| JOHN VESPER ET AL           | 1 | IN THE CIRCUIT COURT           |
|-----------------------------|---|--------------------------------|
| VS.                         | : | FOR BALTIMORN COUNTY<br>AT LAW |
| CHARLES H. DOING ET AL ETC. | : | Minc. 5/149 1376               |
| 0.0.0                       |   |                                |

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legal title and the privilege of paying tames.

In addition to the fundamental economic and constitutional questions involved there is a very practical consideration to keep in mind. The opinion of a competent real estate operator and builder who is willing to invest millions of dollars in the development of the character planned for the Vesper property is entitled to far greater weight then that of an official, administrative or judicial, who has had neither experience nor training in the home building

However, it might be noted that the need for houses of a group or row type in a community of this character would seem to be self evident, although to one accustomed to living in the country, it is hard to understand why any one would elect to live in a row house. The fact remains, however, that many persons prefer that type of dwelling.

It appears to the Court, for reasons not apparent in this case, the Board of Zoming Appeals has demied to the owners of this property the right to use it in the same profitable, legal and beneficial names which has been emjoyed by property owners close by. No question of health, safety or morals is involved, and the seneral welfare of this community, in my opinion, would be promoted by the construction of the houses as planned.

In view of the extensive development in this general neighborhood along the group or brick row lines, and the undoubted suitability of this location for group or row houses, the refusal of permission to the owners of this property to erect similar dwellings would be unreason able and an act of great injustice. The Court is of the opinion that there is no room for reasonable debate in this case and fault fuetified in declaring the action of the Board arbitrary and discriminatory, confiscatory and illegal. For the reasons assigned, the action of the Board will be reversed.

John B. Contrum, Judge.

JOHN A. VESPER, ot al . IN the create ourse FOR BALLTHORE COURSE CHARLES H. DOIND, DANIEL W. HIMERS and CARL F. VORIEN, being and consti-tuting The Board of Zoning Appeals For Ball in more Cowney.

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## . . . . . . . . .

The Court has visited the property in cuestion and examined it and the general neighborhood. There are a large number of group or row houses in this area of Baltimore County. Apparently such chellings are in demand by workers employed in the industries in the Twelfth and Fifteenth Mistricts. All facilities such as camitery and storm unter sewerage, water and schools are available. The immediate neighborhood of this property, as disclosed both by photographs and personal inspection, is rather unleast and unsightly in appearance. It is impossible to see how the construction of group or you houses could demonst the redebberhood.

As the Court of Appeals in Offset vs Board of Zoning Appeals. 204 Md., page 502, said: "We cannot disregard the general rule that in an appeal from a decision of a soming board, the court will not substitute its own judgment as to the wisdom or soundness of action telem by the board, but will decide only whether or not such action was artitrury or disordiductory and dilecal."

The Vestor tract is located in the largest industrial over in Baltimore County and the State. Hr. Ingrehem M. Enight, whose business is specializing in industrial projects, made a survey and study of the area surrounding the property in question and gave a word picture of the general locality, and stated (what is a matter of common impulseden) the entire area is predominently industrial and that there have been large expensions in existing industries. A number of other plants, he stated, have located in the area to be close to the steel supply sources.

HB: PETITION FOR HECLASSIFICATION FROM AN "A" RESIDENCE ZONE TO A "D" RESIDENCE ZONE - Property N. Holabird Ave. w. Vesper Ave., 12th District, Albert Vesper, et al., Petitioners - The Oakmont Gompany, Contract

The appeal in the above entitled matter coming on for hearing on the 4th day of March, 1954, before the Board of Zoning Appeals of Baltimore County from an Order of the Zoning Goznissioner of Baltimore County dated October 26. 1953, denying the patition for reclassification from an "A" Residence Zone to a "D" Residence Zone in regard to the property described therein; and it appearing from the facts and evidence adduced at the appeal that the granting of the said reclassification would be detrimental to the general welfare of the community, and for reasons set forth in the opinion: therefore.

It is this pyed day of April, 1954, Ordered by the Board of Zoning Appeals of Baltimore County that the reclassification from an "A" Hasidence Zone to a "D" Residence Zone in regard to said property be denied.

itr. Albert E. Polmer, a registered civil engineer and a men of high stending in his profession, who has appeared in this court before, testified that he has gone over the group house situation of the Vespor tract from an engineering and a surveying standpoint, and that sandtary covere, storm water drainage and water supply are available and adequate. Mr. Joseph G. Armacost, smother engineer, also testified to the svailsbility of sever and water facilities. A new school is to be constructed on a park of the Vesper treat.

The cost of construction and the sale union of the spream type of deelling is less than for comparable individual cottages. Itr. Worton Macht, one of the large real estate operators of Baltimore, stated that group houses of the kind he contemplates building would be within the price range of the average steel worker, many of whom live in this locality. His testimony on page 17 and 18 is to the effect that the price rence as to the type of houses which could be sold in this particular area would be from \$3,000 to \$10,000, subject to a ground rent, as that would be within the purchasing ability of the prospective home owners. He states that the income and ability to purchase of prospective purchangers was the reason that he selected this area to produce you houses. I custe from his testimony before the Board, page 18:

maturages that in the reason us selected this area becomes you can renduce a year house which comes within the rance of the average industrial worker's income, his nonthly payments and his shillity to maintain the property afterwards - as to painting and other uplesp, and there is considerable saving in fuel and the entire project is chemner for the average industrial worker or any person to carry then a pre-standard home."

MCCENTING Do you feel there is a need because of the surrounding industrial character there? ANSWER: That is correct; if we did think that we would not be interested in the land. We are not buying it to lesen it. CUESTION: Mry wouldn't you be interested in developing it as a detached project within the same price rempet "MISSER: In the first place it is very difficult to produce a mesonry

OPTHION OF THE BOARD OF TONING APPEALS BALTIMORE COUNTY

This is an appeal from an Order of the Zoning Commissioner of Baltimore County dated October 26, 1953, denying a petition for reclassification from an "A" Residence Zone to a "D" Residence Zone in remard to the property described in the petition.

The case came on for hearing before the Board, testimony was taken, and counsel heard.

The property which is the subject of this petition contains 49.9 acres of land, more or less, located at Holabird Avenue at the Holebird Denot area and lying in general west of Vesper Avenue. Huch emphasis was placed upon various industries which are located in this seation of the county and with the number of aunloyees at each plant in an effort to show that of ther this is an industrial area or that there is a great demand for residential properties of the group type to house employees of the various industries.

There was also some indication that there have been various realsasifications of properties since the original soning in January, 1945, to justify reclassification of this property. The Board is of the opinion that this general area is in a group-home zone and that the denial of a petition for reclassification from an "A" Residence Zone to a "D" Residence Zone would not automatically deprive any persons of a dwelling, especially in view of the fact that there are other tracts of land in this section of the county which have already been reclassified, upon which no development of group houses

The homes in the immediate neighborhood are cottage type, and the owners have just as much right to look to this Pound for the continuation of the present chassification as

Adetached house or the same price as a group house. In fact, it is impossible for the same price that you can erect a group house, macoury group house. Since we feel that we can give greater amonities at less cost, hence, we feel that the group house ammore the need better than the individual home.

squeezion; what would be the price range of a comparable house and equipment? Among You would have to purchase the property if it were an all mesonry individual house, it should cost about \$13,000; if you give then the same amount of money that you would give then in an \$8,000 house. You can't build a pre-standard house for less money. (UESTICE: That would be in what price renge? "ANDRER: They run emphere, if they leave the becoments out, they run around \$8,000. CERTICE: For the same price you can't build as good a house? Amount: No, you carnot. The standard of the group house at the some price range is such higher than the prostendard house."

It might be desirable for the builders to erect cottages on the property in question across from the cottages now on Leslie, Vesper and Dighl Roads. Counsel for the property camers have assured the Court that such deallings would be erected. However, on considering tide matter, I do not believe that there would be any justifiable reason to compel the owners to erect cotteges at those locations rather than the group type of dmilling.

The question of the need for the row type house in this commuity is one which neither the Court nor the scning authorities should be called upon to decide.

To invest administrative bodies and courts with the power to poss upon matters of need would further undersine our system of private property and individual initiative. Plemers and soming authorities and officialdon generally have extended their powers until the owners of real estate, in many instances, have few rights last excepting the bere

the petitioners have for a change of the same. Certain residents in the area testified that the water supply was very inadequate under present conditions, and that the concentration of group hones would unduly burden the water system to such an extent as to jeopardize the water supply and pressure. One of the witnesses for the petitioners, a surveyor, testified that the water facilities were satisfactory; but he made no claim that he had made a study of the site from that standpoint, There was no witness from the Metropolitan District to collaborate the petitioners' point of view, and certainly the testimony of the property ceners in the area as to the inadequacy of the water supply was uncontradicted.

The granting of the reclassification on the basis of the testimony in the case and from the Board's information obtained from a view of the property, would constitute on intermingling of zones and would be detrimental to the general wolfare of the community; and, therefore, the Board will pass its Order denying the reclassification.

LEX. 9-4786 LEX. 9-8370

WILLIAM B. DAVIDSON II EAST FAVETTE STREET

Zoning Commissioner of Baltimore County 303 Washington Avenue Tosson 4, Maryland

Pursuant to the advertisement, posting of property, and public hearing on the above perition

It Is Ordered by the Zoning Commissioner of Baltimore County this.

hereby reclassified from and after the date of this Order, from a.

Pursuant to the advertisement, posting of property and public hearing on the above netition and

It Is Ordered by the Zoning Commissioner of Baltimore County, this 26th day of

October 19.53 that the above petition be and the same is hereby denied and that the above described property or area be and the same is hereby continued as and to remain an "A"

it appearing that by reason of the fact that the property is located in a remidential

area with inadequate utilities and school facilities, the granting of which

would be detrimental to the general walfare and be "spot soning".

the above re-classification should be had.

the above re-classification should NOT be had

Zoning Commissioner of Baltimore County

and it appearing that by reason of ....

Re: Petition for Reclassification from an "A" Residence Zone to "D" Residence Zone -Property N. Holabird Ave., W. Vesper Ave., 12th Dist., Albert Vesper, et al, Petitioners -

Doon Cine

Enclosed herewith is Notice of Appeal to the Boar of Zoning Appeals signed by the Petitioners and Contract Purchaser. Please file, etc.

Im B. Quide

E: PETITICH FOR RECLASSIFICATION FROM AN "A"
SESSIEMENCE ZONE TO "DE RESIDENCE ZONE Property N. Holabird Are. W. Vesper Ave.,
12th Dist., Albert Vesper, et al., Petitioners The Oakmont Company, Contract Purchaser

NOTICE OF APPEAL

To the Zoning Commissioner of Baltimore County:

The undersigned, Petitioners (including Contract Purchaser) in the ter, feeling aggrieved by the decision of the Zoning Commissioner is smatter, desire to appeal same to the Board of Zoning Appeals.

Please note and enter appeal to the Secrit of Zoning Appeals of Saltimore County from the decision and order of the Zoning Countseless of Saltimore County passed on October 05, 1953 desping the reclassification in the above matter.

John a Vester um H Vesper albert R Verpe

THE DESMONT COMPANY (Contract Purchaser By: A. M. Warr

# 1736

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County :-

and contract purchase I, or we, ... the undersigned All that tract of land in the Twelfth District of Baltimore County

lying to the north of Holabird Avenue west of Vesper Avenue, described as

BEGINNING for the same at a point on the southwest outline of the Patitioners' tract as shown on the plat filed with the Zoning Cormissioner of Baltimore County, where said outline is intersected by a line drawn parallel with and distant 150 feet northerly measured at right angles from the north 35'W OF THE W. SIDE OF LESSIE RO. and side of Holabird Avenue and running thence binding on said southwest outline north 17 degrees 01 minutes west 818 feet more or less to a bend or angle in said southwest outline, thence binding on the outlines of the Patitioners' tract as shown on said plat the following courses and distances, viz.: north 46 degrees 54 minutes 07 seconds west 985 and 62/100ths feet, north 20 degrees 13 minutes east 750 feet, south 73 degrees 12 minutes east 530 Cast wouth 67 degrees 53 minutes east 379 and 2/10ths feet, south 58 degrees 43 minutes east 579 and 5/10ths feet, south 18 degrees 12 minutes west 31 and 33/100ths feet, south 57 degrees 25 minutes 29 seconds east 330 and 55/100ths feet, south 23 degrees 37 minutes west 966 and 62/100ths feet, and south 13 degrees 41 minutes west 552 feet more or less to intersect a line drawn parallel with and distant 150 feet northerly measured at right angles from the north side of Holabird Avenue, thence leaving said outline and binding on such a line so drawn north 80 degrees 34 minutes west 410 feet more or less to the place of beginning.

THE CAMPACT COMPANY (Contract Purchaser) , Baltimore 2, Md.

...19.53, that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County," in a new spaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing hereing he had in the office of the Zoning ssioner of Raltimore County, in the Reckord Bldg., in Towson, Baltimore County, on the ... 19 53 at 11:09 clock A. M. 21st day of October

Zoning Commissioner of Baltimore County

Petition for Zoning Re-Classification

legal owners. of the property citate the undersigned in the Twelfth District of Baltimore County, description of which is attached hereto and made a part hereof and as shown on the plat filed herewith and made a

433 that tweet of land in the Dwalfth Bietrint of Baltimore County lying to the north of Holabird Avenue west of Vesper Avenue, described as follows.

BEDINNING for the same at a point on the southwest outline of the Patitioners! tract as shown on the plat filed with the Zoning Commissioner of Baltimore County, where said outline is intersected by a line drawn parallel with and distant 150 feet northerly measured at right angles from the north side of Molabird Avenue and 35' west of the west side of Leslie Road and running thence binding on said southwest outline north 17 degrees 01 minutes west 818 feet more or less to a bend or angle in said southwest outline, thence binding on the outlines of the Petitioners' tract as shown on said plat the following courses and distances, vis.: north h6 degrees 5h minutes 07 seconds west 985 and 62 Armthe feet, north 20 decrees 13 minutes east 750 feet, south 73 degrees 12 minutes east 530 feet, south 67 degrees 53 minutes east 379 and 2/10th feet, south 58 degrees 13 minutes east 579 and 5/10th feet, south 18 degrees 12 minutes west 31 and 33/100ths feet, south 57 degrees 25 minutes 29 seconds east 330 55/100ths feet, south 23 degrees 37 minutes west 966 and 62/100ths feet, and south 13 degrees hi minutes west 552 feet more or less to intersect a line drawn parallel with and distant 150 feet northerly measured at right angles from the north side of Holabird Avenue, thence leaving said outline and binding on such a line so drawn north 80 degrees 3h minutes west 110 feet nore or less to the place of beginning.

Py. H. M. Davis Vice Pres. 11 E. Payette St. Ballo. 2 H. Settlement of Ballo. 2 H. Settlement of Ballo. 2 H. Settlement of Balloner of Bal ......1953., that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County." in a new spaner of general circulation throughout Baltimore County, that property be posted, and that the public hearing hereon he had in the office of the Zoning Commissioner of Baltimore County, in the Reckord Bldg., in Towson, Baltimore County, on the ..... 21st day of October .... 1953. at 11:00 'clock .. A. M.

Zoning Commissioner of Baltimore County

hereby petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an "A" Regidence zone to an "D" Besidence zone. Reasons for Re-Classification Development of the land Size and height of building: front \_\_\_\_\_\_feet; depth \_\_\_\_\_feet; height \_\_\_\_ Front and side set backs of building from street lines: front ..... feet; side... Property to be posted as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County alberto Verher John a Vesper Marie Viener Mrs M West

by the "Zoning Law of Baltimore County," in a new spaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing hereon he had in the office of the Zoning Commissioner of Baltimore County, in the Reckord Bldg., in Towson, Baltimore County, on the ... 10/21/23 W 21st \_\_day of October 19 53, at 11:00 clock A. M.

Zoning Commissioner of Baltimore County

Zoning Law of Baltimore County, from an "A" Residence ... zone to an "D" Residence ... Reasons for Re-Classification: Development of the land Size and height of building: front\_\_\_\_\_\_feet; depth\_\_\_\_\_\_feet; height \_\_\_\_\_\_feet Front and side set backs of building from street lines: front Property to be posted as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above re-classification, advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. Wm. H. Vesner Marie Vesper Albert R. Yesper Anna N. Diehl Address Clinton and Elliott Streets Sophie E. Vesper THE CAMMENT COMPANY ( Contract Purchaser)
By H. M. Davis
Vice Pres. 11 S. Payette St. 110 Contract Purchaser)
By H. M. Davis
Vice Pres. 11 S. Payette St. 110 Contract Purchaser
21st Contract Purchaser
22st Contract Purchaser
23st Contract Purchas

hereby petition that the soning status of the above described property he re-classified, pursuant to the

Zoning Commissioner of Baltimore County

.... 19 53., at 11:00 'clock. A. M.

by the "Zoning Law of Baltimore County," in a new spaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing hereon be had in the office of the Zoning

Pursuant to the advertisement, posting of property, and public hearing on the above pelition

Commissioner of Baltimore County, in the Reckord Bldg., in Towson, Baltimore County, on the ...

21st day of October

and it appearing that by reason of ..... It Is Ordered by the Zoning Commissioner of Baltimore County this ... ......19....., that the above described property or area should be and the same is hereby reclassified, from and after the date of this Order, from a ......

Pursuant to the advertisement, posting of property and public hearing on the above petition and appearing that by reason of the fact that the property is located in a residential area with inacognate utilities and school facilities, the granting of which would be detrimental to the meneral welfare and be "spot goning"

the above re-classification should NOT be had: It Is Ordered by the Zoning Commissioner of Baltimore County, this 2014 day of October 19.53, that the above petition he and the same is hereby denied and that the

above described property or area be and the same is hereby continued as and to remain a.U. "A"...

County Commissioners of Baltimore County

President

County Commissioners of Baltimore County

10/21/33 M

Vice Pres.

Petition No. 2726 District No. 12 Processed by: L. H. G. Hearing Scheduled Sed., Cct. 21, 1953

Subject of Petition: Request for rezoning from A to D, the projectly known as the Yesper Tract near Rolabira Avanue in Dandalk

- The eres in the innellate vicinity of the peritioner's property is substantially developed with single family dealings, except on the northern side of the tract where there is constructed and also sock bed improved with centered cottages (see ano.) the contract of the cont
- Turnier, the school howaing problem in the county area adjacent to and east of the city line morth of the Hobbitch Ave. is critical. Howe than two years ago the Bossol hourd started equalisating to purchase a portion of the Years Treet to advocation the overcast deleration situation here. This suggests that;
  - The property should not be rescored to any other classification until the actual Yesper School site is approved and purchased so that the county will not be forced to pay a reschouse-land price for the acreage it needs, and that
  - even if a 30 room school is built here, there still could be on "syverage" of elementary school mildren in the wisinity. To refere, if the believe of the Vesser Fract when the discharge of the vesser fract when the still considered the still considered the same of the forest the the relaxationed was could not be accomplained in the proposal vesser school with the proposal vesser school and the proposal vesser school or the neighborhood to mother school.
- Concerning the ede characteristics, the terrain of that portion of the tract when is not bettle considered for the school set is fairly rough. If good mouses are constructed terrain the county will be ablighed to bern in present outsiders for since the control of the twice of great for greaty means developments of rough in the control of the control

O.K. 21171P

October 30, 1953

\$37-00

RECEIVED of The Oskmont Company, the sum of Thirty Seven, (\$37.00) Dollars, being cost of petition for Reclassification, advertid ng property north Holabird Ave. W. Vesper Ave., 12th Dist., Baltimore County, Md.

Zoning Comissioner

Hearing: Wednesday, October 21, 1953 at 11:00 a.m.



Sept. 11, 1951

RECEIVED of William B. Davidson, Attorney for potitioners, the mum of \$7.20 being cost of certified copy of petition and other papers filed in the matter of reclassification of the Vesper property in the 12th District of Baltimore County.

Zoning Commissioner



ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland #2736

CERTIFICATE OF POSTING

District 12 Portrol on Car of Special Soul to Car of Resolved James 10-7-53.

Portrol on Car of Special Soul to Car of Resolved James 1

Postimer Johns A Nepple, et al.

Location of request flesh farme stands on the Sus of the Sethermating las Shows on the Jatel and James 10 post flowers with the Sethermating of Section Careful son on the special will large to the Sethermating son to the Section of Section of Section of March 1 special son the section of March 1 se

Remarks: Sloge & Jummed Date of return 10 8-53

November 4, 1953

\$30.00

ECSIVED of Ms. S. Davidson, Attorney for The Calment Company, petitioner, the sum of Thirty (\$30.00) Dollars, being cost of appeal to the Board of Zoming Appeals from the decision of the Zoning Counterioner donying the reclassification of preparty of Wesper, et al, north of Holebird Avenue West of Vesper Avenue, 12th District.

Zoning Comingioner





