

#4702  
OFFICE OF THE CLERK OF THE CIRCUIT COURT FOR BALTIMORE COUNTY  
1300 N. TOWN

OPINION

This appeal from the County Board of Appeals involves a petition for reclassification from R-6 to M-1 of a triangular piece of land bounded by Washelli Avenue, the community of Washburn and the Pennsylvania Railroad in the 13th Election District. It contains 11.12 Acres.

The new Zoning Map for this area was adopted by the County Council on June 2, 1959 by which the property was zoned R-6 Residential as it had previously been zoned.

This Petition for Reclassification followed shortly thereafter based on the theory of error in original zoning.

After some indication the Planning Commission made a recommendation for the R-6 Residential classification concerning, however, that its final decision was to some extent influenced by a strong community protest against industrial zoning.

After the preliminary hearing the Zoning Commissioner recommended to the Council that it be zoned M-1 but the Council, after further hearings and an inspection of the property, continued the R-6 Residential classification.

The principal contention of the Petitioner is that it is not economically feasible to use the property for residence purposes although there is no denial that it is physically feasible to do so.

This contention is based largely on the fact that a proposed new Highway, to be known as Federal Highway 95, is expected, at some indefinite time, to come through the property taking about six acres of it. This highway is expected to be built on a fill so that it will be about thirty feet above the grade of the remaining property, this being necessary to meet a proposed overpass which will pass over the railroad and Southwestern Boulevard.

It is argued that the presence of this elevated highway to the south and the railroad to the west will make the then remaining property of about

seven acres unsuitable for residential purposes.

It is further contended that the property is particularly suitable for industrial use because of its proximity to the Baltimore County Industrial Park. It is also contended that there is very little land in Baltimore County so situated which is available for industrial purposes.

The subject tract is practically surrounded by existing residential development except for a quite extensive road and gravel pit to the north which has been abandoned.

At the request of Council the Court accompanied them on a visit to the property and the surrounding area which was extremely helpful in understanding and evaluating the Record and action of the Board of Appeals.

While it may be conceded that the proximity of the railroad and the new highway, when and if it is constructed there new proposed, will make the subject property less desirable for residence purposes than it would otherwise be, it does not follow that it cannot reasonably be used for such purposes.

It may also be conceded that the property is well adapted to industrial use. There is no doubt that this is its highest utility in the sense that it would have a much higher market value if so zoned.

These questions are not, however, for the Court to decide.

The decision of the Board of Appeals, following shortly after the comprehensive reasoning by the County Council, and reaffirming its commission, is entitled to a strong presumption of validity.

If the action of the Board is reasonably debatable the Court is not authorized to reverse it.

Difficult it may be said in this case the Court finds that the action of the Board was not only reasonably debatable but was, under all the circumstances, appropriate and proper.

The decision of the Board of Appeals is affirmed.

May 15, 1960

(Perry)

ORDER

For the reasons set forth in the foregoing Opinion, it is this 17th day of August, 1960, by the County Board of Appeals, ORDERED that the reclassification should be denied.

Any appeal from this decision must be in accordance with Rule No. 1101 (b) of the Rules of Practice and Procedure of the Court of Appeals of Maryland.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

*Dwight McKelvey*

*H. Mitchell Austin*

*John J. Ryan*

RE: PETITION OF Richard H. King  
and Harry L. McKay, S. S.  
Washelli Avenue, 13th Dist.  
From an "R-6" Zone to a "M-1"  
Zone

REPORT  
OF  
ZONING COMMISSIONER  
OF  
BALTIMORE COUNTY  
No. 4702

The petitioners in this case seek the reclassification of property on the southern side of Washelli Avenue, in the Thirteenth District of Baltimore County, from an "R-6" Zone to a Manufacturing Light Zone, thoroughly described in the said petition.

The Zoning Commissioner has studied this petition very thoroughly and find it very difficult to decide as it is generally known that this property and the adjoining properties had been recommended by the Zoning Commissioner in the comprehensive plan for the Thirteenth District as "Manufacturing Light". However, the County Council in finally adopting the Thirteenth District Map found, in their opinion, that this property should be "R-6".

It is, therefore, the opinion of the Zoning Commissioner that there have been no changes in the character of the neighborhood or conditions since the adoption of the map which would warrant the reclassification as requested.

For the above reasons the reclassification should be denied.

It is this 23rd day of October, 1959, by the Zoning Commissioner of Baltimore County, ORDERED that the above petition 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 "R-6" Zone.

*John J. Ryan*  
ZONING COMMISSIONER OF  
BALTIMORE COUNTY

Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County—  
I, or we, RICHARD HOWARD KING, et al, legal owners of the property situated in the 13th Election District of Baltimore County bounded in part by Washelli Avenue and more particularly described on the attached description labeled "A" and more particularly described on the enclosed plans.

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MAP #13  
SEC 2-A  
SEC 3-A  
ML

briefly petition that the zoning status of the above described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an "R-6" Zone to an "M-1" Zone.

Reasons for Re-Classification: error in original zoning.

PRESENT  
Site and height of building: front.....23.....feet; depth.....25.....feet; height.....20.....feet.  
Front and side set backs of building from street lines: front.....N/A.....feet; side.....N/A.....feet.  
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.

JUN 15 1960  
Richard H. King  
Harry L. McKay  
Legal Owners  
Address: 20 Washelli Avenue  
Arbutus 27, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 15th day of June 1960, that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County" in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing herein be held in the office of the Zoning Commissioner of Baltimore County, in the 3224 Building, in Towson, Baltimore County, on the 22nd day of June 1960, at 12:00 o'clock A.M.

Notice  
W. Lee Thomas, Esq. (over) 7/24/60  
Campbell Aldg. 10 AM  
Towson 41md

Zoning Commissioner of Baltimore County

Interstate Highway I-65 and the subsequent Potomac Avenue extension. From the testimony received both of these projects would seem to be near reality.

The protestants presented information to the Board to support their claim that the property should remain in residential classification.

At the present time the Vista Manor development, comprising 26 homes, borders the southern end of the Ring property. In the immediate area is a church and school attended by some 450 children, which school is now being rebuilt and expanded.

Testimony which was uncontested, showed that the property to the east of the Pennsylvania Railroad tracks in this entire area has always and is now a quiet residential neighborhood. Mr. George G. Dorellis, Deputy Director of the Office of Planning, on behalf of his Department, stated that it was the opinion of the Department that this area should remain in a residential category.

In reaching its conclusion the Board cannot agree with the petitioner that the presence of the Railroad tracks, bordering the western extremity of the property, makes it almost mandatory that this property should be used for commercial purposes. Admittedly this property would be quite suitable for industrial use but certainly those persons who have bought homes in the Vista Manor development and those people who have settled in this area seeking the quiet and peace of the country atmosphere have a right to expect protection from the recently adopted land use maps in Baltimore County.

The Board feels that the land use map for this area adopted June 2, 1959 was undoubtedly correct leaving this property in a residential category and can find no error in original zoning.

It is, therefore, the unanimous opinion of the Board of Appeals that this petition is hereby denied.

BEGINNING for the same at a point on the East side of Potomac Avenue, said point being distant 230 feet, more or less, measured Northeastly along the East side of Potomac Avenue from the intersection of the East side of Potomac Avenue and the North side of Arbutus Avenue, said point of beginning being also a point in the center line of a 50 foot right-of-way, thence running and binding on the center line of such 50 foot right-of-way to the end thereof North 04 degrees 37 minutes 30 seconds East 279.26 feet, more or less, to a pipe, and running thence the following courses and distances: South 05 degrees 12 minutes East 26.93 feet, North 70 degrees 05 minutes 30 seconds East 299.75 feet, North 48 degrees 03 minutes 10 seconds East 328.5 feet, North 45 degrees 37 minutes 50 seconds West 308.23 feet to a concrete monument, North 48 degrees 18 minutes West 244.35 feet to a pipe, running thence and binding in part on part of the southwesterly side of Washelli Avenue North 48 degrees 18 minutes West 426.03 feet, thence running the following courses and distances: South 04 degrees 16 minutes 30 seconds East 50.48 feet, South 07 degrees 40 minutes East 101.02 feet, South 04 degrees 51 minutes 30 seconds East 100.48 feet, South 01 degrees 27 minutes 50 seconds East 100.03 feet, South 04 degrees 17 minutes West 100.10 feet, South 05 degrees 38 minutes 30 seconds West 100.39 feet, South 04 degrees 51 minutes West 100.27 feet,

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ML

South 06 degrees 37 minutes East 100.88 feet, South 00 degrees 19 minutes East 100.10 feet, South 00 degrees 17 minutes 30 seconds West 100.01 feet, South 03 degrees 15 minutes 15 seconds East 95.39 feet, South 00 degrees 51 minutes 45 seconds West 55.43 feet, North 48 degrees 38 minutes 40 seconds West 45 feet, running thence near and parallel to the Pennsylvania Railroad tracts South 00 degrees 51 minutes 45 seconds West 145 feet to a point on the Westernmost side of Potomac Avenue, such point being also the Northernmost terminus of Potomac Avenue and running thence and binding in an Easterly direction on such terminal boundary line of Potomac Avenue 60 feet to the place of beginning.

CONTAINING: 13.17 acres of land, more or less.

#4702  
MAP #13  
SEC. 2-A  
SEC. 3-A  
TTL

13.17  
3519X15

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

4707

District: 13th Dist R.C. to M.L. Date of Posting: 7/14/59  
 Posted for: \_\_\_\_\_  
 Petitioner: Richard H. Ring & Mary L. McRay  
 Location of property: End of Potomac Ave See Plat  
 Location of Signs: 3 Signs posted at Maclehills Ave  
 Remarks: \_\_\_\_\_  
 Posted by: [Signature] Date of return: \_\_\_\_\_

**ZONING DEPARTMENT OF BALTIMORE COUNTY**

COUNTY OFFICE BUILDING  
111 W. CHESAPEAKE AVENUE  
TOWSON 4, MARYLAND  
VA. 8-3000

WILSIE H. ADAMS  
ZONING COMMISSIONER

JOHN G. ROSE  
DEPUTY ZONING COMMISSIONER

WILLIAM I. SCHOTT  
ZONING ENGINEER

JEANETTE C. HARRIS  
ADMINISTRATIVE ASSISTANT

**NOTICE OF HEARING**

Re: Howard Ring & M. Lillian McRay  
90 Maclehills Avenue  
Arbutus 27, Maryland

Re: At the end of Potomac Avenue, See Plat

TIME: 10:00 A.M.  
 DATE: Wednesday, July 29, 1959  
 PLACE: Room 106, County Office Building, 111 W. Chesapeake Avenue  
Towson, Maryland

Zoning Commissioner  
of Baltimore County

**RECEIPT**

**PAID**—Baltimore County, Md.—Office of Finance  
Date: June 29, 1959

RECEIVED of: Proctor, McRay & Miller • TTL— 40.00  
 LOCATION OF PROPERTY: 2922 end of Potomac Ave., Arbutus • TTL— 40.00  
 AMOUNT: \$40.00

81623 #4702

Zoning Commissioner  
of Baltimore County

July 20, 1959

W. Lee Thomas, Esquire  
Campbell Building  
Towson 4, Maryland

Re: East side of Potomac Ave.  
13th District—Richard Ring

Dear Mr. Thomas:

We are in receipt of your check in the amount of \$12.50 to cover cost of additional advertising re the above subject.

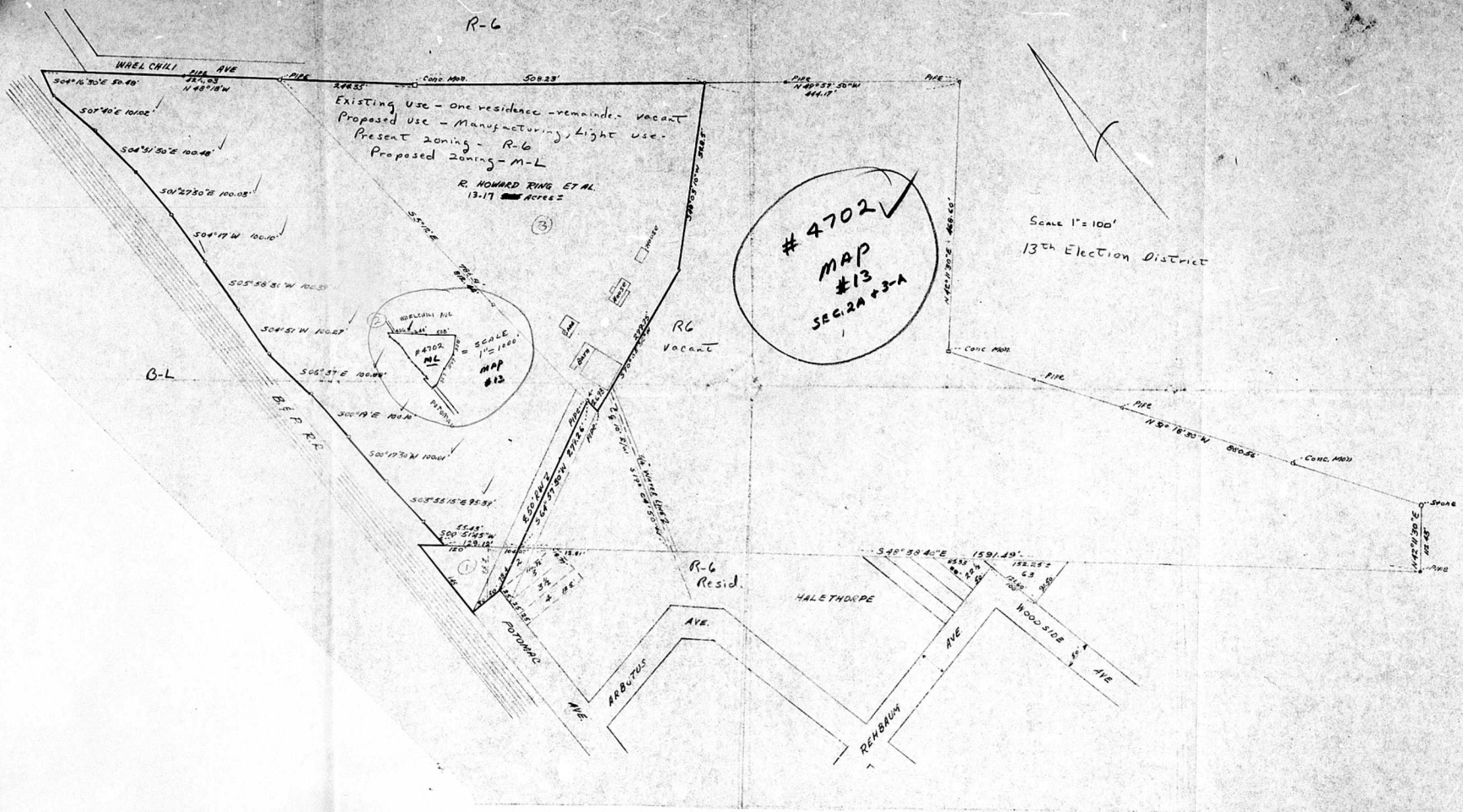
Thank you very much for your prompt remittance in the above matter.

Very truly yours,  
**PAID**—Baltimore County, Md.—Office of Finance

Wilsie H. Adams  
Zoning Commissioner  
7-2059 3362 Baltimore County TTL— 1250  
7-2059 3365 • • • TTL— 1250

01622 #1250

R-6



Existing Use - one residence - remainder - vacant  
 Proposed Use - Manufacturing, Light use.  
 Present zoning - R-6  
 Proposed zoning - M-L

R HOWARD RING ET AL  
 13.17 Acres ±

# 4702 ✓  
 MAP #13  
 SEC 2A + 3-A

Scale 1" = 100'  
 13<sup>th</sup> Election District

