£4846 Petition for Zoning Re-Classification

I, or we. . Opfer-Dickinson Co. . Ing. on the South side of Shawan Road, Last side of Baltimore-Harris Expressway and West side of York Road in the Eighth Election District of Baltimore County, Maryland - for detailed descript 1/7/60 see attached sheets.

(2) From a R-20 gone to a M-L gone as about on description.

attached bereto marked "R" and (3) from a R-L zone to a N-L zone as shown on description attached hereto marked "C".

Size and beight of building afrontaxian existery depth and an arrangement brightness and arrangement of the contract of the co Breathand side setchnicks of building from street lines afronts and an an fortunishes non-sexual soforts 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 sad are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

D CAME OF THE PARTY OF THE PART ZONING DEPARTMENT By fichers of Offer Megal Owner

...... 1952., that the subject matter of this petition to 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 hereon be had in the office of the Zoning Commissioner of Baltimore County, in the Reckord Bldg., in Towson, Baltimere County, on 11th day of Jamuary 19 60 at 10:20 lock A.M.

Zoning Commissioner of Baltimore County

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

4846 Date of Posting 12 - 29-59

Posted for leve & R. Janet met gont 18-20 3 and Grant goat Bet jewel 1914 3 vennour agen : Mentionwern frisk rogion at boyery: S. Shawess lef. & Frikelle: Mod Egennovez 4 to 15 Gentelland: Ik her Sidt.

De det delle .

Lection of Signification of food favorables beginning and between the favorable profit country to fill the state of the

JID/ne

RE: PETITION FOR RECLASSIFICATION OF PROPERTY ON SOUTH SIDE OF SHAWAN ROAD, EAST SIDE OF BALTI-MORE-HARRISBURG EXPRESSWAY AND

BEFORE THE

Mr. Deputy Zoning Commissioner:

Bull B

Please note an appeal to the County Board of Appeals in the above captioned Petition by Robert Louis Abell, a taxpayer of Baltimore County, Mary land, by his attorneys, J. Elmer Weisheit, Jr. and Arthur W. Machen, Jr., said of the Deputy Zoning Commissioner of Baltimore County, Maryland, in the above

Polus Louis Obell Robert Louis Abell Wight Avenue Cockeysville, Maryland Appellant

Struttensliff Attorneys for Appellant &

202 First National Bank Building Towson 4, Maryland Willey 3-1011

STATE OF MARYLAND

January 8, 1960

Mr. Wilsie H. Adams Zoning Commissioner County Office Building Towson 4, Maryland

RE: "oning Petition #4846 .-20, B.R. & B.L. Zone to M.L. Zone East of Baltimore-Harrisburg Exp. South of Shaman Road and

C.R.PEASE. SECRETARY A.B. GOMDON. EX.ASS. TO COM

This office has reviewed the subject potition and has found that the property will be errously affected by the proposed rights of way messawy for the tentatively proposed Other Baltimore Saltmay. Since the proposed routs is a Almos project, this office request he constraint of the proposed provides the proposed provides a constraint of the proposed provides and the proposed provides and the proposed proposed proposed the development of the subject property be delayed.

Thank you for your cooperation.

Very truly yours, Edward D. Reilly Development Englo John S. Lucis

\$352.78

01.622

RECEIVED of J. Elner Weisheit, Jr., Attorney for Protestants, the sum of \$352.78, being cost of appeal to the County Board of Appeals from the decision of the Decuty Zoning Commission granting reclassification of property on south side of Shawan Road, east side of Baltimore-Harrisburg Expressusy and West side of York Road, 8th District, Opfer-Dickinson Co., Petitioner.

Zonine Compleyione

PAID - Salitanore County, Md. - Office of Floates

2-23-60 1334 · · · IXL- 352.78 2-23-60 13-34 · · · INL- 352.78

February 19, 1960

Eoning status 6. property located the Southwest corner of Shawon and Cormick Roads.

Dear Siri

As per your request 8 have reviewed our files, and find that the above referanced property is presently zoned Hanufacturing Light and is posted as such on the official zoning maps in this office.

This property was reclassified from R-10 to M.L. in patition manber 4866 by the Deputy Zoning Commissioner on the 9th Day of Fabruary, 1950. An Appeal was taken from the decision and was sufcequently upheld by the Board of Appeals Order, dated Jame 14, 1950, which also grained the reclassification to M.L. The Dard of Appeals decision was appealed to the Circuit Code, and disabased by Judge Lester L. Barratt on Datember 30.

I am enclosing copies of the petition and orders by the Deputy Zoning Commissioner and the Board of Appeals. The decision of Judge Barrett is posted in our zoning appeals docket.

If I am can be of any further assistance in this matter, please do not hesitate to contact me.

Yours very truly,

JED/ba

H4846

SEC. 3-DA

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

Opfer-Dickinson Co. Inc.

Re: S/S Sussan Rd. 4 E/S Baltimore-Marri Expressing 4 W/S York Rd.-5th Dist. Opfor-Dickinson Co. Inc.--Petitions

TDER: 10:00 A.M. DATE PLACE: _Boom 106. County Office Building. 111 W. Chesapeake Syenue Towson, Maryland

Zoning Commissioner of Baltimore County

RECEIPT

Date: 12/21/59

RECEIVED of: Proctor, Royston & Mueller PAID Bolton are County, Md. - Office of LOCATION OF PROPERTY: --AMOUNT: \$176.00 ## \$\frac{\$\text{NO_00}}{\text{R_Aptiony Muslier}} \frac{\$\text{NL}^2 \geq 9 \ \ 170 \quad \quad \quad \text{TIL} + \text{Campball Bidge full 22299} \ 9 \ \ 470 \quad \quad \quad \text{TIL} + \text{TIL} + \text{Campball Bidge full 22299} \quad \qq \quad \quad \qua

01622 \$ 176.00

Zoning Commissioner of Baltimore County

176.00

Wight Avenue, Cockeysville, Maryland PLAINTIFF VS SPIBO T. AOMES, NATHAN H. KAUPMAN, JE., and O. HITCHELL AUSTIN, constituting and being the COUNTY SOANO OF APPRAIS OF BALITHOSE COUNTY, County Office Building, 111 West Cheespeaks Avenue, Towson M. Maryland

ROBERT LOUIS ABELL

CIRCUIT COURT FOR BALTIMORE COUNTY

IN THE

DEFI DANTS

............... ANSWIR TO ORDIR OF APPRAL TO THE CIRCUIT COURT FOR BALTHOUSE COUNTY AND ORDINAL AND CERTIFIED COPIES OF PROCEEDINGS BEFORE THE DEPUTY ZORMO COMMISSIONER AND THE BOARD OF APPRALS OF BALTI-

Mr. Clarks

Please file. &c.

Secretary to County Board of Appeals of Baltimore County

3 0

#4846

RE: PETITION FOR RECLASSIFICATION OF PROPERTY ON SOUTH SIDE OF SHAWAN ROAD, EAST SIDE OF BALTIMORE-HARRISBURG EXPESSS-OF PROPERTY ON SOUTH OF SHAMAN ROAD, EAST SIDE OF BALTHORS-HARRISBURG EXPRESS-WAY AND WEST SIDE OF YORK ROAD, 8th District - Opfo

REFORE DEPUTY ZONING COMMISSIONER

> Œ BALTIMORE COUNTY No. 1846

............

Pursuant to the advertisement, posting of property and public hearing on the above petition for reclassification of three parcels of land, binding on the south side of Shawan Road, east side of Baltimore-Harrisburg Expressway and the west side of York Road, in the Eighth District of Baltimore County, the first parcel from a "B-R" Zone to a "M-L" Zone; the second, from an "R-20" Zone to a "H-L" Zone, and the third, from a "B-L" Zone to a "M-L" Zone, from the facts presented at the hearing and the changes which have taken place in the area are sufficient to warrant the granting of the reclassification as petitioned. Also the comments of Mr. George G. Gavrelis, Deputy Director of the Office of Flanning, substantiate the reclamification for the following reamons:

- 'No recumanistation for the Collowing reasons:

 1. When the Highth District Zoning Ray was singled in Recember 1955, the saming for this news enterly from the Barristopy Expression of 1955, the saming for this news enterly from the Barristopy Expression of the Sand Part Sand From Shand mote beaver he and Cockeywille Roads was based primarily on land use proposed for enterly the same that residential now that could be entired above because it was the smallest residential now that could be smallest residential some that could be smallest residential now that could be smallest the same than the same that the same than the same that the same than the same
- 2. The soning established by the 6th District Zening Nap for the area defined show was legical and apropriate at the time the map was adopted in 1955. Your years have dapped since the adoption of the adoption of the sensing time period has brought about changes in thinking and change of conditions which warmer neventuation of existing soning for the area between the livrishurg Expressway and York Read south of Shakam Road. They are:

a. A better knowledge of industrial land requirements for Baltimore County.

A noter monotogy of involutinal into requirements for Bullianov Studies by the Segiminal Phonoing Cornell indicates the need for increasing the extent of existing inshutrially-sensed land in the Bulliance Region by 506. R witten of its previous as an inter-pretation of the sense of the sense of the sense of the value and the sense for logical and appreciately-office as for inshutrial activity. Now inshutrial land in Bultimore County will bell be a tires in sense in sense in the sense of the County will bell be a tires in sense a statistic of continuous sense in the sense of the sense of sense are attribute on the economic base of Bultimore County out of any will are specific tio tax has but she will be sense of the sense of the sense of the turing and countries and sense of the sense of the sense of the sense turing and countries and sense of the sen

- turing and comercial uses and employees copertuations, bindy not areas suited for industrial recording. With a knowledge, bind to reason the fore industrial recording. With a knowledge has been accounted to the common of the control of the common terms of histories county, the planning said free-reluted the land use patterns of the 6th District (among others) to determine which areas now sended where saiders extend the control of the said that the control of the control of the control of the said that the control of the control
- c. Change in physical conditions in the vicinity area affecting the property of the property o prisarily because of the absence of utilities now becomes obsolete here insamuch as more intense land uses are varranted. The State Roads Conduction shortly will expand the present inter-change of the Murrisburg Expressayy and Shaum Road in a manner which provides for a greater traffic carrying potential and a greater accessibility to the expressay for the vicinal area.

3. The Office of Flanning recommends for the proposed industrial recta sification sought by the petitioner. If we hid been able to predict the portain availability of utilities for the tract in the early 1960s rather han in the vages future, if we had a better knowledge of the need for reclasification

providing more mee industrial land in Baltimore County, and if we had been aware that the interchange of the Marzishung Expressang would be improved, and the interchange of the Marzishung Expressang would be improved by the property by the passed in an industrial soning estepacy when it ame is to original land use proposals for the 6th District in 1955. We believe that it is in the best interest of Baltimore County to provide for industrial soning here.

For the above reasons the reclassification should be granted. It is this 9th day of February, 1960, by the Deputy Zoning Commissioner of Baltimore County, ORDERED that the above described property, or area, should be and the same is hereby reclassified, from and after the date of this Order, the first parcel from a "B-R" Zone to a "M-L" Zone; the second, from an "R-20" Zone to a "M-L" Zone, and the third from a "E-L" Zone to a "H-L" Zone, subject, however, to approval of plans for the development of said property by the Office of Flanning and the Bureau of Land Development of Baltimore County.

Deputy Zoning County ner of Baltimore County

No. 68-77-R -

On August 29, 1967, Growth Properties, Inc., petitioned for a reclassification of property onthe west side of York Road, 975 feet north of Phoenix Road from R-6 Zone to M-L Zone, consisting of 24l acres, more or less. This is the petition herein considered,

On October 18, 1967 Hilltop Joint Venture petitioned for a reclassification of property on the northwest side of York Road 1550 feet north of Thornton Mill Road from R-6 Zone to M-L Zone, consisting of 114.9 acres, more or less

These two petitions comprise a total of 356 acres, more or less, submitted to the Zoning Commissioner for consideration as Industrial Use.

These two petitions are really the result of a petition by Opfer-Dickinson Co., Inc., on November 30, 1959.

At that time the Deputy Director of the Office of Planning, who is now the Director, advised the Deputy Zoning Commissioner who is now the Zoning Commissioner as follows:

Quote: from Per # 4 +46

With the full realization that this would have a tremendous impact on future planning and zoning, the Deputy Zoning Commissioner granted the reclassification on Feb. 9, 1960. It was upheld on July 14, 1960 by a two man County Board of Appeals, Spiro T. Agnew and Nathan Kaufman.

It is interesting to note that the Maryland State Roads Commission was less than hanny as evidenced by their comment on January

"This office has reviewed the subject petition and has found that the property will be seriously affected by the proposed rights of way necessary for the tentatively proposed Oater Baltimore Beltway. Since the proposed route is a future project, this office requests the rezoning be delayed to give both the State Roads Commission and the Baltimore County Planning

Commission time to study the route more thoroughly. If this is not possible then it is requested that development of the subject property be delayed

-2-

The Industrial Park, now known as the Greater Baltimore Industrial Park is now a model and, at this time, is served by a railroad spur.

For the present petition the Director of the Office of Planning advises as follows:

"I. Studies by the Planning staff with respect to industrial land use needs indicate that yet additional area is required throusous the County and in the northeastern sector of the County for industrial purposes. The Planning staff has indicated that the indust 1 corridor should be extended northerly between York Road and the Harrishu. Expressway. This indication is affirmed in the excently adopted General Development Plan for the Baltimore

The Planning staff is in accord with the proposal for industrial zoning here, although we would have preferred M. L. R. zoning. recognizes that problems exist now with respect to both utilities and accessibiblity. It notes that both water and sewer extensions are programmed for a biblity. It notes that both water and sewer extensions are programmed for a limited area in the corridor as part of the current capital program. It also that industrial development also that industrial development and the second program is more asset to the second program in the program of the program of the second program is the second program of the second program in the second program of the second pro

Albert B. Kaltenbach, Director of the Department of Public Works for Baltimore County, made it very clear that sewer and water will be made available if zoning is granted and publis works Agreements are concummated by the petitioner within a year and a half. Consulting engineers estimate construction of industrial park to be under way in one and a half years with completion within

It is hoped that the present map, now over twenty years old, will be replaced by a new one recommended by the Planning Board about February 1969. That there have been changes is self-evident. To wait until 1969 would not only slow down what will eventually be industrial use, but would set back plans for actualy: construction of water and sewer lines.

-3-

Only a few residents of the area attended the hearing, but they protested vigorously that they will not have the quiet enjoyment of their properties in a rural atmosphere, and what they say is true; but then, almost every residential. industrial and commercial develo ment now in existence/Baltimore County was once

The new concept is the construction of handsome industrial buildings on well landscaped properties near an area suitable for fine residences. The subject tract fits this concept admirably

It has been almost eight years since a petition/asked for industrial zoning at Shawan Road between the Harrisburg Expressway and the York Road, The new map, hopefully, will be in the hands of the Baltimore County Council in 1969. Baltimore County cannot stand still at its northern end waiting for a better York Road plan any more than Bethlehem Steel at Sparrows Point could stand still and wait for the needed road complex in Eastern Baltimore County.

The requested rezoning is for the public good and will ultimately benefit the public health, safety, perals smf gemeral welfare.

For the above reasons the reclassification should be had. It is this ____ day of October, 1967, by the Zoning Commissioner of Baltimore County, ORDERED that the herein described property or area should be and the same is reclassified from an R-6 Zone to M-L Zone, subject to approval of the site plan for the development of said property by the State Roads Chmmission, Bureau of Public Services and the Office of Planning and Zoning.

> Zoning Commissioner of Baltimore County

No. 68-86-R

On Cctober 18, 1967 Hilltop Joint Venture petitioned for a reclassification of property on the northwest side of York Road 1550 feet north of Thornton Mill Road from R-6 Zone to M-L Zone, consistingof 114.9 acres, more or less. This is the petition herein considered.

On August 29, 1967, Growth Properties, Inc., petitioned for a reclassification of property on the west cide of York Road 975 feet north of Phoenix Road from R-6 Zone to M-L Zone, consisting of 241 acres, more or

RE: PETITION FOR REMINASIFICATION :
OF PROPERTY ON SOUTH SIDE OF
SHMANN RADD, EAST SIDE OF RALTIMORE-HARRISBUSD EXPRESSMAY AND
MEST SIDE OF TORK ROAD, 6th :
District - upfer-Dickinson Co.,
lno., Petitioner :

BEFORE

COUNTY BOARD OF APPEALS

OF

RALTIMORE COUNTY

No 4846

.

OPINION

This petition asks that we reclassify a 176 acre tract in the lighth Mection District north of Towons os as to pensit light namufacturing uses. On the current soning any, adopted in December of 1955, the said tract is designated residential, except for about 17 acres along fork Road for which business uses are indicated. Roughly, the subject property is bounded by Shawan Road on the north, York Road on the east, a sparsely settled residential tract on the south, and the Baltisore-Harriston Expressay on the west. The residential acrease which adjoins the southern boundary of the subject tract continues south for distances varying between 1500 and 1000 feet where, generally along the south side of Wight Avenue and the south side of Paver Das Road, it mests other land somed for industrial use. From these roads on south for a distance of several miles, the area is predominantly industrial.

Road and deaderding Addway to the Expressway. Beaver Daw Road crosses the Expressway by bridge south of the western portion of the subject land, and runs generally southeasterly to intersect with fork back leither Hight Arenue one Beaver Dam Road provides access to the Expressway, the closest interchange being at Shawan Road, After Shawan Road, the next interchange to the south is at Timonium Road a distance of his atless.

The Board is cognizant that there is a strong presumption in favor of the validity of the existing soning, which can only be overcome by a showing of error or substantial changes in the area. We further realize that the instant property lies between institutional residential land to the north and the previously described residential tract abutting on the south. The Protestants for this reason contend that to resons it would assumt to "spot sonings".

As to the existence of error in original soning, we cannot find that the suppore errord in curtailing the northward expansion of industry in 1955. Based on the information then available to them, especially the bleak utility outlook for the area and the then existing road situation, they established the Wight Avenue - Beaver Dan Road boundary. The asgacity to measure

of that decision cannot be measured by its failure/up to 1960 conditions. We, therefore, find no error in original zoning sufficient in itself to justify reclassification.

However, substantial changes have occurred in the neighborhood, as the evidence of the Feitimer's witnesses amply proved. The testimony of Mr. Jerose B. Wolf, Assistant Director of Public Works shows that although the meanest sever is now about four miles south of the subject tract, funds are available and construction will begin this summer to take facilities as far morth as Texas. We stated that this work should be completed in 18 months and estimated further that sever facilities would be extended to Shawan Bood in two years. Wr. Wolf outlined additional important improved that the several content of the sever

Mr. George E. Gavrelis, Deputy Director of the Office of Planning, testified partly as follows:

"The Office of Planning recommends for the proposed industrial reclassification sought by the Petitioner. If we had been able to credict the certain availability of utilities for the tract in the early 1960s rather than in the vague future, if we had a better knowledge of the need for providing more new industrial land in Baltimore County, and if we had been aware that the inter-change of the Harrisburg Expressay would be improved, doubleasly the Office of Planning would have recommended that the subject property Planning would have recommended that the subject property its original land use proposals rockey when it made its original land use proposals rockey. When the description is the original land use proposals rockey when the property county of the property of the proposals of the property of the p

obviously, this testimony has no probative value as to what the Office of Planning would have done had the present conditions existed in 1955. Notther Nr. Gavrelis nor any individual in his Department can do other than speculate in that regard. What Nr. Gavrelis' testimony actually tells us is that, based on 1960 conditions, the Office of Planning favors the reclassification. In other words, that changes have occurred in utility availability, road adequacy, and industrial need; that because of these changes, the Office of Planning, were it preparing a new map today, would designate the subject tract for industrial sonding.

A more subtle but no less important change in conditions is reflected in the testimony of Mr. J. Walter down, a real estate expert appearing for the Fetitioner. Mr. Jones' testimony shows that the five year 'est of time has preven that much of the existing industrial land in the area is unused because of its unsuitability for such development, le cites as reasons the presence of old quarries, severe topographical variations, inadequate ingress and eggess, and swamps. If Mr. Jones is correct, and his testimony is uncontradicted in this respect, all the food set aside for the growing 1955 industrial baby is not digestible and additional food must be supplied to keep his healthy. Abandoning

the metaphor, additional usable industrial land must be made available to maintain the economic balance of Baltimore County.

Finally, we must carefully consider the contention of Protestants' counsel that to grant this petition would amount to "spot soning" in the

We cannot ignore the physical fact that the subject property, if strict sense, to would have residential and both north and south of it. In that strict sense, it would become an industrial spot. Fet, not all spot soning is reprehensible. In the Hewitt case, the Court of Appeals stated that "spot soning" may be either valid or invalid, depending on the circumstances of each particular case. The Court went on to say that if such "spot soning" is done in accordance with a soning plan and done for the public good and bears a substantial relationship to the public health, safety, sorals and seneral welfare, it is valid,

unlawful "spot soning" has been defined by the Court to be the arbitrary and unreasonable derotion of a small area within a soning district to a use which is inconsistent with the use to which the rest of the district is restricted. Invalid "spot soning" singles out a parcel of land and sarks it of into a separate category for the benefit of its owner.

The evidence in this case conclusively proves that the resoning sought bears a substantial relationship to the public health, safety and general welfare and is not for the personal enrichment of individuals. It is, therefore, in our opinion valid "spot zoning".

The Board has most thoroughly examined the evidence before it in this case because of its conviction that the matters decided here are vital to the welfare of the County. It is our decision that this reclassification be granted.

ORDER

this 1/45/2. For the reasons set forth in the aforegoing Opinion, it is that the reclassification should be and the same is breby granted.

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

Note: Mr. G. Mitchell Austin did not six in the above case.

#4846 MAP #8 SEC.3-D MAP #8 SEC. 3-D SHAWAH) RD R. 20 #4846 17.146 ACE 1" = 1000' 158.105 Acres