

# PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, William G. Schmelyun, et al. owner... of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an R-6 zone to an M-L zone; for the following reasons:

- Error in the original zoning map
- Change in the character of the neighborhood

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for:

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification and/or Special Exception 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.

Contract purchaser  
Address

Ordered By The Zoning Commissioner of Baltimore County this 16th day of January, 1968, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 21st day of February, 1968, at 10:00 o'clock

County, on the 21st day of February, 1968, at 10:00 o'clock

By Richard D. Payne  
Zoning Commissioner of Baltimore County

WILLIAM G. SCHMELYUN  
F/S Waechli Ave. 639.52' NW of Vera Avenue  
R-6 to M.L.  
NO. 68-193-R  
13th District  
39.4 acres

Jan. 16, 1968 Petition filed  
Mar. 12 Z.C. DENIED reclassification  
" 26 Order of Appeal to County Board of Appeals filed  
Apr. 23, 1970 Board GRANTED reclassification on Parcels A and B  
" DENIED " " " C, D & E  
May 15 Order for Appeal filed in the Circuit Court by Richard D. Payne, Esq., Attorney for Protestants, Arbutus Community Association, et al (File #4456)  
" 20 Order for Appeal filed in the Circuit Court by John J. Bishop, Esq., Attorney for Protestants, Patrick J. Gollizzo, et al (File #4459)  
July 22 Record of proceedings filed in the Circuit Court  
Feb. 8, 1973 Judge Barrett granted Motion for Suspension of Dismissal Rule (Md. Rule 530)  
Apr. 13, 1976 Dismissed by the Circuit Court for want of prosecution without prejudice (from Court Docket)

See Case #72-96-R under Cycle Zoning

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

Docket No. \_\_\_\_\_ Folio No. \_\_\_\_\_

Plaintiff

LAW-EQUITY

vs.

File No. \_\_\_\_\_

Defendant

## NOTIFICATION TO PARTIES OF CONTEMPLATED DISMISSAL

"No proceedings of record in the above-styled action having been taken within a period of eighteen months, all parties and their counsel of record are hereby notified, as provided by Maryland Rule 530, that an Order of Dismissal and Judgment for Costs for lack of prosecution will be entered after the expiration of thirty (30) days from the date of receipt of said Notice unless prior to the expiration of said thirty (30) days a motion for suspension is filed pursuant to section 530 of Maryland Rule 530."

Copy of notice mailed to:

Clerk

by regular mail, postage prepaid, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Clerk

RE: Petition for Reclassification :  
From R-6 Zone to M-L Zone -  
E/S Waechli Ave., 639.52' :  
N/W Vera Ave., 13th Dist., :  
Wm. G. Schmelyun, et al., :  
Petitioners :  
: BEFORE :  
: the Zoning Commissioner :  
: of :  
: Baltimore County :  
: No. 68-193-R :

The petitioners have requested reclassification, from an R-6 Zone to a M-L Zone, of property on the east side of Waechli Avenue 639.52 feet northwest of Vera Avenue in the Thirteenth District of Baltimore County.

The Thirteenth District Zoning Map clearly indicates that in the triangle enclosed by the southerly side of the Baltimore County Beltway, the southeast side of Pennsylvania Railroad and the southeasterly side of Interstate 95-S. there is no manufacturing zoning whatsoever.

It is obvious that the County Council was not in error in approving the portion of the Map and the property should remain R-6.

For the above reasons the above reclassification should NOT BE HAD.

It is this 12th day of March, 1968, by the Zoning Commissioner of Baltimore County, ORDERED that the above reclassification be and the same is hereby DENIED and that the above described property remain as and the same is hereby continued as and remain an R-6 Zone.

Zoning Commissioner of Baltimore County

## BALTIMORE COUNTY, MARYLAND

### INTER-OFFICE CORRESPONDENCE

TO: Mr. Robert E. Gattalla, Planning Commissioner Date: February 11, 1968  
FROM: Robert E. Gattalla, Director of Planning  
SUBJECT: Petition 68-193-R. East side of Waechli Avenue 639.52 feet northwest of Vera Avenue. Petition for Reclassification from R-6 to M-L.  
William G. Schmelyun, et al - Petitioners  
13th District  
REPLIED: Wednesday, February 21, 1968. (10:00 A.M.)

The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:

In preparing the Comprehensive Zoning Map for the 13th District, the possibility of classifying the subject property for non-residential use was considered by the planning staff, the Planning Board and the County Council. Ultimately it was decided that residential zoning would best serve to protect and stabilize residential potentials and development to the north and south. The subject property, further, does not have - and for the foreseeable future, will not have - good access to the freeway system. All local access has not been planned. Creation of industrial zoning here would lead to an intrusion of commercial traffic into residential streets. We believe that the map was correct in maintaining the residential linkage for the area covered by R-6.

JOHN J. BISHOP, JR.

ATTORNEY AT LAW  
203 COURTLAND AVENUE  
TOWSON, MARYLAND 21204  
VALLEY 3-6301

November 19, 1968

Mrs. Edith T. Eisenhart, Secretary  
COUNTY BOARD OF APPEALS  
COUNTY OFFICE BUILDING  
111 WEST CHESAPEAKE AVENUE  
TOWSON, MARYLAND 21204

RE: Case No. 68-193-R, William G. Schmelyun, et al. for reclassification from R-6 to M-L, E/S Waechli Ave. 639.52' NW of Vera Avenue, 13th District, 3/12/68 - Reclassification Denied by Z.C.

Gentlemen:

Please enter my appearance as counsel for the Halthorpe Improvement Association, Inc. in regards to the above styled matter which has been set in for hearing on Thursday, December 5, 1968 at 10:00 a.m.

Sincerely yours,

John J. Bishop, Jr.

JJB:mls

Manley F. Gately

ATTORNEY AT LAW  
233 EQUITABLE BLDG.  
BALTIMORE, MD. 21202  
BA 7-3888-9

December 5, 1968

County Board of Appeals  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

RE: Notice of Assumption  
Case No. 68-193-R  
William G. Schmelyun, et al

Gentlemen:

Please withdraw my name from the above captioned case since I do not represent any of the participants.

MFG/sdm

Sincerely yours,

Manley F. Gately

LAW OFFICES  
RICHARD D. PAYNE  
THE LAW BUILDING  
26 W. PENNSYLVANIA AVENUE  
TOWSON, MARYLAND 21204

RICHARD D. PAYNE  
ROBERT A. DICICCO

VALLEY 8-8880

May 21, 1969

The County Board of Appeals  
County Office Building  
Towson, Maryland 21204

Re: Case No. 68-193-R  
William G. Schmelyun, et al  
for reclassification from R-6 to M.L.

Gentlemen:

Please be advised that I, as attorney, represent the following Protestants:

ARBUTUS COMMUNITY ASSOCIATION, INC.  
Town Hall  
1349 Stevens Avenue  
Arbutus, Maryland 21227

LAWRENCE W. KIDWELL  
2342 Devitt Road  
Arbutus, Maryland 21227

WILLIAM J. ALLEN  
1541 Sulphur Spring Road  
Arbutus, Maryland 21227

JOHN M. CORCORAN  
5501 Heatherwood Road  
Arbutus, Maryland 21227

Richard D. Payne

Rec'd 12/6/68  
9:45 a.m.

Rec'd 11/20/68  
7:30 a.m.

MAY 11 1976

RE: PETITION FOR RECLASSIFICATION  
FROM an R-6 zone to an M.L. zone  
E/S Waelchli Avenue 639.52'  
NW of Vera Avenue  
13th District  
William G. Schmelyun,  
Petitioner

BEFORE  
COUNTY BOARD OF APPEALS  
OF  
BALTIMORE COUNTY  
No. 68-193-R

#### OPINION

This case comes before the Board on an appeal by the Petitioner from a decision of the Zoning Commissioner, dated March 12, 1968, denying the captioned petition, which seeks a reclassification from R-6 to M.L.

The subject property is located in Arbutus, in the Thirteenth Election District of Baltimore County, on the east side of Waelchli Avenue, 639.52 feet northwest of Vera Avenue, and is on the west side of I-95 which is now under construction. It is located within the southwest quadrant formed by the intersection of the Baltimore County Beltway and the new Interstate 95 highway.

Testimony heard in this lengthy case revealed that the subject had previously consisted of thirty-four contiguous acres in one ownership, and due to paper streets, out conveyances and takings for public roads, now leaves a remainder of 18.81 acres divided into five separate and irregularly shaped parcels, which are illustrated on the plat entered in evidence as Petitioner's Exhibit #1.

|            |          |             |
|------------|----------|-------------|
| Parcel A   | contains | 4.44 acres  |
| Parcel B   | contains | 10.01 acres |
| Parcel C   | contains | 3.00 acres  |
| Parcel D   | contains | 0.86 acres  |
| Parcel E   | contains | 0.50 acres  |
| Total size |          | 18.81 acres |

The Petitioner commended his petition to eliminate the request for reclassification of a lot 50 feet wide by 182 feet long; said lot is shown enclosed in red markings on Exhibit #1.

The entire property is presently zoned R-6. It was described as unimproved, and while now lying dormant it had been for a number of years operated as a sand and gravel quarry. Prior to that it had been a brick yard. It is of very rough and irregular topography, with a 35 foot differential in elevation between the high and low

William G. Schmelyun - #68-193-R

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(Zoning Case #67-29-R), and the construction of the Post Office and garage, all being adjacent to the subject. He emphasized the tremendous change in the area, and the impact that the new roads have on the subject since the adoption of the comprehensive zoning map; namely:

1. The Beltway was indicated on the 1959 zoning map but was not constructed until 1962.
2. The alignment of proposed Patomac Avenue was changed in the last three or four years by the County and the State Roads Commission, relocating it from the west side of the subject to a course through the center of the subject. It being a heavy road, 42 feet of paving on a 60 foot right-of-way.
3. At the time of the adoption of the map in 1959, there was no definite plan for the alignment of proposed I-95 expressway.
4. The design, fixing location, and acquisition of property for the I-95 interchange was accomplished in 1968/69.
5. I-95 is the heaviest expressway in the Baltimore area, and as late as 1962 no grade alignment had been set, nor had property owners affected by it been advised of proposed bridges and road crossings.
6. Sulphur Spring Road relocation was approved by the SRC in 1962.

The Petitioner's expert witness, Mr. Frederick Klaus, recommended that Parcels C, D and E should be zoned M.L.R., instead of M.L., as further protection for the residences along the south side of Sulphur Spring Road, but that Parcels A and B should be zoned M.L.

Several residents of the area, as well as representatives of the Arbutus Community Association and the Halethorpe Improvement Association, testified in opposition to granting the petition. Their objections generally were that they anticipated an increase in traffic that would be generated, particularly truck traffic, endangering pedestrian safety; that their property values would be depreciated; and that residential land is needed in the area. They acknowledged that the subject property is now an

William G. Schmelyun - #68-193-R

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points of the property. It is partially barren and partially in scrubby brushland. It repeatedly has been subject to unauthorized dumping of trash and litter. Much of the land was backfilled without compacting during the course of the quarry operation, and is too unstable to support buildings without providing pilings. The ground water table was reported to be high and troublesome. Many springheads were encountered by the Petitioner when he graded the adjacent Post Office site, requiring him to install special conduit facilities as a provision for perpetual drainage. The name of Sulphur Spring Road, he said, is derived from the springs common to the area.

It was shown that extensive changes in roadways have been made, or are in the process of being constructed, through and around the subject property; (See plat entered as Petitioner's Exhibits #1 and #12). I-95, a major highway, is being cut through along the easterly side of the site. The excavated cut is as much as 65 feet below grade of the subject, and creates a very steep bank from the subject to the bed of the right-of-way. This highway bisects old Sulphur Spring Road causing it to become dead end at the highway. A new or relocated Sulphur Spring Road, which runs through the property and separates Parcels C, D and E from the remainder, is under construction. It will serve as an access road from the old Sulphur Spring Road to the new I-95 highway. Its width through the property ranges from 100 to 200 feet, and will initially have 56 feet of paving. Additionally, partially completed Patomac Avenue, 60 feet wide, as shown on Exhibit #1, will curve through the property, separating Parcels A and B, and connect with the aforementioned relocated Sulphur Spring Road.

The Petitioner, and his expert witnesses, claimed that the problems inherent to the site, such as, its irregular configuration, rugged and uneven topography, high water table, unstable ground conditions, and the impact of the many heavy roads, prevent it from being developed in its present R-6 classification, both from a physical and economic standpoint. If successful in his petition, he plans to develop a light industrial park, primarily with warehouses, and being similar in general appearance to Security Industrial Park. He claimed that no adverse effect would result on neighboring residential properties. Both sides agreed that satisfactory sewer and water utilities are available.

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eyesore; is detrimental to their property values in its present state; and that all of Arbutus is badly cut up by major public roads.

At the conclusion of the hearing, counsel requested the Board to inspect the property before deciding the case. After viewing the property, the neighborhood, and carefully weighing the testimony presented, the Board recognizes that this is a complex case. The inspection of the site fortified the testimony that the subject property is a "pocket" of land "cllobbered" by massive roads, and has unusual inherent physical problems influencing its development.

Testimony by both sides conclusively indicated to the Board that at the worst there will be no greater volume of traffic generated by M.L. than if the site were developed as R-6. No doubt more truck traffic will result from the M.L. than the R-6, however, trucks have been in and out of the subject in the past years hauling sand and gravel without hindering residential growth. Petitioner's photograph (Exhibit #4-b) gives some indication of the large fleet of trucks stationed at the adjacent Post Office. The Board believes that granting the petition will not result in a development that will unduly create traffic congestion in the streets. The question of "error" in the original zoning is not convincingly proven, but the Petitioner has proven overwhelmingly to the Board's satisfaction that there has been substantial "change" in the character of the neighborhood, by virtue of the road changes and the construction of the Post Office, garage, and Colony Apartments. The past use of the subject property as a sand and gravel pit has not been residential, and total denial of the petition would be confiscatory in nature. Parcels C, D and E are exceptions to this since they are oriented to the residential area on the south side of Sulphur Spring Road and are effectively separated from the remainder of the subject by relocated Sulphur Spring Road; they should be denied. The few R-6 homes existing along Waelchli Avenue, and the Colony Apartments can continue to be as well screened from the subject in the future as they are now, through control of the site plan approval by

William G. Schmelyun - #68-193-R

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The mixed zoning surrounding the site was described as including R-A to the southwest, across Waelchli Avenue, which area has been developed with 116 apartment units, occupied, and known as the Colony Hill Apartments; a B.L. zone to the north, which is the site of a new Post Office and a maintenance garage; R-6 zones located toward the south along Waelchli Avenue and to the north along old Sulphur Spring Road, which areas have been developed with several varied type individual houses. The P. B. and W. Railroad traverses in a north-south direction approximately 90 feet west of the subject. Continuing farther to the east and to the west are other extensive M.L. zones.

The Petitioner's traffic expert, Mr. John Erdman, testified that the proposed M.L. facility would generate an estimated 900 automotive trips per day, with 108 trips being developed at peak hours. This, he said, was less average daily traffic than could be expected if the property were developed in its R-6 category generating an anticipated 1100 trips daily, or in an R-A category generating 2200 trips. He estimated that currently five percent of the total traffic along old Sulphur Spring Road is truck traffic, removing it from the role of a residential street, and that twenty percent of the traffic generated by the M.L. proposal would be truck traffic. From his personal experience of living in the development of Chadwick, near the Security Industrial Park, he has observed that the truck traffic is not a nuisance there, and he felt it would not be a nuisance here. He stated that Sulphur Spring Road, 24 feet wide, would have a capacity of 1900 vehicles per hour. He concluded, from his analysis, that the existing and proposed roads would adequately serve the area, and that developing the subject site as petitioned would not unduly cause traffic congestion.

Disputing Mr. Erdman's testimony and disagreeing with him on all points except with regard to the expected volume of truck traffic, was Protestants' expert witness, Dr. W. W. Ewell. Dr. Ewell claimed, from his studies, that Mr. Erdman's 1900 vehicles per hour estimated capacity of Sulphur Spring Road was exaggerated by 800 cars per hour, and that in his opinion the expected peak traffic generation of 108 trips per hour, also stated by Mr. Erdman, would more likely be 190 to 200 trips per peak hour. He theorized this figure by computing on a basis of 10 car trip per acre (10 x 18.81 acres =

William G. Schmelyun - #68-193-R

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Baltimore  
County's Department of Planning.

From the testimony presented and from conclusions drawn from an inspection of this site, some details of which have been briefly stated in the foregoing opinion, the Board hereby denies the petition on Parcels C, D and E, and grants the petitioned reclassification from R-6 to M.L. on Parcels A and B, as shown on Petitioner's plat, Exhibit #1.

#### ORDER

For the reasons set forth in the foregoing Opinion, it is this 23rd day of April, 1970 by the County Board of Appeals, ORDERED that the reclassification petitioned for on Parcels C, D and E, be and the same is hereby DENIED, and

FURTHER ORDERS that the reclassification petitioned for on Parcels A and B, from an R-6 zone to an M.L. zone, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Chapter 1100, subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

John A. Slowik, Acting Chairman

W. Giles Parker

Walter A. Keller, Jr.

William G. Schmelyun - #68-193-R

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188 cars), whereas Mr. Erdman used twelve percent of his projected average daily traffic to arrive at a peak hour use of 108 cars (12% of 900 = 108). Dr. Ewell was of the opinion that the traffic signal at Sulphur Spring Road and Washington Boulevard would have to be recycled to permit more green time for Sulphur Spring Road traffic and less green time for Washington Boulevard traffic, and still, he realized, there would be congestion and backup of traffic. However, he believed that an R-6 development of the property would generate the same volume of traffic as an M.L. development. He was also concerned that the approximate two miles distance between the subject and the Beltway interchange, via new Sulphur Spring Road, would encourage truck traffic to use a shorter route through residential streets.

On cross examination, Dr. Ewell read into the record the official comments prepared for this case by Baltimore County's traffic engineer which stated in part:

"The proposed intersection of Patomac Avenue and relocated Sulphur Spring Road appears as planned and should be adequate to accommodate the 1500 trips/day generated from the site".

The Petitioner put on lengthy testimony of change and error to justify his petition, some of which has already been recited in this report. Additionally, he showed that the Office of Planning and the Planning Board at one time did recommend M.L. zoning for the subject. He claims it was error for them to later reverse themselves. Mr. George E. Gavrelis, Director of Planning, denied this contention of error, and held that the property should remain residential. Mr. Malcolm Dill, the Director of Planning at the time of the adoption of the zoning map, testified that while in his opinion there was no original error in the zoning adopted for the property, it is logical and conceivable that the subject, saving Parcels C, D and E, now could be reclassified as M.R. or M.L.R., thereby eliminating a possible substitution to commercial use, as allowed under the Zoning Regulations, if an M.L. classification were granted. He acknowledged that the subject is a "raw" piece of land; that the R-6 classification is "O.K.", but R-A zoning is preferable.

Changes cited by the Petitioner since the adoption of the comprehensive zoning map in 1959 included the reclassification of the Ring property from R-6 to R-A

LAW OFFICES  
COOK, MUDD, MURRAY & HOWARD  
HERSCHEL TOWNSEND BUILDING  
NEW WASHINGTON AVENUE  
TOWSON, MARYLAND 21204

December 2, 1974

Mrs. Edith T. Eisenhart  
County Board of Appeals  
County Office Building  
Towson, Maryland 21204

Re: Zoning File No. 68-193-R  
William G. Schmelyun  
E/S Waelchli Ave. 639.52'  
NW of Vera Avenue  
13th District

Dear Edith:

I have your letter of November 20th. You are correct in assuming that Case No. 68-193-R is moot, and if you want to dismiss that old case if you are still carrying it on your docket. However, since the appeal was taken by the protestants, I guess you would rather have a notice of dismissal by them.

Very truly yours,

James H. Cook

JHC:rm  
c.c.: Richard D. Payne, Esq.

MAY 11 1976

January 16, 1968

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING  
COUNTY OFFICE BUILDING  
TOWSON, MARYLAND 21204

Frank E. Ciccone, Esq.,  
First National Bank  
Towson, Maryland 21204

SUBJECT: Reclassification from R-6 to M.L.  
for William S. Schmelyun, located  
on the R/W's Vera Ave., 200' No. of  
Waelchill Ave.  
13th District  
(Item 79, January 23, 1968)

Dear Sirs:

The Zoning Advisory Committee has reviewed the subject petition and has the following comments to offer:

**BUREAU OF ENGINEERING:**  
Water - Existing 30" water in Sulphur Spring Road  
Existing 6" and 8" Waelchill Avenue  
Adequacy of existing utilities to be determined by developer or his engineer.  
Sewer - Existing 8" sanitary sewer in Sulphur Spring Road.  
Road - Potomac Avenue is to be developed as a minimum 40' road on a 60' R/W. Some  
revisions may be required at the time of development of this site in order to  
facilitate channelization of the proposed intersection of Potomac Avenue and  
relocated New Sulphur Spring Road. Waelchill and Maple Avenues are both to be  
developed as a minimum 30' roads on 50' R/W's.

**HEALTH DEPARTMENT:**  
Public utilities must be indicated and means of providing public water and sewer to  
this site. These must be shown on revised plans prior to the hearing.

**TRAFFIC ENGINEERING:**  
This office will submit comments at a later date.

**FIRE BUREAU:**  
Water mains and hydrants must be shown on site plans prior to the hearing.

**STATE ROADS COMMISSION:**  
There is a perpetual easement for outlet ditch proposed that will affect the site.  
Any change in the drainage area must be approved by the State Roads Commission.  
The plan must be revised to indicate the proposed easement and the changes in the  
proposed R/W line for Interstate Route 95 and relocated Sulphur Spring Road.

**ZONING ADMINISTRATION DIVISION:**  
In view of the above comments this office is withholding a hearing date until such  
time as revised plans are received in accordance with the above comments.

The above comments are not intended to indicate the appropriateness of the  
zoning action requested, but to assure that all parties are made aware of plans or  
problems that may have a bearing on this case. The Director and/or the Deputy  
Director of the Office of Planning and Zoning will submit recommendations on the  
appropriateness of the requested zoning 10 days before the Zoning Commission's  
hearing.

The following numbers had no comment to offer:

Project Planning Division  
Building Engineer  
Board of Education  
Industrial Development

Very truly yours,

JAMES L. DYER,  
Zoning Supervisor

cc: Carole Brown-Sur. of Engr.; William Greenblatt-Health Dept.; C. Richter Moore-Sur. of  
Traffic Engr.; Capt. Lhas-Harris-Fire Dept.; John Meyers-State Roads Comm.

PATRICK J. GALLIZZO,  
ET AL  
Appellant  
VS.  
BOARD OF APPEALS FOR  
BALTIMORE COUNTY  
Appellee

MOTION FOR SUSPENSION OF DISMISSAL RULE

Patrick J. Gallizzo, Et Al, Appellants, by John T. Bishop, Jr.,  
their Attorney, moves for the suspension of Maryland Rule 530 pursuant to  
Section C of the said Rule and for reasons states:

1. The above captioned case involves an appeal from the  
County Board of Appeals ruling whereby the subject property was rezoned M.L.
2. That the granting of the reclassification would work great  
damages and hardship on the said appellants.
3. That no action has been taken on part of the appellants since  
the appellee has not complied with local Rule 2.3, although the appellants  
have filed their memorandum in accordance with said Rule.
4. That a comprehensive zoning map was adopted by the  
County Council on April 23, 1970, whereby the said property was zoned  
D R 5.5, which rezoning supercedes the reclassification by the said Board  
of Appeals.
5. That the appellants are apprehensive that the dismissal of  
this appeal may be prejudicial to their position since a dismissal may leave  
the case in a posture whereby the Board of Appeals findings would be the last  
standing action in this case.

JOHN T. BISHOP, JR.  
600 East Joppa Road  
Towson, Maryland 21204  
823-6301  
Attorney for the Appellants

RECEIVED 1978

CERTIFICATION OF MAILING

I HEREBY CERTIFY this 8th day of February, 1973, that a  
copy of the foregoing Motion For Suspension of Dismissal Rule was mailed to  
County Board of Appeals, County Office Building, Towson, Md. 21204;  
Richard J. Payne, Esq., 26 W. Pennsylvania Avenue, Towson, Md. 21204;  
and Frank E. Ciccone, Esq., Jefferson Building, Towson, Md. 21204.

JOHN T. BISHOP, JR.  
600 East Joppa Road  
Towson, Maryland 21204  
823-6301  
Attorney for Appellants

PATRICK J. GALLIZZO,  
ET AL  
Appellant  
VS.  
BOARD OF APPEALS FOR  
BALTIMORE COUNTY  
Appellee

ORDER

It is ORDERED this 8th day of February, 1973, that  
the foregoing Motion For Suspension of Dismissal Rule be and it is hereby  
granted and the effect of Maryland Rule 530 A is hereby suspended.

Patricia R. Smith  
JUDGE

FRANK E. CICONE  
Attorney At Law  
FIRST NATIONAL BANK BLDG.  
TOWSON, MARYLAND 21204  
March 20, 1968



Mr. John G. Rose  
Zoning Commissioner  
Baltimore County Office  
of Planning and Zoning  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Dear Mr. Rose:

Re: Petition for Reclassification  
from R-6 Zone to M-L Zone  
E/S Waelchill Avenue, 639.52'  
N/W Vera Avenue, 13th District,  
William G. Schmelyun, et al.,  
Petitioners - No. 68-193-E

I am hereby taking an appeal to the County Board of Appeals on  
behalf of William G. Schmelyun, et al., Petitioners, to the  
Order rendered in the above-entitled case on the 12th day of  
March, 1968.

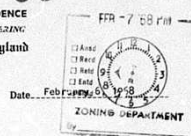
I am enclosing herewith a check to cover the cost of this ap-  
peal.

Very truly yours,

Frank E. Ciccone  
Attorney for Petitioners

FEC:hl  
Encl.

INTER-OFFICE CORRESPONDENCE  
BUREAU OF TRAFFIC ENGINEERING  
Baltimore County, Maryland  
Towson, Maryland 21204



TO: Mr. James E. Dyer  
FROM: Eugene J. Clifford

SUBJECT: Zoning Petition 68-193-E  
R-6 - M.L. Zone  
East side of Waelchill Avenue 639.53 feet  
northwest of Vera Avenue

Review of the subject plan dated November 16, 1967 results in  
the following comment:

The proposed intersection of Potomac Avenue and relocated  
Sulphur Spring Road appears as planned and should be adequate to  
accommodate the 1500 trips/day generated from the site.

It should be pointed out, however, the existing road system  
could not be expected to handle this volume of industrial traffic.

This office, therefore, recommends that if zoning is granted,  
no occupancy should take place until the intersection of Potomac  
Avenue and relocated Sulphur Spring Road is constructed.

Eugene J. Clifford  
County Traffic Engineer

EJC:CRM:ar

EVANS, HAGAN & HOLDEFER  
SURVEYORS AND CIVIL ENGINEERS

4200 ELKRODE AVENUE / BALTIMORE, MD. 21214 (301) 426-2144  
1317 POPPAN STREET / C. MARYSGOOD, MD. 21033 (301) 228-2115  
119 E. MAIN STREET / WETZINGVILLE, MD. 21157 (301) 846-1015  
13 S. WASHINGTON STREET / EASTON, MD. 21601 (301) 822-1431

November 22, 1967.

DESCRIPTION OF PROPERTY TO BE RECLASSIFIED FROM R-6 TO M.L.

BEGINNING for the same on the northwest side of Vera Avenue at a point situate  
North 40 degrees 01 minute 15 seconds East 200 feet from the corner formed by the in-  
tersection of said northwest side of Vera Avenue with the northeast side of Waelchill  
Avenue, thence leaving said place of beginning and running and binding on said north-  
west side of Vera Avenue North 40 degrees 01 minute 15 seconds East 544.05 feet, thence  
leaving said northwest side of Vera Avenue and running the two following courses and  
distances, viz: South 48 degrees 32 minutes 12 seconds East 155.09 feet and thence  
North 16 degrees 10 minutes 48 seconds East 932.77 feet to the south side of Spruce  
Avenue, thence running and binding on said south side of Spruce Avenue South 88 degrees  
08 minutes West 631.77 feet, thence leaving said south side of Spruce Avenue and run-  
ning the 3 following courses and distances, viz: South 01 degree 59 minutes East 150  
feet, thence South 88 degrees 08 minutes West 90 feet and thence North 01 degree  
52 minutes West 180 feet to the north side of Spruce Avenue, thence running and binding  
on the north side of Spruce Avenue North 38 degrees 08 minutes East 580 feet, thence  
leaving said north side of Spruce Avenue and running the 4 following courses and  
distances, viz: North 01 degree 52 minutes West 162 feet, thence North 74 degrees 57  
minutes 34 seconds West 135.65 feet, thence South 88 degrees 08 minutes West 180 feet  
and thence North 01 degree 52 minutes West 179.47 feet to the south side of Sulphur  
Spring Road, thence running and binding on said south side of Sulphur Spring Road North  
88 degrees 22 minutes West 50.09 feet, thence leaving said south side of Sulphur Spring  
Road and running the 3 following courses and distances, viz: South 01 degree 52 minutes  
East 182.53 feet, thence South 88 degrees 08 minutes West 500 feet and

Page 2

Description of Property to be Reclassified from R-6 to M.L.

Continued:

thence North 01 degree 52 minutes West 136.55 feet to said south side of Sulphur Spring  
Road, thence running and binding on said south side and on the southeast side of Sulphur  
Spring Road the 2 following courses and distances, viz: by a curve to the left in a  
southwesterly direction for a distance of 235 feet, more or less, the arc of which is  
subtended by a chord bearing South 63 degrees 14 minutes West 230.56 feet to the end of  
said curve and thence South 56 degrees 28 minutes West 218.09 feet, thence leaving said  
south east side of Sulphur Spring Road and running the 3 following courses and distances,  
viz: South 44 degrees East 352.00 feet, thence South 56 degrees 23 minutes West 207.46  
feet and thence North 33 degrees 37 minutes West 200 feet to the southeast side of  
Waelchill Avenue, thence running and binding on said southeast side and on the east,  
northeast, northwest and northeast side of said Waelchill Avenue the 8 following courses  
and distances, viz: South 56 degrees 23 minutes West 345.22 feet to a point of curve,  
thence by a curve to the left with a chord bearing South 29 degrees 01 minute West  
116.05 feet to the end of said curve, thence South 01 degree 57 minutes West 30.61 feet,  
thence North 88 degrees 03 minutes West 3.77 feet thence South 06 degrees 50 minutes  
West 182.03 feet, thence South 48 degrees 18 minutes East 598.23 feet, thence North  
39 degrees 30 minutes East 392.60 feet and thence South 49 degrees 52 minutes 30 seconds  
East 639.52 feet to the place of beginning.

Containing 39.4 acres of land more or less.

Saving & Excepting therefrom the right-of-way for the proposed I-95 Interstate  
highway and for the proposed realignment of Potomac Avenue.

This description was prepared for zoning purposes only and is not  
intended to be used for conveyance.



J. Carroll Hagan

MAY 11 1976

- 2

PATRICK J. GALLIZZO  
98 Waelchi Avenue  
Baltimore, Maryland 21227

Vernon E. MURPHY  
102 Waelchi Avenue  
Baltimore, Maryland 21227

DONALD STEVENS  
1553 Sulphur Spring Road  
Baltimore, Maryland 21227

HELEN MCGARRIGLE  
1550 Sulphur Spring Road  
Baltimore, Maryland 21227

ELISE FICKE  
1405 Woodside Avenue  
Baltimore, Maryland 21227

CLAUDIA EASTON  
1557 Sulphur Spring Road  
Baltimore, Maryland 21227

ROBERT REINHOLDS  
1548 Sulphur Spring Road  
Baltimore, Maryland 21227

and

JOSEPH P. KINSEY  
1519 Woodside Avenue  
Baltimore, Maryland 21227

Appellants

v.

JOHN A. SLOWIK

W. GILES PARKER

and

WALTER A. REITER, JR.

Constituting the County Board of  
Appeals of Baltimore County  
County Office Building  
Towson, Maryland 21204

Appellees

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

#### PETITION IN SUPPORT OF APPEAL

The Petition of Patrick J. Gallizo, Vernon E. Murphy, Donald Stevens,

Helen McGarrigle, Elsie Ficke, Claudia Easton, Robert Reinholds, and Joseph  
P. Kinsey, by John J. Bishop, Jr., their attorney, respectfully represents unto  
Your Honor:

1. That the above-named Appellants are property owners and appeared  
as Protestants before the Zoning Commissioner of Baltimore County and the  
County Board of Appeals of Baltimore County and opposed the granting of the  
zoning reclassification in connection with Zoning File No. 68-193-R pertaining  
to property located in Arbutus, in the Thirteenth Election District of Baltimore  
County, on the east side of Waelchi Avenue, 639.52 feet northwest of Vera  
Avenue and that the said Appellants are aggrieved parties as a result of the  
opinion and order of the County Board of Appeals of Baltimore County dated  
April 23, 1970, by which Parcels A and B as shown on the Petitioner's Exhibit  
No. 1 were granted zoning reclassification from R-6 zone to M.L. zone.

2. That the said order of the Board and the opinion upon which it is  
based are clearly arbitrary, capricious, illegal, unsupported by the evidence,  
unreasonable and against the public interest in that:

A. The evidence substantiates the fact that  
there was no error in the original zoning and that there has  
not been a substantial change in the character of the  
neighborhood that would have warranted a reclassification.

B. The opinion of the said Board of Appeals  
contains erroneous references to the evidence, specifically  
but not limited to the width and existence of roads and  
streets in the immediate area.

C. The opinion contains erroneous references

-2-

to testimony produced before the Board and refers to  
testimony that was never produced before the Board.

D. The finding of "... substantial change  
in the character of the neighborhood by virtue of the road  
changes and the construction of the Post Office, garage,  
and Colony Apartments..." on which the Board based its  
granting of the reclassification from R-6 to M.L. zoning  
is clearly and totally without any foundation in fact and in law.

E. And for such other and further reasons which  
may be assigned at the hearing of this appeal.

WHEREFORE, your Petitioners pray:

1. That this Honorable Court reverse the Order of the Baltimore  
County Board of Appeals dated April 23, 1970, whereby Parcels A and B of  
the Petitioner's Exhibit No. 1 were granted reclassification from R-6 to M.L.  
zoning;

2. That the said Order of the County Board of Appeals of Baltimore  
County dated April 23, 1970 be declared null and void;

3. And that the Court grant such other and further relief as the nature  
of this case may require and may be assigned at the hearing to be held in  
connection therewith.

JOHN J. BISHOP, JR.  
606 Loyola Federal Building  
Towson, Maryland 21204 823-6301  
Attorney for Appellants

I HEREBY CERTIFY this 21st day of May, 1970, that a copy  
of the foregoing Petition in Support of Appeal was mailed to Frank E. Cicone,  
Esq., First National Bank Building, Towson, Maryland 21204, Attorney for  
William G. Schmelyun; and to Richard D. Payne, Esq., 26 West Pennsylvania  
Maryland 21204, attorneys for other appellants.

-3-

Avenue, Towson, Maryland 21204, a journey for other appellants.

JOHN J. BISHOP, JR.

#### CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY this 21st day of May, 1970, that a copy  
of the foregoing Petition in Support of Appeal was served on the County Board  
of Appeals of Baltimore County, County Office Building, Towson, Maryland  
21204.

JOHN J. BISHOP, JR.  
606 Loyola Federal Building  
Towson, Maryland 21204 823-6301  
Attorney for Appellants

I HEREBY ACKNOWLEDGE receipt of the foregoing Petition in Support  
of Appeal this 21st day of May, 1970.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

By: *Walter A. Reiter, Jr.*

-4-

RE. PETITION FOR RECLASSIFICATION  
from R-6 zone to M.L. zone  
E/S of Waelchi Avenue 639.52'  
NW of Vera Avenue  
13th District  
William G. Schmelyun,  
Petitioner  
Zoning File No. 68-193-R  
Patrick J. Gallizo, et al  
Protestants-Appellants  
Misc. Docket No. 9  
Folio No. 7  
File No. 4459

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

#### CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provision of Rule 1101-B (4) of the Maryland Rules of Procedure,  
John A. Slowik, W. Giles Parker and Walter A. Reiter, Jr., constituting the County Board  
of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to  
the representative of every party to the proceeding before it, namely, Frank E. Cicone,  
Esq., First National Bank Building, Towson, Maryland 21204, Attorney for William G. Schmelyun,  
and John J. Bishop, Jr., Esq., Loyola Federal Building, Towson, Maryland 21204, and  
Richard D. Payne, Esq., 26 West Pennsylvania Avenue, Towson, Maryland 21204, Attorneys  
for the Protestants, a copy of which Notice is attached hereto and prayed that it may be  
made a part thereof.

Edith T. Eisenhart, Adm. Secretary  
County Board of Appeals of Baltimore County  
County Office Building, Towson, Md. 21204  
494-3180

I hereby certify that a copy of the foregoing Certificate of Notice has been  
mailed to Frank E. Cicone, Esq., First National Bank Building, Towson, Maryland 21204,  
Attorney for the Petitioner, and John J. Bishop, Jr., Esq., Loyola Federal Building,  
Towson, Maryland 21204, and Richard D. Payne, Esq., 26 West Pennsylvania Avenue,  
Towson, Maryland 21204, Attorneys for the Protestants, on this 21st day of May, 1970.

Edith T. Eisenhart, Adm. Secretary  
County Board of Appeals of Baltimore County

cc: Zoning

IN THE MATTER  
OF THE APPLICATION  
OF THE PETITION FOR  
THE RECLASSIFICATION FROM  
an R-6 Zone to an M.L. Zone  
E/S Waelchi Avenue 639.52'  
NW of Vera Avenue  
13th District  
William G. Schmelyun,  
Petitioner  
BEFORE THE  
BOARD OF APPEALS  
OF  
BALTIMORE COUNTY

#### ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal to the Circuit Court for Baltimore County, At  
Law, on behalf of Patrick J. Gallizo, Vernon E. Murphy, Donald Stevens,  
Helen McGarrigle, Elsie Ficke, Claudia Easton, Robert Reinholds, Joseph  
P. Kinsey, from the Order of the County Board of Appeals of Baltimore County,  
dated April 23, 1970, by which the Board granted reclassification of parcels  
A and B, from R-6 Zone to M.L. Zone, known as Case No. 68-193-R,  
involving property located at the east side of Waelchi Avenue, 639.52 feet  
north west of Vera Avenue into the 13th Election District of Baltimore County.

JOHN J. BISHOP, JR.  
606 Loyola Federal Building  
Towson, Maryland 21204 823-6301  
Attorney for Appellants

I HEREBY CERTIFY this 21st day of May, 1970, that a copy of the  
foregoing Order for Appeal was mailed to Frank E. Cicone, Esq., First National  
Bank Building, Towson, Maryland 21204, Attorney for William G. Schmelyun;  
and to Richard D. Payne, Esq., 26 West Pennsylvania Avenue, Towson,  
Maryland 21204, attorneys for other appellants.

JOHN J. BISHOP, JR.  
606 Loyola Federal Building  
Towson, Maryland 21204 823-6301  
Attorney for Appellants

#### CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY this 21st day of May, 1970, that a copy  
of the foregoing Order for Appeal was served on the County Board of Appeals of  
Baltimore County, County Office Building, Towson, Maryland 21204

JOHN J. BISHOP, JR.

I HEREBY acknowledge receipt of the foregoing Order for Appeal  
this 21st day of May, 1970.

COUNTY BOARD OF APPEALS  
OF BALTIMORE COUNTY

By: *Walter A. Reiter, Jr.*

-2-

|                                                                                                                                                |                                                                                                                                            |                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------|
| TELEPHONE<br>823-2000<br>EXT. 927                                                                                                              | INVOICE<br>BALTIMORE COUNTY, MARYLAND<br>OFFICE OF FINANCE<br>Division of Collection and Receipts<br>COURT HOUSE<br>TOWSON, MARYLAND 21204 | No. 51754<br>DATE Jan. 29, 1970    |
| To:<br>Frank E. Cicone, Esq.<br>1st National Bank Building<br>Towson, Md. 21204                                                                |                                                                                                                                            | FILED<br>Zoning Div. of Balto. Co. |
| REMIT TO ACCOUNT NO. 01-622                                                                                                                    |                                                                                                                                            | TOTAL AMOUNT<br>\$50.00            |
| QUANTITY<br>1                                                                                                                                  |                                                                                                                                            | COST<br>50.00                      |
| Petition for Reclassification for William G. Schmelyun, et al<br>#68-193-R                                                                     |                                                                                                                                            |                                    |
| IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND<br>MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204 |                                                                                                                                            |                                    |

MAY 11 1976

IN THE MATTER OF THE APPLICATION OF THE PETITION FOR THE RECLASSIFICATION FROM an R-6 zone to an M.L. zone 3/5 Waelchli Avenue 639.52' NW of Vera Avenue 11th District William G. Schmelyun, Petitioner

BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

ORDEP FOR APPEAL BY Arbutus Community Association, Inc., Lawrence W. Kidwell, William J. Allen and John M. Corcoran, Appellants.

Mr. Clerk: Please enter an appeal to the Circuit Court for Baltimore County, At Law, on behalf of the Arbutus Community Association, Inc., Lawrence W. Kidwell, William J. Allen, and John M. Corcoran, from the order of the County Board of Appeals of Baltimore County in Case No. 68-193-R, which case granted a re-classification from R6 to M.L. of the property at the east side of Waelchli Avenue, 639.52 ft. northwest of Vera Avenue in the 13th District of Baltimore County.

Richard D. Payne  
26 West Pennsylvania Avenue  
Towson, Maryland  
828-8990  
Attorney for the Appellants

-2-

classification of parcels a and b as shown on the plat marked Petitioners Exhibit #1 prepared by Evans, Haggen & Assoc. from R6 Zone to an ML Zone.

2. That the action of the County Board of Appeals of Baltimore County in granting the relief petitioned for was erroneous for the following reasons:

a. That the action of the County Board of Appeals of Baltimore County was unreasonable, arbitrary, capacious and unlawful in that it was contrary to the evidence and the weight of the evidence.

b. That the said County Board of Appeals of Baltimore County misconstrued and misinterpreted the evidence produced before it.

c. That the action of the said County Board of Appeals of Baltimore County in granting a re-classification of this land from R6 to ML is not supported by any testimony in the record.

d. That the County Board of Appeals based its opinion in part, on evidence which was never produced and/or ever substantiated, in that the land was never used as a brick yard, that there was no testimony to the fact that the land was unstable nor that it was impossible to develop in an R6 context

e. The County Board of Appeals erroneously found that there had been substantial change in the character of the neighborhood by virtue of the Road changes, though there was overwhelming testimony by the County Board of Appeals that all of the roads were known and identified and taken into consideration at the time the current zoning maps were adopted.

f. That the petitioner, William G. Schmelyun, failed to produce any testimony to show either error in original zoning or change of the neighborhood.

g. That the petitioner, William G. Schmelyun, failed

Arbutus Community Association, Inc. IN THE  
Town Hall  
1349 Stevens Avenue  
Arbutus, Maryland 21227  
and  
Lawrence W. Kidwell  
5242 Dewitt Road  
Arbutus, Maryland 21227  
and  
William J. Allen  
1541 Sulphur Spring Road  
Arbutus, Maryland 21227  
and  
John M. Corcoran  
5501 Heatherwood Road  
Arbutus, Maryland 21227

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

Appellants

VS.

John A. Slowik  
W. Giles Parker  
and  
Walter A. Reiter, Jr.  
Constituting the County Board of Appeals of Baltimore County  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Appellees

# ORDER FOR APPEAL

Mr. Clerk: Please enter an appeal to the Circuit Court for Baltimore County, At Law, on behalf of the Arbutus Community Association, Inc., Lawrence W. Kidwell, William J. Allen, and John M. Corcoran, from the order of the County Board of Appeals of Baltimore County in Case No. 68-193R, which case granted a re-classification from R6 to ML of the property at the east side of Waelchli Avenue, 639.52 ft. northwest of Vera Avenue in the 13th District of Baltimore County.

Richard D. Payne  
Attorney for the Appellants

-3-

to produce any testimony, that it was impossible to develop the land in its present R6 classification.

WHEREFORE, your Petitioner prays:

1. That this Honorable Court may reverse the action of the County Board of Appeals of Baltimore County.

2. That this Honorable Court may declare null and void and of no effect the Order of the County Board of Appeals dated the 23rd day of April, 1970.

3. And for such other and further relief as may be necessary and assigned at the hearing to be held herein.

Richard D. Payne  
26 W. Pennsylvania Avenue  
Towson, Maryland 21204  
828-8990  
Attorney for Appellants

I HEREBY CERTIFY, that a copy of the foregoing Petition Accompanying Order For Appeal, was mailed to Frank E. Cicone, Esq., First National Bank Building, Towson, Maryland 21204, attorney for William G. Schmelyun.

Richard D. Payne  
Attorney for Appellants

# CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY, that a copy of the foregoing Petition Accompanying Order For Appeal, was served this \_\_\_\_ day of \_\_\_\_, 1970, on the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland 21204.

Richard D. Payne  
Attorney for Appellants

I HEREBY acknowledge receiving service of the foregoing Petition Accompanying Order For Appeal and Certificate of Compliance, this \_\_\_\_ day of \_\_\_\_, 1970.

County Board of Appeals

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that a copy of the foregoing Order for Appeal was served this \_\_\_\_ day of \_\_\_\_, 1970 on the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland 21204.

Richard D. Payne  
26 W. Pennsylvania Avenue  
Towson, Maryland 21204  
828-8990  
Attorney for Appellants

I HEREBY acknowledge receiving service of the foregoing Order for Appeal and Certificate of Compliance, this \_\_\_\_ day of \_\_\_\_, 1970.

County Board of Appeals

I HEREBY CERTIFY, that a copy of the foregoing Order of Appeal and Certificate of Compliance was mailed to Frank E. Cicone, Esq., First National Bank Building, Towson, Maryland 21204, attorney for William G. Schmelyun.

Richard D. Payne  
Attorney for the Appellants

Arbutus Community Association, Inc. IN THE  
Town Hall  
1349 Stevens Avenue  
Arbutus, Maryland 21227  
and  
Lawrence W. Kidwell  
5242 Dewitt Road  
Arbutus, Maryland 21227  
and  
William J. Allen  
1541 Sulphur Spring Road  
Arbutus, Maryland 21227  
and  
John M. Corcoran  
5501 Heatherwood Road  
Arbutus, Maryland 21227

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

Appellants

VS.

John A. Slowik  
W. Giles Parker  
and  
Walter A. Reiter, Jr.  
Constituting the County Board of Appeals of Baltimore County  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Appellees

# PETITION ACCOMPANYING ORDER FOR APPEAL

The Petition of Arbutus Community Association, Inc., Lawrence W. Kidwell, William J. Allen, and John M. Corcoran, Appellants, by Richard D. Payne, their attorney, respectfully represents:

1. That your Petitioners were parties in the proceedings before the County Board of Appeals of Baltimore County in the case which was entitled before that Board as case no. 68-193R and further titled as "Petition for Re-Classification from an R6 Zone to an ML Zone east side of Waelchli Avenue 639.52 ft. northwest of Vera Avenue 13th District, William G. Schmelyun, Petitioner", and that as parties in this aforesaid proceeding they are parties aggrieved by the Opinion and Order of the County Board of Appeals of Baltimore County dated the 23rd day of April, 1970, which granted the petitioners William G. Schmelyun, re-

-2-

classification of parcels a and b as shown on the plat marked Petitioners Exhibit #1 prepared by Evans, Haggen & Assoc. from R6 Zone to an ML Zone.

2. That the action of the County Board of Appeals of Baltimore County in granting the relief petitioned for was erroneous for the following reasons:

a. That the action of the County Board of Appeals of Baltimore County was unreasonable, arbitrary, capacious and unlawful in that it was contrary to the evidence and the weight of the evidence.

b. That the said County Board of Appeals of Baltimore County misconstrued and misinterpreted the evidence produced before it.

c. That the action of the said County Board of Appeals of Baltimore County in granting a re-classification of this land from R6 to ML is not supported by any testimony in the record.

d. That the County Board of Appeals based its opinion in part, on evidence which was never produced and/or ever substantiated, in that the land was never used as a brick yard, that there was no testimony to the fact that the land was unstable nor that it was impossible to develop in an R6 context.

e. The County Board of Appeals erroneously found that there had been substantial change in the character of the neighborhood by virtue of the Road changes, though there was overwhelming testimony by the County Board of Appeals that all of the roads were known and identified and taken into consideration at the time the current zoning maps were adopted.

f. That the petitioner, William G. Schmelyun, failed to produce any testimony to show either error in original zoning or change of the neighborhood.

g. That the petitioner, William G. Schmelyun, failed

Arbutus Community Association, Inc. IN THE  
Town Hall  
1349 Stevens Avenue  
Arbutus, Maryland 21227  
and  
Lawrence W. Kidwell  
5242 Dewitt Road  
Arbutus, Maryland 21227  
and  
William J. Allen  
1541 Sulphur Spring Road  
Arbutus, Maryland 21227  
and  
John M. Corcoran  
5501 Heatherwood Road  
Arbutus, Maryland 21227

CIRCUIT COURT

FOR

BALTIMORE COUNTY

AT LAW

Appellants

VS.

John A. Slowik  
W. Giles Parker  
and  
Walter A. Reiter, Jr.  
Constituting the County Board of Appeals of Baltimore County  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204

Appellees

# PETITION ACCOMPANYING ORDER FOR APPEAL

The Petition of Arbutus Community Association, Inc., Lawrence W. Kidwell, William J. Allen, and John M. Corcoran, Appellants, by Richard D. Payne, their attorney, respectfully represents:

1. That your Petitioners were parties in the proceedings before the County Board of Appeals of Baltimore County in the case which was entitled before that Board as case no. 68-193R and further titled as "Petition for Re-Classification from an R6 Zone to an ML Zone east side of Waelchli Avenue 639.52 ft. northwest of Vera Avenue 13th District, William G. Schmelyun, Petitioner", and that as parties in this aforesaid proceeding they are parties aggrieved by the Opinion and Order of the County Board of Appeals of Baltimore County dated the 23rd day of April, 1970, which granted the petitioners William G. Schmelyun, re-

to produce any testimony, that it was impossible to develop the land in its present R6 classification.

WHEREFORE, your Petitioner prays:

1. That this Honorable Court may reverse the action of the County Board of Appeals of Baltimore County.
2. That this Honorable Court may declare null and void and of no effect the Order of the County Board of Appeals dated the 23rd day of April, 1970.
3. And for such other and further relief as may be necessary and assigned at the hearing to be held herein.

*Richard D. Payne*  
Richard D. Payne  
26 W. Pennsylvania Avenue  
TOWSON, Maryland 21204  
325-8990  
Attorney for Appellants

I HEREBY CERTIFY, that a copy of the foregoing Petition Accompanying Order for Appeal, was mailed to Frank E. Ciccone, Esq., First National Bank Building, Towson, Maryland 21204, attorney for William G. Schmelyun.

*Richard D. Payne*  
Richard D. Payne  
Attorney for Appellants

#### CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY, that a copy of the foregoing Petition Accompanying Order for Appeal, was served this 14th day of May, 1970, on the County Board of Appeals of Baltimore County, County Office Building, Towson, Maryland 21204.

*Richard D. Payne*  
Richard D. Payne  
Attorney for Appellants

I HEREBY acknowledge receiving service of the foregoing Petition Accompanying Order for Appeal and Certificate of Compliance, this 14th day of May, 1970.

True Copy Test: \_\_\_\_\_  
County Board of Appeals

Zoning Commissioner of Baltimore County

#### PETITION FOR RECLASSIFICATION

FROM: R6 to M1. Zone  
LOCATION: East side of Washburn Avenue, 420.32 feet east of the intersection of Washburn Avenue and the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204.  
DATE & TIME: Wednesday, February 21, 1968 at 10:00 A.M.  
The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

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The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

#### CERTIFICATE OF PUBLICATION

TOWSON, MD. FEB 1 1968

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., once in each of one time before the 21st day of February, 1968, the first publication appearing on the 1st day of February 1968.

THE JEFFERSONIAN  
S. L. Smith  
Manager

Cost of Advertisement, \$ \_\_\_\_\_

#### PETITION FOR RECLASSIFICATION

FROM: R6 to M1. Zone  
LOCATION: East side of Washburn Avenue, 420.32 feet east of the intersection of Washburn Avenue and the County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204.  
DATE & TIME: Wednesday, February 21, 1968 at 10:00 A.M.

The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

The Zoning Commissioner of Baltimore County, Maryland, is hereby notified that the owner of the above described property has filed with the Zoning Department a petition for reclassification of the property from R6 to M1.

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#### CERTIFICATE OF PUBLICATION

BALTIMORE COUNTY, MD. February 8, 1968

THIS IS TO CERTIFY, that the annexed advertisement was published in THE TIMES, a weekly newspaper printed and published in Baltimore County, Md., once in each of one time before the 21st day of February, 1968, the first publication appearing on the 1st day of February 1968.

THE TIMES  
John N. Martin  
Manager

Cost of Advertisement, \$ 55.00  
Purchase order # 3029  
Requisition No. L 8254

|                                                                                                             |                                                                                                                                            |                           |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| TELEPHONE 823-3000 EXT. 367                                                                                 | INVOICE<br>BALTIMORE COUNTY, MARYLAND<br>OFFICE OF FINANCE<br>Division of Collection and Receipts<br>COURT HOUSE<br>TOWSON, MARYLAND 21204 | No. 53069<br>DATE 3/29/68 |
| REPORT TO ACCOUNT NO. 01-622                                                                                | QUANTITY                                                                                                                                   | TOTAL AMOUNT \$127.50     |
| RETURN THIS PORTION WITH YOUR REMITTANCE<br>DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS |                                                                                                                                            |                           |
| Cost of appeal - property of                                                                                | Wm. G. Schmelyun                                                                                                                           | \$70.00                   |
| No. 68-193-R                                                                                                | cost of signs                                                                                                                              | \$57.50                   |

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND  
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

|                                                                                                             |                                                                                                                                            |                                 |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| TELEPHONE 823-3000 EXT. 367                                                                                 | INVOICE<br>BALTIMORE COUNTY, MARYLAND<br>OFFICE OF FINANCE<br>Division of Collection and Receipts<br>COURT HOUSE<br>TOWSON, MARYLAND 21204 | No. 51800<br>DATE Feb. 26, 1968 |
| REPORT TO ACCOUNT NO. 01-622                                                                                | QUANTITY                                                                                                                                   | TOTAL AMOUNT \$127.50           |
| RETURN THIS PORTION WITH YOUR REMITTANCE<br>DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS |                                                                                                                                            |                                 |
| Advertising and posting of property                                                                         | 06-193-R                                                                                                                                   | 127.50                          |

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND  
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

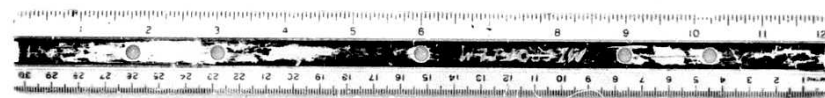
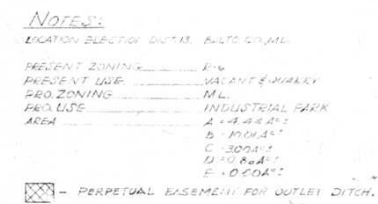
|                                                                                                             |                                                                                                                                            |                           |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| TELEPHONE 823-3000 EXT. 367                                                                                 | INVOICE<br>BALTIMORE COUNTY, MARYLAND<br>OFFICE OF FINANCE<br>Division of Collection and Receipts<br>COURT HOUSE<br>TOWSON, MARYLAND 21204 | No. 65663<br>DATE 3/26/70 |
| REPORT TO ACCOUNT NO. 01-712                                                                                | QUANTITY                                                                                                                                   | TOTAL AMOUNT \$13.00      |
| RETURN THIS PORTION WITH YOUR REMITTANCE<br>DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS |                                                                                                                                            |                           |
| Cost of certified documents - Case 66-193-R                                                                 |                                                                                                                                            | \$13.00                   |
| William G. Schmelyun<br>85 Wendell Ave. 639.52<br>NW of Vaux Avenue<br>12th District                        |                                                                                                                                            |                           |

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND  
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

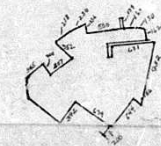
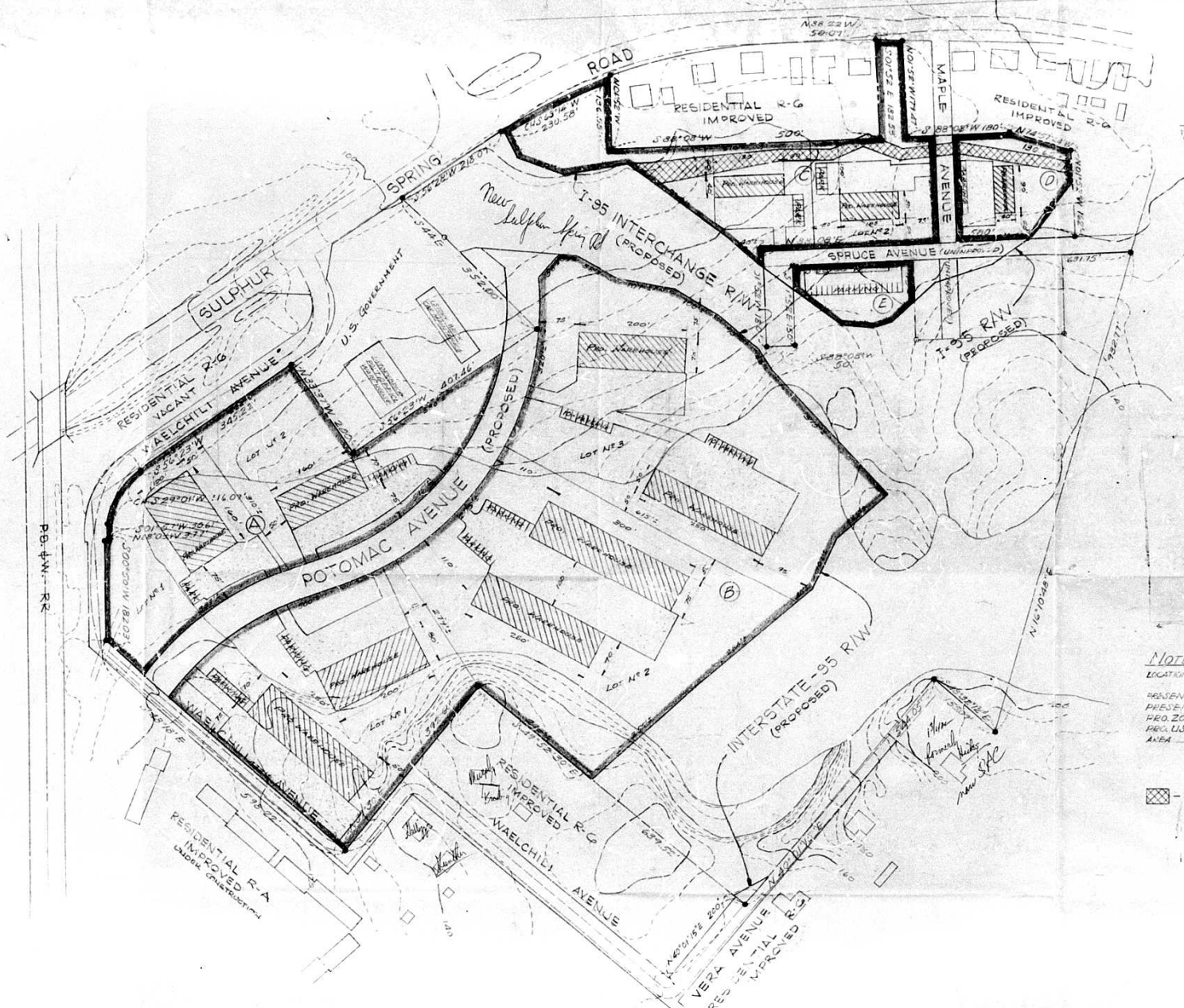
|                                                                                         |                                                                              |
|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------|
| Frank E. Ciccone, Esq.<br>First National Bank<br>Towson, Maryland 21204                 | County Office Building<br>111 W. Chesapeake Avenue<br>Towson, Maryland 21204 |
| Your Petition has been received and accepted for filing this 16th day of January, 1968. |                                                                              |
| JOHN G. ROSE<br>Zoning Commissioner                                                     |                                                                              |
| Petitioner William G. Schmelyun<br>Petitioner's Attorney Frank E. Ciccone, Esq.         | Reviewed by _____<br>Chairman of Advisory Committee                          |

|                                                                                                             |                                                                                                                                            |                           |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| TELEPHONE 823-3000 EXT. 367                                                                                 | INVOICE<br>BALTIMORE COUNTY, MARYLAND<br>OFFICE OF FINANCE<br>Division of Collection and Receipts<br>COURT HOUSE<br>TOWSON, MARYLAND 21204 | No. 65666<br>DATE 4/18/70 |
| REPORT TO ACCOUNT NO. 01-712                                                                                | QUANTITY                                                                                                                                   | TOTAL AMOUNT \$13.00      |
| RETURN THIS PORTION WITH YOUR REMITTANCE<br>DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS |                                                                                                                                            |                           |
| Cost of certified documents - Case 66-193-R                                                                 |                                                                                                                                            | \$13.00                   |
| William G. Schmelyun<br>85 Wendell Ave. 639.52<br>NW of Vaux Avenue<br>12th District                        |                                                                                                                                            |                           |

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND  
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204



| EVANS, HAGAN & ASSOCIATES                |          |    |
|------------------------------------------|----------|----|
| DATE                                     | REVISION | BY |
| SURVEYING & CIVIL ENGINEERING            |          |    |
| Main Office                              |          |    |
| 4200 ELSDORF AVE. PHONE 426-2144         |          |    |
| BALTIMORE, MARYLAND 21214                |          |    |
| -Branches-                               |          |    |
| 539 POPLAR STREET CAMBRIDGE, MARYLAND    |          |    |
| PHONE 228-3350                           |          |    |
| 114 E. MAIN STREET WESTMINSTER, MARYLAND |          |    |
| PHONE 848-1790                           |          |    |
| DATE _____ SCALE _____                   |          |    |
| Drwg. No. _____                          |          |    |



**NOTES:**

- LOCATION ELECTION DISTRICT, BALTO. CO., MD.
- PRESENT ZONING: R-6
- PRESENT USE: VACANT & CROPPED
- PRO. ZONING: M.L.
- PRO. USE: INDUSTRIAL PARK
- AREA: A = 4.44 AC. B = 17.01 AC. C = 100.4 AC. D = 11.1 AC. E = 0.004 AC.
- PERPETUAL EASEMENT FOR OUTLET DITCH.

#68-193 R

OFFICE COPY

MAP #13  
SEG. 2-A  
SW-S-D

ML



| EVANS, HAGAN & ASSOCIATES                                                                                                                                                                                                                                                                      |          |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|----|
| DATE                                                                                                                                                                                                                                                                                           | REVISION | BY |
| SURVEYED BY                                                                                                                                                                                                                                                                                    |          |    |
| COMPUTED BY                                                                                                                                                                                                                                                                                    |          |    |
| DRAWN BY                                                                                                                                                                                                                                                                                       |          |    |
| CHECKED BY                                                                                                                                                                                                                                                                                     |          |    |
| Drwg. No.                                                                                                                                                                                                                                                                                      |          |    |
| SURVEYING & CIVIL ENGINEERING<br>-Main Office-<br>4200 ELSRODE AVE. - PHONE 426-2144<br>BALTIMORE, MARYLAND 21214<br>-Branches-<br>537 POPLAR STREET - CAMBRIDGE, MARYLAND<br>PHONE 228-3350<br>115 E. MAIN STREET - WESTMINSTER, MARYLAND<br>PHONE 848-1790<br>DATE: 11/1/67 SCALE: 1" = 100' |          |    |

