upon private property can only be justified where they are required for the reason protection of the public health, safety, scenals or welfare."

but further said.

"o e o o that principle is quite different from the stuation here presented. We have been cited no case applying this principle to a mitmation of resoning from a higher to a Lower class."

That came hald in effect that in re-centag from a higher to a lever class the presumption forces the lower classification, and unless class proof is had that such re-classification jeografies the public health, screaks, sacky or welfare, the power to re-ceose exists as a matter of right. The Cignit case is the only insyland case so believe, at least in these terms. It was decided in 15th. It is my judgment that it does not express the law of lary judy to much nathers. For example, it contains this statement.

"In order to impose restrictions some valid enercies of the police power must be proven. But much power is invoked for the protection of the property restricted and not be give protection to surrounding property."

Compare that statement with this quotation from ELLICOTT -ve-BALTHKEN, supra, decided only ten months later:

"In the effort to bring shout the greatest good of the greatest maker, collective cumuant cetten is indispencially seed therefore, the State requirer, and say hertically exact, of every individual that he subsit to such restraints in the correies of his liberty or the rights of property on my, under the State and Tederal contintutions, reasonably he measury for the count good.

This is far from maying, as the Chyatt case dis, in referring to soming regulations that, "such power is involud for the protection of the properly restricted and not to give protection to surrounding property." If the Chyatt case has not estually been reversed, clearly it has been ignored and no longer represents the present day vice of the court of Aspeals on the basis or justification for re-coming.

It has been referred to in only three subsequent cames and then not on the point now urged upon the Court and being considered hare.

If then it is not correct to held that re-sening from a higher to a lower classification is a matter of right, and when doos must be mustained unlass it is substantially proven that much action will jeopardies public health, safety,

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n chaos.

To this conclusion the applicant gives two snawers.

To begin with he cites the well-known and phonomenal growth of the County and contends that the original soning of this area was only an interim or stop-gap proposition and is not to be given the validity of the soning ordinances of Haltimore, whose growth has become stabilized and defined. He says this becomes obvious when consideration is given to the large area of the County which was sound residential under the 1945 regulation, comprising as he puts it, 150 square miles or one-half of the County's territory. If the area involved does consist of 150 square miles it is only one-quarter of the total area of the county, but what is of greater importance is the fact that all of the area involved here was somed in accordance with the use then being made of the land, a procedure expressly approved in the Bruning case. The third, fourth, eighth and eleventh districts were then and still are used forisdividual cottage type purposes. The fifth, sixth, seventh and touth districts are primarily agricultural. The soming in them ordingly was not interim or stop-gap but was comprehensive and correct. This is not to say that these districts are to be forever restricted to those uses, but it is to say that those uses are to be charged only when justified by a genuine change in conditions.

The applicant says that the record in this case neets that test. He concedes that the only shorting in the record in this respect is that a great master of people, lacking the seams to purchase individual clostage type hemes, desire to save into Entimores County but can only do so if rer bousing is available for them. There is cortainly no other shorting of a gramine change in conditions.

The nerrow question now presented is whether that showing alone is sufficient. In my designent is clearly as not. If it is, it would apply with equal force to every "A" residential area in the County and for practical purpose that classification would fade out of existence. The applicant says that the buffer row of cottages gives the necessary protection to the "A" some and therefore shows the reasonablaness of the Board's action. It helps,

wolfare and sorals, upon what bosis may re-monting be had and justically sestained? It seems to me that the busis for such action and the grounds which must be chosen to exist before a re-menting ericinance or regulation can survive justicals scruting, can be very simply stated. To bogin with, it must be kept in mind that there is a presumption that somes have been properly planned and arranged of a more or less permanant mature, subject to change only to most genuine changes in conditions. (Type 1, COLIN, 2011)

The Court of Appeals in that case used very simple language to state the legal basis which must be shown to exist before a re-classification or re-soning is paralited:

"there property is re-used it must appear that either there use some mistake in the original sening, or that the character of the machborhood has changed to such an extent that such action ought to be taken."

To the same effect is the prior case of NATHREST MERCHAMS TERMINAL -vs- O'ROURKE, 191 Md., 171, quoted with approval in the Kracks case.

The applicant directs attention to the fact that these two cases involved the increase, rather than the reduction, of coning restrictions. In both of them the re-scaning was from a commercial to a residential classification, thas imposing a more restrictive, and necessarily more burdenesse property use. He accordingly contends that the language in these cases applies only to such a situation and not to a situation where the re-classification endoes the soming burden, and possible under the critical regulation. In my degrees this conclusion does not follow, the Court of Appeals in turns at least did not so restrict its language and in logic and reason there is no justification for doing so.

If there is no logal test by which re-classification is to be judged, other than the mahalous and negative showing that the public health, welfare, safety and moral will not be despardized (when it has already been determined that the original regulations were needed to protect them) what would be the value of sonte at all? If soning is a legal function of government and a valid

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but it falls sheet. Depose the explicant is not able to sell these masses because of their closes precising to the state planead stees. The record in this case is unconvincing as to the natisfactory experience of developme with such a buffer some. If the applicance loops of his profitable stape-sixtem of these estages does not not existe be seald probably be emitted to a re-classification of the head twy eventy to row or group huming, because of an error in the re-smaller or a veal and genium change in confitience, modely, notedy with occupy them. Of west protection then, is the buffer some? The applicant contents that is other shorty except this desire can be made, and that undeen this is decad sufficient all of the tarritory involved in this precessing with he forever restricted to nating type development. Be then paints a dire pleture of stagnatic which will occur in abtiance county from such a rule. His correbestions are suggestified.

of mening, it is serely the Court's duty to test it by layal principles.
However, it should be plain that situations can and will occur which will
justify re-clusification. The desires in that case is limited strictly to
bedding that being for row or group housing above is not enough. There are
many legal and legitimate mays of accomplicating this result and it does not
follow that the desired of this re-classification will have the fatal excequences endiatoned by the applicant. On the other hand it will have a salutary
affect. It will give projection when legitimately needed to those areas now
properly zerod, and likewise leave room for a charge in the reming of those
areas when the charge meets the legal stemired which must be present to justity it. If this re-classification were approved not only would there be a
failure of protection to the areas now zoned residential, but the future could
cause a signifur failure to those purchasing in row heasting developments.

As is true of the cottage type development today, where value would be depreciated and the advantages according to them by reason of that classification, upon which reliance was legitimately placed when the development was projected unless the shounds have mentioned are applied, so the resy house owner night tenervor find hisself in similar danger, A truet of emercise of the police power, is it to be abundemed by sitter legislative or administrative precedence without any more substantial basis than just indicated, for doing set I sit be durit on speak relegated to the status of a more without stamp for the Board of Toming Appeals, required to approve its action when no factual thousing winterers is made to justify it, sevely because of the presumption which it attaches to that Board's decision? If so, the justical appeal is a mapsacy and futile things a more subscringe, premitting an appeal to the courts by persons aggrissed at the action of the Doard, but demying to the Court on two such privatores, because there exists no legal basis upon which the Court on two its action. The statute certainly contemplated no much vacuum and no court of last reserv has even remotely indicated its actions. As coming itself must be predested upon the legal conditions hereaform sentianed, so re-soning must have soos similar basis, and in my sugment that basis is as expressed in the Freede and O'Boardes

cases, even though these expressions were made in cases involving dissimilar

This construction of those cases is re-affirmed in the very recent case of Evaning Eventure, Ins. -ven Dayer and city comeni of Baltimore, appearing in the neity force of Elsy 20th. In that case oddly enough, the re-stning ordinance attacked by the appellant re-classified the land there involved from conservals to residential, the converse of the Frache and Offenziae cases but was nevertheless approved by the Centr of Appeals on the basis of the legal principles which they established. It is true that the ordinance so doing was apparently not attacked at the time of its passes, some ten years app, but it was attacked by Evaning, so far as its opplication applied to it, and the Court of Appeals mustified it against that attack. In doing as, it quoted that language from the Offenziae case, indicating clearly to so that the Court of Appeals intended that Language to apply to both types of re-resing, from a higher to a lower classification and vice versus.

"To enid that no consideration at all was given to the character of the district, and its peculiar suitabilities narricular uses, or to encouraging the most appro-

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land across the street night then be re-enned light industrial, or even industrial, thus destroying his own property values and security, without any real shoring to justify the change. The end result would be true devastation where one the end result is protection plus orderly growth based on legally acceptable reasons to justify the change of classification.

This is not a difficult task for those charged with the assistance is contag. They can adopt standards and tests which if reasonable will be mustained by the Court, as the basis upon which potitions for re-classification will be considered. They can take into consideration many elements, one of which obviously is whether or not all of the undeveloped land in the County now round for row housing consequences how not willied. Be-classification is not prosted as a favor, it is possible only when justified under the preopts referred to. These fasters are mentioned only to show that the county will not stagnate as a result of this railing, they are not intended as an expression from the court in connection with matters over which the sening authorities have emblastee control. When they associate that control reasonably and according to the logal principles which must quick out its expression, their actions will have the courte compiles approval.

In this commostion it is only fair to observe that the Board of Zoning Appeals gave the Court but little assistance in the disposition of this problem. That Fourd is not expected or required to give elaborate reasons for its estions. It is not too much to expect becomes that it give some reasons, which ituturaly failed to do in this case. It has been pointed out that its order marely recited that the re-classification would not joppardise the public health, safety, welfare and souls, and with that statement only in proceeded to define the area which it re-classified. It could at least have indicated the reasons prompting its conclusions.

As the record clearly shows that the re-soning was ordered, without any legal basis or justification, as has been burdenmonely pointed out, the Board's setten in doing so fails into the classification of being legally arbitrary and without factual justification and its order will accordingly be recorded.

J. Howard Murray, Judge

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priate use of the land, or to snything except gratifying the wishes of an organized neighborhood."

The area affected in the Fruning cases is the unincorporated village of Crangaville, which in the original ordinance of 1911 was seem for industrial uses although it was them entirely residential, because of the belief that its future use would be industrial. then it was re-senad to residential in 1912, the industrial devalopment in the village itself had not materialized, although it was practically surrounded by industry. In mustaining this re-scaling, according to the use which was being made of the land, and for no other reason, the court saids

"There had been no change in conditions in the re-soned area, and the re-soning was in the nature of the correction of an original error and was not a change in use caused by the new circumstances."

In referring to the Kracko and O'Rourke cases the Court said:
"The properties in them, some residential have never had say
residential possibilities, and with the passage of years,
the sibuation there gray worse instead of better,

In it not clear them that the Bruning case re-affires Bruning and O'Recrice as to the basis of re-coming, and cafinitely applies that basis to re-scening from a Lower to a higher clossification, as well as from a higher to a lower cost

In my optnion it clearly does and on the basis of those cases this court boles that to justify re-sening or re-climatication, the record must shee facts which if ballowes, are legally sufficient to prove either that there was an error note in the original sening or that there has been much a clunge of conditions are reasonably justify the re-sening. If this ware not true re-coming could be hid upon "a plablacite of neighbors", a plablacite of buildors and developers or my other form of plablacits which could be arranged. If this ware upon the record the orderly greath of communities, that greath would then be disorderly, huphazard and uncontrolled, because today's legitimate noming could without any showing at all be undoes teacrors and the protection which process are reasonably entitled to receive from soming would vanish with the whims of any group which sight to able to obtain a receptive sudience, this would not result in senting, it would result

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RE; PSYLTION FOR REGLASSIFICATION FROM AN "A" RESIDENCE COME TO A "S" RESIDENCE COME THE STREET ZONE TO A "O" RESIDENCE ZONE; PROM AN "A" RESIDENCE ZONE; PROM AN "A" RESIDENCE ZONE; PROM AN "A" RESIDENCE ZONE; AND PROM AN "A" RESIDENCE ZONE TO AN "S" COMERCIAL COME - HILDOOD MILL, CAMPITED AND ROCHEMBER ROADS, THIST DESTRUCTED AND ROCHEMBER ROADS.

Upon hearing on appeal on November 9, 1050 from the Order of the Zoning Commissioner of Relitions County, peased on Nume 23, 1500, daying the petition for reclassifications, in the above matter, from an "A" Residence Zone to " "B", "c" and "D" Residence Zones and an "S" Commercial Zone, and it appearing from the facts and evidence adduced at the appear hearing that the petition should have been granted, as hereinafter provided, due to the fact that the granting of same would not adversely affect adjoining or adjacent property, there being no valid reason from the standpoint of health, safety, morals and the general welfare of the community for the refusal of such petition, therefore:

It is this \_37th\_ day of December, 1980, ORDERED by the Board of Zening Appeals of Relitioner County that the Order of the Zening Appeals of Relitioner County that the Order of the Zening Commissioner denying the petition in this matter, be and the same is hereby reversed and directs that the Zening Commissioner grant the reclassifications as follows:

First Percel: Shopping Center

all that percel of land beginning at a point located 20 360 °C east 2010. 35 feet from the northwest cover of a percel of land conveyed by the Fairfield Really and smining theme paralleling feetingles Read 217°40 east 700 feet; theme 8 72° 11' east 215 feet; theme 8 are 100 feet; theme 5 are 110 feet; theme 5 are 100 feet; theme 11 & 40' east 70'0.68 feet and theme 6 750' feet; theme 11 & 40' east 70'0.68 feet and theme 6 750'

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29' west 545.74 feet to beginning. Containing 8.31 scres of land, more or less.

Second Parcel: Semi-detached Houses

Beginning at the end of the fourth line, thegoe wegily. Of feet; thence leveling said just a single said fourth line 30° 3' wegily. Of feet; thence leveling said just and running N feet; thence N 30° 30° west 185.26 feet in the said feet in

Third Parcel: Semi-detached Houses

Continuing for the same at a point, said point of beginning being located 3 4° 38° 42° east 185.04 feet from the same at a point, said point of beginning being located 3 4° 38° 42° east 185.04 feet from the first point of said fourth line by a curve to the west and having a radius of 675 feet; and durve being subtended by a chord wages bearing is 3.2° 41.4° west 19.40 feet from the said said to be said ourse being subtended by a chord bearing in 180° 14° 58° east 455.60 and thence is 84° 321° 32° west 282.47 feet to beginning. Containing the area of land, more or less.

Fourth parcel: Semi-detached Houses

legining for the same at a point on the H 750 151 10 east 1006.07 feet line of the conveyance from Patricula Realty Company to the Psychill Building Company States and the States of the conveyance from the Fig. 20 the States of the States o

Pifth Parcel: Apartment Buildings

First mentioged conveyance, and going to beginning being located 8 d 381 48 east 505.04 feet from the end thereof and running 5 400 381 28 east 505.04 feet from the end thereof and running 5 400 381 20 east 505.07 feet, thence 1150 a restum of 186.15 feet, said curve being subtended by a chord whose beening 181 505 01 48 east 166.45 feet; thence

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Sixth Parcel: Group Houses

Signing Farce: Oropy Mossas

Segining for the same at the end of the
first line of the third parcel and binding along the
second line of the third parcel and binding along the
second line of the third parcel and binding along the
feet and North 72 degrees 18 minutes 369.56 feet, thence
leaving said third parcel and running south 17 degrees
45 minutes assat 380 feet; thence binding on the fifth
South 72 degrees 18 minutes west 40 feet; thence by a
curve to the south having a reduce of 130 feet; the
said one bad 35 minutes wast 40 feet; thence by a
curve to the south having a reduce of 130 feet; the
said one bad 35 minutes assat 180.36 feet;
thence douth 17 degrees 36 minutes east 180.36 feet;
thence by a curve to the west having a radium of 180e
bearing is 30 the 38 degrees 46 minutes 80 seconds west
188.76 feet; thence South 75 degrees 19 minutes 10 secon
west 011.53 feet; thence South 05 degrees 46 minutes 10
mad purning west 27 degrees 14 minutes 80 seconds west
276.98 feet; thence South 64 degrees 36 minutes east 311.47
feet; thence ya curve to the west baving a radium of
500 feet, self curve being subtended by a chord whose
rest; thence by a curve to the west baving a radium of
500 feet, self curve being subtended by a chord whose
seconds west 180 feet; thence by a curve to the east,
having a radium of 160.38 feet, said curve being subtended
having a sculus of 160.38 feet, said curve being subtended
14 seconds east 160 feet; thence by a curve to the cast,
having a sculus of 160.38 feet, said curve being subtended
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Samuel H. Hoover Chairman Esrle L. Dipgle

I dissent from the Calvin J. Carter

True Copy-Test:

Zoning Commissioner of Baltimore County

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N 00 3: east 301.45 feet; thence by a curve to the south having a railus of 2469.05 feet, asid curve being subtended by a chord whose bearing is 3  $70^{\circ}$  57.46 west 464.05 feet thence 5 14° 45: east 120.01 feet and thence by a curve to the wast, having a resints of 97 feet, and  $22^{\circ}$  east 20.64 feet by a chord whose beats 10 75 feet, and  $22^{\circ}$  east 20.64 feet to beginning. Containing 5.84 acres of land, more or less.

Sixth Percel: Group Houses

Sixth Fercel: Group Houses

lies of the third percy and alter head of the first that of the third percy and alter head the segment lies and the third percy and alter head the segment lies and the segment lies and the segment lies are the segment lies and the segment lies and the segment lies are the segment lies and the segment lies and the segment lies are the segment lies and the segment lies and the segment lies are the segment lies and the segment lies are the se acres of land, more or less.

Carle J. Dingle I dissent from the above Order

Calin & Carte

Board of Zoning Appeals of Baltimore County

MICROFILMED

APPEALS OF BALTIMORE CO

This is en appeal by William F. Chew, owner of the prescript scattled in the petition, from an Order and decision of the property of the control of decision of the property, from an "An Residence dated June 25, 1950, by which Order the petition for reclassification of the property, from an "An Residence Zone to a "B", "O" and "D", Residence Zone and an "A" Commercial Zone, was denied.

were filed and considered by the Board and considered the petticit, contains approximately 122 ecres of lend and is located on the militorial Mili, Compfield and Rock-ridge Rossia, in the Third Blatrict of Bellione County.

range rooms, in the first observed a sanches county. The petitioner desires to eruck a complete community on this entire treat of land. The low-i of community on this entire treat of land. The low-i of the community is to be surrounded with individual houses and daplex houses and the group houses are to be on the and daplex houses and the group houses are to be on the and recommended by the Flanning Commission of Baltimere County. The shopping center provided is perticularly rooms, and the surrounded by the flanning Commission of Baltimere County. The shopping center provided is perticularly rooms have been ladd out with an idea of serving this community and providing for safety in approaching adjacent roads. The plan also provides sufficient recreational facilities.

This property is conveniently located to the present Miliford Mill School and while the present Pikesville Simenetry School is over-crowded, the testinony before the Board indicated that a new elementary school after will have to be established in the vicinity in

Since this development will be practically saif-mustaining, the Board is also of the opinion that it will not adversely sifect the health, safety, morals opinion of the Board, will the erection of the various type houses deprecise the value of the surrounding property. If Pikesville is to continue to grow this would seem a logical piace for the expansion.

The Board feels it is not its duty to pass upon the restrictions which were called to its attention at the hearing especially since the protestants requested that the Board decide the reclassification on its merits.

MCDOFII MED

RS: FETTION FOR REGLASSIFICATION FROM AN 2A RESIDEMOR ZORS TO A PRISTURE OF RESIDEMOR AND ASSESSED OF RESIDEMOR AND ASSESSED OF RESIDEMOR AND ASSESSED OF RESIDEMOR ZORS; AND FROM AN 3A RESIDEMOR ZORS; AND FROM AN 3A RESIDEMOR ZORS TO AN PERIOD OF THE RESIDEMOR ZORS TO AN PERIOD OF THE RESIDEMOR ZORS TO AN PERIOD OF RESIDEMOR ZORS TO AN PERIOD RESIDEMOR TO AN PERIOD RESIDEMOR TO ANTENDED AND THE RESIDEMOR ZORD TO ANTENDE ANTENDED AND THE RESIDEMOR ZORD TO ANTENDE ANTENDED AND THE RESIDEMOR ZORD TO ANTENDE ANTENDED ANTENDE more County, William F. Chew, Petitioner

Upon hearing on appeal on November 9, 1950 from the Order of the Zoning Commissioner of Baltimore County, passed on June 23, 1950, desqring the petition for reclassification, in the above metter, from an "A" Resignore Zone Tone, and it appearing from the fact and evidence adduced at the appearing from the facts and evidence adduced at the appearing that the petition should have been gented, as becriming that the petition should have been greated, as becriming that the period of the fact that the granting of same would not adversely affect adjoining or adjacent property, those being morals and the general welface of the community for the repusal of such petition, therefore:

by the Board of Zoning Appeals of Baltimore County that the Order of the Zoning Countisioner denying the petition in this matter, be and the same is hereby reversed and directs that the Zoning Commissioner grant the reclassifidirects that the Zoni cations as follows:

First Percel: Shopping Center

First Fercel: Sampping Conter.

All that parcel of land beginning at a point located 5 28° 36' 6" east 10.35 feet from the northwest corner of a parcel of land conveyed by the Psirfield Realty Co. to the Frichill Building Co., dated Jamany 4, 1360, and raming themes paralleling Rocated Samany 4, 1360, and raming themes permitting Rocated Samany 6, 1360, and raming themes permitted to the content of the conte

Second Parcel: Semi-detached Houses

bining reversely on a potton of said fourth line, thouse weak 137.01 feet; thence leaving said line and running N ago 37 west 137.01 feet; thence leaving said line and running N ago 37 west 106.01 feet; thence N 70° 10° eat 360.43 feet; thence N 30° 51° as 10° of ret and thence 30° 50° il" said 10°0.75 feet; thouse S 30° 5° west 50.0 feet and thence 30° 50° 51° west 10°0.75

The Board will, therefore, sign an Order reversing the Order of the Zoning Commissioner and direct that he grant the reclassifications as petitioned for.

I dissent from the above opinion

Chairman

Board of Zoning Appeals of Baltimore County

MICROFILMED

feet to beginning. Containing 5.62 scres of land, more or less.

Third Parcel: Semi-detached Houses

beginning for the same at a point, said point of beginning being lossed of "50' 44" east 256.04 feet from the and thousand the said 256.04 feet from the and thousand the said the said

Fourth Parcel: Semi-Detsched Houses

Touth Parcel: Send-Detached Homes

10 10" east 1006.07 feet line of the conveyance from

Pairfield Realty Company to the Farkhill Ballding Company,

Farkfield Realty Company to the Farkhill Ballding Company,

Farkfield Realty Company to the Farkhill Ballding Company,

feet from the end thereof and running the pair of the feet from the end thereof and running the feet from the Home 8 10" east 70% as feet; thence 8 70% 10" east 10% of 10" east 10" east 10% of 10" east

Fifth Parcel: Apartment Buildings

First more as Postern Military as the fourth line of the loss and general gene

MICROFILMED

OPINION OF THE BOARD OF ZONING APPEALS OF BALTIMORE COUNTY

This is an appeal by William F. Chew, owner of the property described in the petition, from an Order and decision of the Zoning Commissioner of Saltinore County, deted June 23, 1860, by which Order the petition for reclassification of the property from an "A" Registero to a "B" ("C is as "B" Registero Zone and an "S" Commercial Jone, was denied.

were filed and common on for hearing, protest petitions were filed and confidered by the form and common term tides beard. The property experience of the petition, contains approximately 12% seres of land and is located on the Milford Mil, Campfield and Rock-ridge Rooks, in the Thrt District of Beltimore County.

The petitions dealers to creat a complete community on this entire treat of lend. The Board of Community on this entire treat of lend. The Board of Community on the entire treat of lend. The Board of Community is to be surrounded with individual homes and the group because are to be on the and duplet houses and the group because are to be on the and recommended by the Flanning Commission of Estimore County. The shopping center provided is perituilarly reads have been it if out with an idea of serving this community and providing for safely in approaching adjacent reads. The plan slap provides sufficient recreational refilitions.

This property is conveniently located to the present Milford Mill School and while the present Pikesville Elementery School is ever-crowded, the testimony before the Royal indicated that a new elementary school site will have to be catabilished in the vicinity in

self-mustaining, the Board is also of the opinion that it will not sing, the Board is also of the opinion that it will not say the self-mustaining the self-mustaining the self-mustaining the self-mustaining the spinion of the Board, will the erection of the various type houses deprecise the value of the surrounding property. If Fixewille is to continue to grow this would seem a logical piece for its expansion.

The Board feels it is not its duty to pass upon the restrictions which were called to its attention at the hearing especially since the protestants requested that the Board decide the reclassification on its morits.

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The Foard will, therefore, sign an Order deresting the Order of the Zoning Commissioner and deresting the free leastfloation as petitioned for.

Samuel H. Hoover Earle L. Dingle

Board of Zoning Appeals of Baltimore County

I dissent from the above opinion

ming at a point located & Sp. 36; 5" cast 210, 32 feet from

All thet parcel of land in the Mid district of Pettimore Council

hereby petition that the mains satus of the above described property be re-dessified, pursuant to the

Zoning Law of Bulliumer County/from spling. Residence made to as "Recorrection, some, col., Are

dith: "a" Residence Zone to "g" Residence Zone to the two pen "a" Residence

Residence County to "g" Residence Zone to the two pen "a" Residence County to the Residence Zone to "g" Residence Zone

Character of use for which above property is to be used 13th DRITCE1, ADD. COM. Use 2nd, 3rd and 4th parcels, Semi-detaphel houses, 5th parcel for ABEL TRAITS and 6th parcel for group houses

ont and side set backs of building from street lines; front feet; side

this petition, and further agree to and are to be bound by the zoning regulations and restrictions of ore County adopted pursuant to the Zoning Law for Baltimore County



ORDERED By The Zoning Commissioner of Baltimore County, this 17th .....19.50, that the subject matter of this petition be advertised, as required 

Zoning Commissioner of Baltimore County

MICROEU MED

RECD JUN 28 1950

CTION FOR REGLASSIFICATION FROM AN "A" RESIDENCE E TO A "B" RESIDENCE COME: PROM AN "A" RESIDENCE E TO A "C" RESIDENCE COME: PROM AN "A" RESIDENCE E TO A "D" RESIDENCE COME: AND PROM AN "A" DENCE COME TO AN "B" BONESHILL COME-MILOTO C. CANFIELD AND ROCKETCHE ROADS, AND DISTRICT, C. CANFIELD AND ROCKETCHE ROADS, AND DISTRICT,

Mr. Countagioner.

Please enter an appeal in the above entitled matter on behalf of William F. Chew, Petitioner.

Towson h. Ed.

8/31

MICROFILMED

May 22, 1950

\$115,001/

RECEIVED OF William P. Chew the sum of One Hundred and Fifteen (\$115.00) Dollars, being cost of petition for reclassification, savertising and posting of property, in west Sudbrook Park, 3rd District of Baltimore County.

Zoning Commissioner

Mearing: Thursday, Mune 8, 1950 at 10:00 a.m.



MICROFILMED

HE: PSITION FOR REGLASSIFICATION FROM AN "A" REGISTRANCE ZOUS TO A "S" RESISTENCE ZOUE; FROM AN "A" RESISTENCE ZOUE TO A "S" EXEMINATE ZOUE; FROM AN "A" RESISTENCE ZOUE TO A "S" EXEMINATE ZOUE; FALL PRICE REGISTRANCE ZOUE TO A "S" CONSTITUTION FROM AN "A" NUMBER OF THE AN "A" CONSTITUTION FROM AN "A" NUMBER OF THE AN "A" CONSTITUTION FROM AN "A" NUMBER OF THE AN "A" CONSTITUTION FROM AN "A" NUMBER OF THE AND EXCEPTION FROM AN "A" NUMBER OF THE AND AND ADMINISTRATION, AND DISTRICT, NUMBER OF THE AND AND ADMINISTRANCE, AND DISTRICT,

Public hearing was had on the above petition on June 8, 1950. It was shown that the property sought to be reclassified is subject to restrictions which prevent its use for any of the es for which reclassification is sought.

While it is not ordinarily a function of the Zoming Commissioner to pass upon the validity of restrictions, nevertheless, the Zoning Regulations and Restrictions require that a petition eclassification be filed by the legal owner of the property sought to be reclassified on forms adopted by him. This places upon him the duty of determining whether or not the applicant owns such an interest in the property as would entitle him to use the a title or interest in the property, his interest being limited to only such uses as are permitted in an "A" residential zone, until the year 1966. Therefore, his application for a reclassification is premature. The property could flot be used for the purposes for which reclassification is sought. There would be no point in granting the reclassification until the restrictions expire or are removed from the property.

For the above reasons, the petition is hereby DENIED.

Chex. And Ding

June 23, 1950.

MICROFILMED

September 7, 1950

#1728

RECEIVED of John Greson Turnbull, Attorney for William F. Chew, petitioner, the mum of Twenty Two (\$22,00) Dollars being cost of appeal to the Board of Zoning Appeals of Faltimore County from the decision of the Zoning Commissioner denying the petition for reclassification of property on Milford Mill Road, 3rd District of Beltimore

Zaning Countarionen

PAID SEP 8 1950 COUNTY COMMISSIONERS OF PULTIMORE COUNTY er Ferdanke

MICROFILMED

#1728

1728

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

L oxes .. William F. Chew ...

First Parcel: Shopping Center:

All that percel of lend in the Srd district of Deltigere Gout belighting at a point increased in 0 Set of mast IDL, 35 feet from the nor health of the control of the lend of the control of the lend All that percel of land in the 3rd district of Weltimore County

Sexual Third parcel:

beginning for the game at a point, and point of beginning lating located 3 4° 30° 43° east 156.45 feet from the end their and running themse binding reversal on a part of and for and running themse binding reversal or a part of 675 feet; and cause bother sites as the second of the of O'F feet; said curre being subtended by a cond winos hearing is 8.8° 41, 44° geat 300.07 feet; thence 3.30° 50; year 420.00 feet; themce 8.10° 40; year 500.08 feet; themce 8.4° 54' east 500.08 feet; themce 8.4° 54' east 500.08 feet; seid nursely curre to the west, hearing a ration of 655 feet; seid nursely feet; seid curre being a ration of 655 feet; seid nurse being a ration of 655 feet; seid nursely seid sursely to the seid of 655 feet; seid curre being subtended by a 650 feet; seid curre being subtended by a 650 feet; seid curre being subtended by a 650 feet; seid sursely seid

Pifth Parcel: Apartment Buildings:

perion excels Aperbases Mailtings; senting the experiment of the first senting of the experiment of th

Outcome for the same at the end of the first line the phird parcel and Whiting hims by second of the first line at 100 for east 100 for for and H m to 100 for for the first line at 100 for for and H m to 100 for for the first line for the same at 100 for for and H m to 100 for for the first line for the first line at 100 for for the first line for the first line at 100 for the sale curve being subtense which are for the first line at 100 for the sale curve lang subtense at 100 for for the first lines at 100 for the sale curve lang subtense at 100 for for the first lines at 100 for the first lines by a milk for for the first lines by a milk for lines at 100 for for the first lines by a milk for lines at 100 for for the first lines by a milk for lines at 100 for for the lines by a milk for lines at 100 for for the first lines by a milk for lines at 100 for for the first lines lines at 100 for lines by a milk for the form lines at 100 for lines by a milk for the first lines at 100 for lines by a first lines at 100 for lines by a milk for lines at 100 for lines by a first lines at 100 for lines by a first lines at 100 for lines by a first lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for the form lines at 100 for lines by a milk for the lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines by a milk for lines at 100 for lines at 100 for lines

Deing property of facilitial Building Compung on shown on plot plan filed with the Guildings and Soning Paparksens.

Peb. 23, 1951

Esitimore County, % Zoming Department, Reckord Duilding, Towson 4, Maryland

Certified copies of potition and other papers filed in the matter of reclassification of property Book Ridge, Compfield and Milford Mill Roads, 3rd District, William 7. Chem, petitioner

MICROFILMED

86.80

RECEIVED of Edward H. Burke, Attorney, for protestants, the sum of \$6,20 being cost of certified copy of petition and other papers filed in the matter of appeal to the Board of Zonirg Appeals of Beltimore County for reclassification of property on Milford Mill, Compfield and Rockridge Roads, 3rd District, William P. Chew, petitioner.

Zoning Commissioner

MICROFILMED

Murch 13, 1981

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

1728

Posted for: a to & - a to B - a to 6 and a to D
Petitioner: Mm 7 6 how

Location of property Mulford Mill, Campfied and Rockridge

Location of Signs as shown on plat, plan filed with palition 3 to 612 a to B 2 a to C and 8 a to D

Posted by Starry & Gartside Date of return: May 26/50

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NO PLAT IN THIS FOLDER