HE: RECLASSIFICATION OF PROPERTY :
on East side of York Road
360' N. Cedar Ave., 9th District :
The inter-City Land Company

0 0

COUNTY BOARD OF APPEALS 56C3-C OF

BALTDICKE COUNTY RA No. 4848

In accordance with the instructions from Judge John E. Raine, Jr., Circuit Coart of Baltimore County in reference to Case No. 2348 Wiltondale Improvement Et Al; vs. County Board of Appeals-an appeal from the County Board of Appeals of Baltimore County Case No. 4848, reclassifies of property on the East side of York Road 360 feet North of Cedar Avenue in the Minth District of Baltimore County-The Inter-City Land Company,

For the reasons set forth in the aforegoing Opinion, it is day of November, 1961 by the County Board of Appeals of Baltimore County, ORDERED that the aforessid petition for reclassification be and the same is hereby granted on all of the property contained in this petition except that property in an area of 40 feet to the West of the centerline of Codar Avenue for the entire width of the property; said property remaining in an "R-6" category.

netitioner, the following amended Order is hereby ONDERED:

Dage of

S. Withell Quet

SMITH AND HARRISON

\*\*\*\*\*\*\* Will 1 1111

4848

TOWSON 4. MARYLAND VA 2-2000

MALCOLW H. DILL

January 14, 1960

John G. Rose, Esq. Deputy Zoning Commissioner County Office Building Towson 4, Maryland

Petition for zoning reclassification The Inter-City Land Co., Petitioner property East side York Road, 300 feet north of Cedar Assaus, 9th Dist.

Please enter an appeal from your decision on January 11, 1900 in the above entitled case, and forward the record to the County Board of Appeals.

I enclose herewith check for \$50.00 advance costs.





WILTONDALE INPROVEMENT ASSOCIATION, 512 Sussex Road Towson 4, Maryland

george F. HEALY 512 Sussex Road son 4. Maryland

NATHAN H. KAUFMAN, JR. NATHAN H. KAUPMAN, JR.
SPIRO T. AGNEW and
G. MITCHELL AUSTIN
CONSTITUTING THE
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY CIRCUIT COURT for BALTIMORE COUNTY

.......

ORDER FOR APPEAL MR. CLERK

Please note an appeal on behalf of Wiltondale Improvement Association and George F. Healy from the County Board of Appeals of Baltimore County to the Circuit Court for Baltimore County in the matter of the petition for reclassification of property on the east side of York Road, 360 feet north of Cedar Avenue, Ninth District, from "R-6" zoning to "R-A" zoning of the Inter-City Land Company, Petitioner. This appeal is from the decision on such petition No. 4848 of the County Board of Appeals of Baltimore County dated December 15, 1960, in which an application for reclassification was granted. This appeal is filed pursuant to the provisions of Maryland Rule 1101.

R. Taylor McLean

- JAN 14 - 1961 -O And O D Send O D Send O D Send O D Send O D D Send O IN THE

RE1 RECLASSIFICATION OF PROPERTY OR EAST SIDE OF YORK ROAD 360' N. Codar Ave., 9th District - t The Inter-City Land Company, Poittlown

COUNTY BOARD OF APPEALS SEC. 3-C Œ BALTIMORE COUNTY

............ OPINION

This is a potition for reclassification from an "R-6" Zone to an "R-4" Zone of property on the east side of York Road 360 feet north of Cedar Avenue, in the Minth District of Baltimore County.

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The development of the Standard Ctl Bellding, alone tite-city opposite this property, and the redisart included. It would be to visualize the frontier of the control of th

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for the outsite width of the property should be outsome of the property,
patition and sufficient control of the control of

#4848 MAP RA

For the reasons set forth in the afrequency Opinion, it is day of December, 1960, by the County board of Appeals of may, ORDERED that the aforesaid petition for reclassification

The granting of the reclassification is approval of plans by the Office of Planning.

ORDER

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#4848

mpp

#9

SEC.3C

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Deather Me 70 9. Mitchell austin

Messrs. Proctor, Royston & Mueller Campbell Building Towson h. Maryland

Jan. 17, 1961

Baltimore County, Maryland c/o Zoning Department, 113 County Office Building Towson h, Md.

Cost of certified copies of documents in the matter of reclassification of property - E. S. York Road 360' M. of Colar Ave., The Inter-City Land Company, Potitioner

January 15, 1960

\$50.00

RECEIVED of Smith & Harrison, Attorneys for Inter-City Company, the sum of Fifty (\$50.00) Dollars, being cost of appeal to the County Board of Appeals from the decision of the Deputy Zoning Commissioner denying reclassification of property on west side of York Road 360' north of Cedar Avenue, 9th District.

Zoning Comissioner

PAID --- Bullimore County, Aid. --- Citics of Phease

1-1860 260 . . TIL-50.00 1-1860 260 · · TKL-SAAA

01.622

Re: E/S York Ri. 360° N. Codar Ave. -9th Diet. The Inter-City Land Co.-Petitioner

NOTICE OF HEARING

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

The Inter-City Land Co.

7DE: \_\_\_ 1400 Pall DATE: Nonday, January 11, 1960

PLACE: \_Boos 106, County Office Building, 111 W. Chesapeake Avenue Towson, Karyland

Zoning Commissioner of Baltimore County

RECEIPT

Date: \_\_\_ 12/21/59

PAID - Baltimore County, Md. - Office of Pine 

MOUNT: 442-00 1224 8 8 8 8 8 1114

01622 843.00

Zoning Commissioner of Baltimore County

To The Zoning Commissioner of Baltimo	
	legal owner of the property stuate
All that parcol of land i Egst side of York Road beginni and binling on the East side o 19 minutes East 129,23 feet; it themes South 59 degrees it min themes Southerly and binding of theres North 62 degrees h0 min	in the Witch Districts of Daltiers Country on the car ing 350 fast leach of Codak Annuary themse Newton's of Yack Bood 180,92 fourt Beneza South 62 degrees themes South 12 degrees 25 minutes West 10 feets into 2 bast 105 feet to the Mest aide of Codak Araman on the West 106 of Codak Araman 107,02 feet; sales Nest 176,68 feet to the place of he Junius.
	_ \
	f the above described property be re-classified, pursuant to the
Zoning Law of Baltimore County, from a	nn. R-6 zone to an R.A
	Error in original soning and changed conditions
Size and height of building: front	feet; depthfeet; heightfeet.
	n street lines; frontfeet; sidefeet.
Property to be posted as prescribed by Z	
	above re-classification, advertising, posting, etc., upon filing
	are to be beend by the zoning regulations and restrictions of
Bultimore to t	the Zoning Law for Hultimore County.
	THE INTER-CITY LAND COMPANY
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The second	MMrss 7214 OLD HARFORD RD. 44
arrison	
gton Ave.	sioner of Baltimore County, this
December 199 that t	the subject matter of this petition be advertised, as required
	y," in a newspaper of general circulation throughout Balti-
more County, that property he pested, as	and that the public hearing hereon be had in the office of the
Zoning Commissioner of Baltimore Count	111 W. Chesapeako Ave. http://mithe-Reckorth.Rbdg. in Touxon, Baltimore County, on
thelltdtday ofd	January
11160	Zeniau Commissioner of Baltimere County
1/11/20	
165 411	(over)

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland #4848

Date of Posting 12 - 29-59 Posted for and B- 6 hours to B- A Journ recession at property Carifornial of Jack All 368 ft Marth of Carles article rangem of some Deve as principle. Devel of Machedistander all lastered et of fifthe front for the exist well made of financial on the exist well made to find the exist well made to the exist well made to

Posted by 26044 X Jensey Date of return: 12 36-59

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property on tenar avenue must remain residential	, therefore,
Deputy the abo	ev re-classification should DOT be had-
It Is Ordered by the Zoning Commissioner of Raltimore Co	ounty, this
January 19 60, that the above petition be and f	
above described property or area be and the same is hereby a	continued as and to remain a.n. "R-6".
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	Commissioner of Baltimore County
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WILTONDALE IMPROVEMENT ASSO. ET AL. IN THE CIRCUIT COURT FOR BALTINGRE COUNTY COUNTY BOARD OF A PEALS

MEMCRANDUM OPINION

The lot involved in this zoning appeal is an unusual one in that it "fronts" on the York Foad for approximately one hundred fifty feet, while at the same time it "fronts" on Codar Avenue about one hundred nine feet. The York Road is a heavily traveled arterial highway, whereas Cedar Avenue is a narrow and quiet suburban lane. The lot owner applied for a reclassification of the property from R-6 to R-A, which was granted by the Board on December 15, 1960. On both sides of the subject property the land is zoned R-6, but to the north there is a large tract of land fronting on the York Road zoned R-2, separated from the subject property by a strip approximately seventy-five feet wide of R-6 property, the testimony being confused as to the exact width of this strip.

A reclassification may be justified if there was error in the original zoning. In this case there is no evidence of original error on which the Board could justifiably grant the reclassification. Reclassification by the Board will be usheld where the question of whether there has been a sufficient change in the neighborhood since the original soning to warrant a reclassification is fairly debatable. Missouri Realty, Inc. vs. Ramer, 216 Ma. 1412, 1417. It is difficult, if not impossible, to define with any precision what changes justify reclassification. In White vs. Board of Appeals 219 Md. 136, it was held that plans and preparations for a sewer line would be a sufficient change. On the other hand Quinn vs. Tolle, 21; Fd. 643, held that changes in zoning classification of tracts in the immediate area of the land there sought to be reclassified were not sufficient to justify reclassification. Where there are no fixed guide posts it is more important than ever for the Court to exercise judicial restraint, and not to substitute its judgment for that of the administrative board. Almost directly opposite the subject property, on the west side of the York Road, a large office building has been erected. 'me other property on the west side of the York Road, a short distance south of the said office building, has been reclassified R-A. There have also been changes from R-6 to R-A on the cast side of the York Road, hetween Hillside Avenue and Terracedale. Certainly the large office building and the apartment project on the west side of the York Road have caused a change in the neighborhood. In Fallon vs. City of Baltimore 219 Md. 110, the changes relied on to support reclassification were on the opposite side of the York Read from the property involved. It should be noted that in this case, as in Missouri Realty, Inc. vs. Ramer, 216 Md. 442, the application for reclassification is from one residential category to another, and the amount of change necessary to justify reclassification might be less than that necessary to support reclassification from residential to commercial or industrial use. The question is a close one, but the court believes that the question as to whether there are sufficient changes to justify reclassification is a fairly deba'able one.

In the opinion of the Board it is stated that a portion of the subject property would not be reclassified, but that a buffer strip along Cedar Avenue would be retained as R-6. Through clerical error or inadvertence the Order of the Board was not in conformity with the Opinion, but granted the reclassification as to the entire lot. For that reason the case must be renamied for the entry or a proper order reclassifying the property R-A, saving and excepting that portion of the property within forty feet from the centre

The protestants point out that the Board's Opinion recognizes the need to protect Cedar Avenue from the effects of anartment use of the subject property, and that the protection to the residents of Cedar Avenue, as afforded by the Board's Opinion, is completely illusory. The fact that the Board tried to placate the Cedar Avenue residents does not render the Board's action illega

## CERTIFICATE OF PUBLICATION

NOTICE OF ZONING PUTTON FOR

TOWSON, MD., January 1 , 19 60. THIS .3 TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., passedposests day of Jonuary 19,60, the first publication appearing on the \_\_\_\_\_25th \_\_day of \_\_\_ December 19....59

THE JEFFERSONIAN

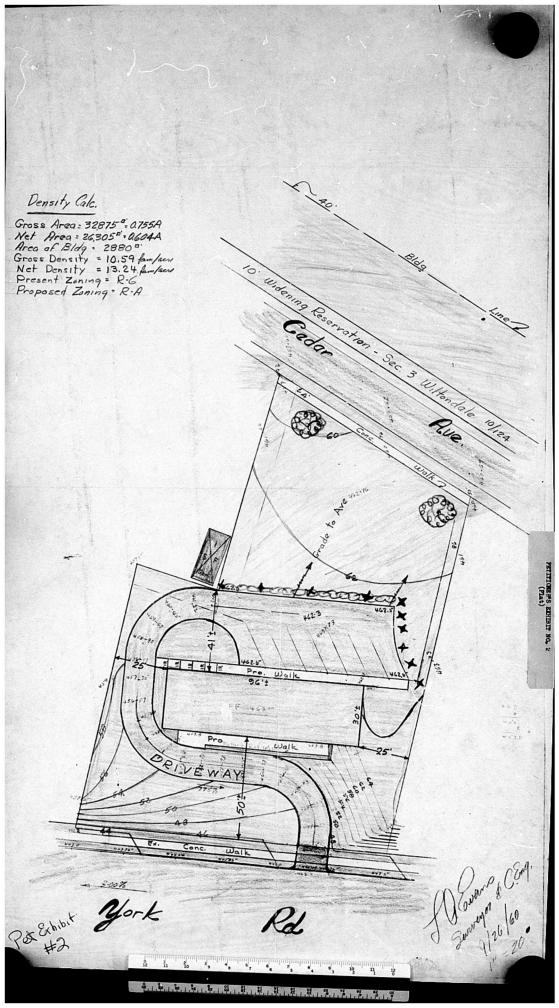
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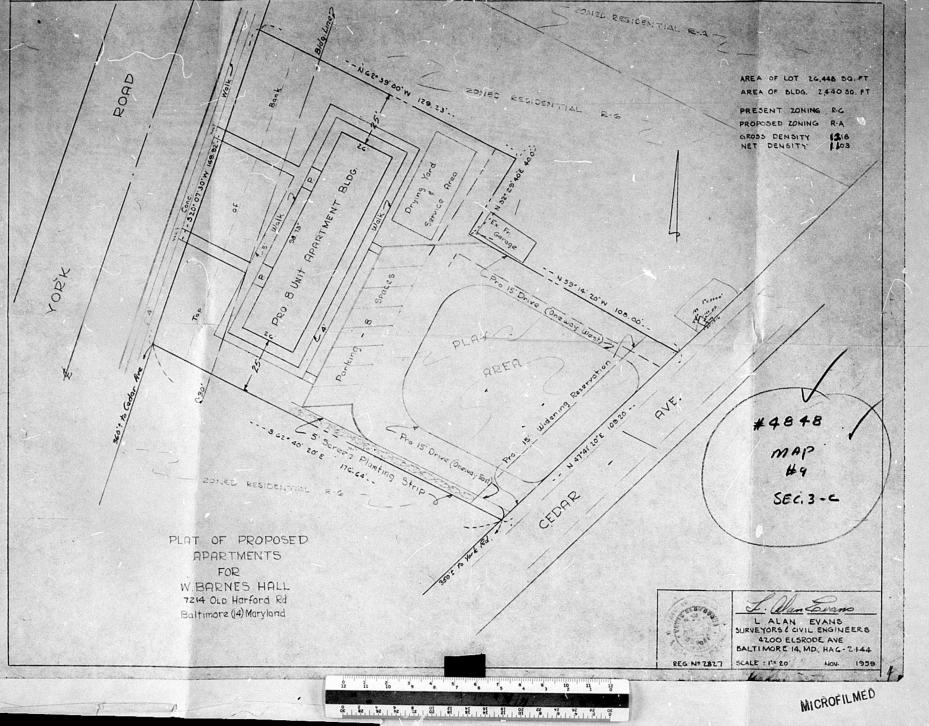
arbitrary or discriminatory. The reclassification contemplated by the Scard's Opinion will restrict the land comer to eight spartment units, and there is no evidence that this limited increase in density will have an adverse effect on Codar Avenue. The Spard at the hearing, and in the Opinion, seemed to assume that the applicant would develop the tract in the manner indicates by the site plan offered in evidence. The sound may reclassify but cannot require an applicant to a bide by sworn testiscoy as to the precise manner in which the property will be actually used. However, the Office of Flamning, a co-ordinate department of the County Covernment, could be expected to require the developer to make good his representations. It is unnecessary to determine whether the protestants might be able to invoke the principle of estopped in an injunction proceeding, should the developer seek to develop the tract in a manner different from that stated to the Scard

The case is hereby remarded to the Board for passage of an Order consistent with its Opinion,

John E. Raine, Jr.

October 30, 1961





ox 200 1/19/59