## #5037 Petition for Zoning Re-Classification

To The Zoning Commissioner of Baltimore County:-

2485

I, or we, Mildred B. Zaiser, George R. Marketten Company Company Calser, Mary G. Zaiser, Roland D. Zaiser, Hilda L. Zaiser, and Wilton Zaiser, Mary C. Zaiser, Roland D. Zaiser, Rillia L. Zaiser, and Wifton Farms Dairy, Inc. legal owners of the property situate at the intersection of Maiden Chical Lane, William Avenus and Baitimere Gounty Baitway, in Selection 1 of the Company of

hereby netition that the romine status of the above described property be re-classified, pursuant to their

Reasons for Re-Classification: for proposed use and construction of group homes

I or we agree to nav expenses of above re-classification, advertising, posting, etc., upon filing

May 1960 that the subject matter of this petition he advertised as required

ssioner of Beltimore County in the Reckord Bldg, in Towson, Baltimore County on

July

more County, that property be posted, and that the public hearing hereon be had in the office of the

of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of

feet : side

Robert D. Jaren
Robert D. Jaren
Robert D. Jaren
Wilton Dayns Dairy Jar. Level Owner
By:

305 W. Chesapeake Avenue

Towson 4. Maryland

19.60 at 0:000 eleck A. M.

Address C/o John Gravon Turnbull

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Zonion Law of Baltimore County from an R-6 rome to an R.G.

Front and side set backs of building from street lines front

perty to be posted as prescribed by Zoning Regulations

& Faiser

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George R. Zajer Mary S. Zajer

27th day of

ORDERED By The

7/17/60

1503

RE: PETITION FOR RECLASSIFICATION
FROM AN Warder Zone to an Warder
Zone I at of Midden Choice
and the State of Control Choice
Baltimore County Belliway,
Lat District of Baltimore Co.,
Midwed B. Zaiser, Roor G. Zaiser,
Boland D. Zaiser, Hilda L.
Zaiser and Milton Farme Dairy,
Inc., Petitioners

BERNSE DEPUTY Z INTING COMMISSIONER

OF

No.5037

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The petitioner in the above case seeks the reclassification of property, from an "R-6" Zone to an "R-0" Zone, at the intersection of Maiden Choice Lane, Wilkins Avenue and the Baltimore County Beltway, in the First District of Baltimore County.

The First District Land Use Map was adopted on April 5, 1960 by the County Council of Baltimore County. During the period this map was under consideration there were several classifications recommended by the Office of Flanning and the petitioner such as "B-L" (for a shopping center); "M-R"; "B-R"; "R-G" and "R-A" zoning. The general public was greatly confuse by such a great number of possible classifications as evidenced at public hearings. Eridently the County Council decided to choose a middle road and leave future reclassifications in the hands of the Zoning Commissioner. Normally a map of this type is not changed immediately after adoption. In the instant case the subject property has been controversial from about Nevember of 1957 until the time of the adoption by the Council. It is believed that a more dispassionate hearing is possible at this time.

Whether or not there has been an error in the zoning map is a bit difficult to decide since there are so many definitions of "error". One definition of error is the failure to classify property in its highest and best use consistent with the general welfare.

A procedural error might be that the Baltimore County Council has disregarded the joint recommendation of the Planning Board and Zoning Commissioner without affirmative testimony or reasons justifying such action.

This is the only open tract of land served with utilities and muitable for development east of the Beltway and west of the Baltimore City Line. The land to the south across Wilkins Avenue is zoned and developed as "R-g" (group hones). A large portion of the land north of Wilkins Avenue and east of the Beltway is institutional property. Normally such property is not available for future residential expansion.

The potitioner, has owned this property under consideration for many years and when he learned that a new land use map was to be adopted he made every effort to communicate with the Baltimore County authorities so he could seek and acquire proper soning. Some councilmen at the time of the hearing on the First District Land Use Map suggested that the proper way to get zoning was by petition and not by written or oral request to the Baltimore County Planning Board or the Faltimore County Council. It is proper that this natition should be given immediate relief.

For the above reasons the petitioner's request should be granted in part, and denied in part. To the east a strip along Maiden Choice Lane will remain "R-6". There is "R-6" property to the north and a portion of MR-CM on the west side of the petitioner's property and bordering Eenwood Avenue will remain "R-6". The "R-0" zoning will front on Wilkins Avenue and face the existing "R-O" to the south. The portions denied are separated from the rest of the tract by a large stream and such portions are not suita, le for reclassification to an "R-G" Zone.

That portion of Parcel No. 1 described as follows is reclassified from an "R-6" Zone to an "R-0"Zone:

the right-of-our REGINING for the same at a point on the bare line of the right-of-our for Willing Assume as about on the bare line of the state of the point of the state of

CONTAINING 37.3 acres, more or less.

The remaining portion of Parcel No. 1, described in the no tition is denied and the property is continued as an "R-6" Zone and all of Parcel No. 2 is also denied and continued as an "R-6" Zone.

It is this 1846 day of Nov. 1960, by the Deputy Zoning Commissioner of Baltimore County, CREERED that the aforesaid portion of Parcel No. 1 is hereby reclassified, from and after the date of this Order, from an "R-6" Zone to an "R-6" Zone, as shown on the attached plat of Wilton Farms Dairy, Inc., outlined in red, and made a part hereof.

It is further ORDERED that the remaining portion of

parcel No. 1 is continued as an "R-6" Zone; also all of Farcel No.2 is

11 001 Deputy Zoning Commissioner of Baltimore County

RE: PRITITION FOR RECLASSIFICATION from an "R-6" Zone to an "R-G" from an "R-6" Zone to an "R-6" Zone - Int. of Maidon Choice Lane, Millcirs Ave. and the Baltimore County Beltway, ist Dists, Mildred B. Zaizer, George R. Zaizer, Mry G. Zaizer, Roland D. Zaizer, Hilda L. Zaizer and Wilton Farms Dairy, Inc., Pottsteener COUNTY BOURD OF APPEALS CF BALITHORE COUNTY No. 5037

This is a petition for reclassification from an "R-6" Zone to an "R-G" Zone of property located at the intersection of Maiden Choice Lone, Wilkins Awanue and the Baltimore County Beltway, in the First District of Baltimore County. The property originally petitioned for consisted of some 6h acres. However, counsel for the petitioner amended the petition to include roughly thirty seven acres as outlined on petitioner's Rehibit No. h.

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At the outset of the lengthy hearings, counsel for the patitioner stipulated that there had been no change in the area since the adoption of the Land Use Map by the Baltimore County Council on April 5. 1960 and that their entire case rested on their contention that the Council had erroneously goned the property. It was for that reason that an immediate release from the Nan was sought by the netitioner through his filing for reclas ification on May 31, 1960.

The petitionar feels that he is entitled to reclassification of the subject property for the following basic reasons:

That the zoning asked for would have no adverse affect on the rights of the surrounding property owners.

2. That the County Council did not have sufficient knowledge of the area in coning the property, rather that they were swared by the position of Council and Mallow Brooks Bradley who testified before the Board with the council and the country property of the Board and then subject to further ageal, to the Chresti Court of Baltimore Country and the Pay the Chresti Court of Baltimore Country and the Pay And Court of Appeals, and that to a trapt to some through land one may one a back-down enthod.

That both the Flanning Board and the Zoning Coemissioner recommended a more dense zoning for the property and that the County Council ignored their professional advice.

h. That all County services and facilities are available for "R-G" zening.

That the subject area is not one of cottage character-inties but rather of group houses and that the politioner is entitled to similar treatment for his property.

The protestants base their case for the denial of the potition on the following reasons:

-2-

1. That he County Council give full consideration to this particular property. The politic most ings were hald allowants. Occupied most property and the second council most give sows given in part to the discussion of this property and that before the network was taken on the property; the County Council with the council of the property and that before the network was allowed by the Zenting Considerations and representatives of the Tamming Board.

That the Council was correct in its judgment that Milkins Avenue should be a dividing line between cottage and group housing.

That "R-6" is a reasonable use of the subject property and that the potitioner presented no witnesses who disagreed that the property could not be used properly and profitably as it is now somed.

h. That the use of the property for higher density would cause a further traffic problem and undes hardship on the surrounding area by further complicating the poor water supply now existing.

Of course there are numerous other reasons given by both Petitioner and Protestants alike and all of these have been considered by the Board but the surmary above are the basic reasons given for the granting and denying of the metition.

The County Board of Appeals is unanimous in its decision in that this petition should be denied. We are firm in our opinion that land use maps adopted by the County Council must be supported unless error beyond reasonable doubt is proven. The validity of a land use map carries a strong presumption of being correct and the Court of Appeals has stated that those attacking a land use map carry even a greater burden of overcoming the presumption of the validity of the map than in the case of piecemeal mening.

The Board does not disagree with the petitioner that the subject property could be used for "2-0" soming and further understands its position that the County Council errored in not giving more status to the recommendations of the County Commissioners and the Planning Board.

On the other hand the Board heard testimony from Councilman, Walter Brooks Bradley, that Wilkins Avenue was considered by the Council as a somewhat natural barrier between group development and cottage time development. Mr. Bradley did testify that he felt that trying to obtain zoning through the land use map was a back door method, which statement the Board does not concur with. However, Mr. Bradley further testified that the subject property had been given full consideration by the Council and that the decision reached was in his opinion a fair and homest conclusion, one reached without bias.

The Board is convinced beyond reasonable doubt that the County Council gave full and complete consideration to this property. The fact that the property would be more valuable to the property camer as

continued as an "R-6" Zone.

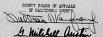
 $^{\rm w}R\text{-}G^{\rm m}$  than  $^{\rm w}R\text{-}\dot{G}^{\rm m}$  cannot be considered as valid reason for the granting of the reclassification.

In conclusion, the Board feels that the petitioner has presented to the Board, through witnesses: Mr. W. Bernard Willemain. Mr. J. W-lter Addison, Mr. Augustine J. Muller, Mr. George E. Gavrelis and Mr. Wilton Zaiser, fair and reasonable testinony that the property could be used by the property owner as "R-G". We concur that "R-G" would be a reasonable use of the property as would possibly other morning classifications. However, we are firm in our opinion that the petitioner has failed to show that the County Council made an error in the adoption of the Land Use Map for the First District of Baltimore County. By using Wilkins Avenue as a dividing line between cottage and group development, the Council has made a decision that this Board feels was a reasonable one and that this decision cannot be declared in error on the testimony that has been presented to the Board.

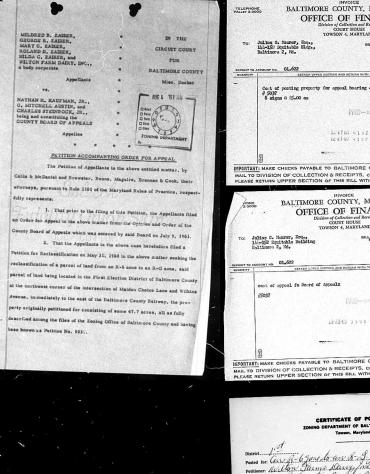
## ORDER

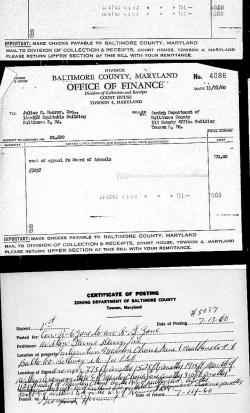
For the reasons set forth in the aforegoing Opinion, it is this of R. day of July, 1961, by the County Board of Appeals, ORDERED that the reclassification petitioned for, be and the same is hereby denied.

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



NOTE: Mr. Charles Steinbock, Jr., did not sit in the above case.





BALTIMORE COUNTY, MARYLAND

OFFICE OF FINANCE

Division of Collection and Receipts COURT HOUSE

TOWSON 4, MARYLAND

No. 4145

DATE 12/27/60

POTAL AMOUNT

COST

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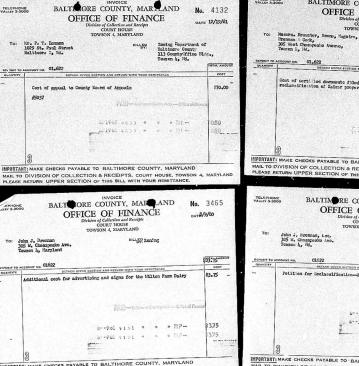
\$10.00

Control Department of

213 County Office ideg.,

Baltimore County

PARTY - Subtract Court, Inc. - Officed Roses



0-150 saba e e e 191--0.000 IMPORTANT; MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE. PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE

Division of Collection and Receipts COURT HOUSE

TOWSON 4, MARYLAND

Zoning Department of Baltimere County 113 County Office Bldg., Torson by Md. BILLED

No. 8080

DATE 9/7/61

No. 2485

DATE 6/1/60

TOTAL ANOUN Cost of cortified documents filed in the matter of reclassification of Zaimer property \$12.00

IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND PLEASE RETURN UPPER SECTION OF THIS BILL, WITH YOUR REMITTANCE,

> INVOICE BALTIMORE COUNTY, MARYIND OFFICE OF FINANCE

Dicision of Collection and Receipt COURT HOUSE TOWSON 4, MARYLAND

ORFACH UPPER SECTION AND SETURN WITH YOUR PENITFANCE Potition for Reclassification-Zaiger PAID-tillings Complet - Office Plea

