

72-191-C #1 **PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, John A. Luetkenmeyer, legal 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 reclassified pursuant to the Zoning Law of Baltimore County, from an R.R. 5.5 & D.R. 10.5 zone to an D.R. 16 zone, for the following reasons:

see attached brief

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: 12 Roland News, Village of Cross Keys
Legal Owner: Address: Baltimore, Maryland 21219

BY: *John A. Luetkenmeyer*
Suits 411 Jefferson Bldg.
Address: TOWSON, MARYLAND 21204
Protestant's Attorney

ORDERED By The Zoning Commissioner of Baltimore County, this 25th day of January, 1972, that the subject matter of this petition be advertised as required by the Zoning Law of Baltimore County, in two newspapers of general circulation through 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 1st day of March, 1972, at 10:00 o'clock.

Zoning Commissioner of Baltimore County.

(over)

FRANK E. CIGONE
Attorney At Law
FIRST NATIONAL BANK BLDG.
TOWSON, MARYLAND 21204
October 15, 1971

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
Towson, Maryland 21204

RE: Property of John A. Luetkenmeyer

Dear Mr. DiNenna:

I am filing a petition in the above-subject case and wish to cite as a basis the following reasons which constitute error in the zoning maps signed March 24, 1971.

1. The subject property was zoned in 1966 to residential apartments (RA).
2. The County Council committed error in downshifting the subject property to 5.5 and 10.5 respectively.
3. The downshift is confiscatory and illegal.
4. The map of 1971, in taking away the zoning, committed a most glaring and illegal error.
5. The action of the County Council in 1971 is not based on orderly and well planned development but rather its action is without rhyme and reason.
6. Due to the new alignment of Hyde Park Road and Marilyn Avenue, a considerable portion of this property will be taken up for those roads and thereby render this site economically unusable for low density development.
7. And for other and further valid reasons to be shown at the hearing hereof, which will show the glaring error in the adoption of the maps.

Respectfully submitted,

Frank E. Cigone
Frank E. Cigone

FEC:kn

RE: PETITION FOR RECLASSIFICATION
CATION
W/S of Hyde Park Road, 485'
N of Goodwood Road - 15th
District
John A. Luetkenmeyer - Petitioner
NO. 72-191-R (Item No. 40)

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

The Petitioner requests a Reclassification from a D.R. 5.5 Zone and D.R. 10.5 Zone to a D.R. 16 Zone for a parcel of property located on the west side of Hyde Park Road, four hundred and eighty-five (485) feet north of Goodwood Road, in the Fifteenth District of Baltimore County, containing 24.13 acres of land, more or less.

Evidence on behalf of the Petitioner indicated that a portion of the subject property was zoned R.A. prior to the adoption of the Comprehensive Zoning Map, on March 24, 1971. In the adoption of this most recent Comprehensive Zoning Map, that said portion of this property was down-shifted to D.R. 5.5 zoning. The portion of the subject property that is zoned D.R. 10.5, was also zoned prior to the adoption of the Comprehensive Zoning Map, but was retained in the adoption of the Comprehensive Zoning Map of 1971.

The Petitioner indicated that he received no correspondence indicating the down-shifting of the property and he learned of this down-shift only last summer when he received a reduced tax bill. The subject property is proposed for development into garden type apartments containing one (1) and two (2) bedroom units.

Mr. Paul J. Marx, a professional architect and land planner testifying for the Petitioner, indicated that water and sewer facilities are available to the property, said sewer line was installed and completed in June of 1971. This line is approximately thirty-five (35) feet from the property line on Hyde Park Road. The property abuts the Hyde Park Elementary School site, which is to the north of the subject property. Approximately

substantial change in the character of the neighborhood inasmuch as this matter was under consideration within one (1) year of the adoption of the Comprehensive Zoning Map as per the Baltimore County Zoning Regulations. The fact that the property was originally zoned without benefit of the utilities and does have that benefit at the present, the subject property is open for development.

The recommendation of D.R. 16 zoning by the Baltimore County Planning Board for that portion of the subject property which was zoned R.A., indicated to the Baltimore County Council that there was a possible need for apartments in this area. This general area has been open because of the widening of the Back River Neck Road, and the new road facilities now being constructed in the area. The school site is available and immediately adjoins the subject property and is available for the construction if this property and other properties in the area are developed as indicated.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 22nd day of November, 1972, that the herein described property or area should be and the same is hereby reclassified from D.R. 5.5 and D.R. 10.5 Zones to D.R. 16 Zone from and after the date of this Order subject to:

The approval of a site plan by the Office of Planning Zoning.

John A. Luetkenmeyer
Zoning Commissioner of Baltimore County

three (3) acres of the subject property is located in a flood plain and cannot be developed. Mr. Marx indicated that there is a need for apartments in the area. He felt that the Comprehensive Zoning Map, as adopted, was in error inasmuch as the property is equipped with utilities, the zoning was down-shifted without notice to the property owner (that portion of the 10 acres that was previously zoned R.A.) and, that the Planning Board in its recommendations to the Baltimore County Council prior to the adoption of the Comprehensive Zoning Map, recommended D.R. 16 in 1971. Mr. Marx questioned the Planning Board's recommendation of D.R. 16 zoning when in their recommendations to the Zoning Commissioner under Item Number 20 recommended D.R. 5.5 zoning. Since the property is located so near to the water, individual homes could not be developed as they would have to be placed on slabs because of the high water table. Garden type apartments could be developed on slabs more economically and be more beneficial to the surrounding area if it were zoned D.R. 16.

Mr. Clark F. MacKenzie, a qualified real estate appraiser, consultant and developer in Baltimore County, indicated that the Comprehensive Zoning Map, as adopted, was in error in placing the subject property in a D.R. 5.5 Zone and a D.R. 10.5 Zone. He felt that the Baltimore County Planning Board considered the highest and best use of the property, new road-way networks, sewer facilities and a school site, which is presently not developed, in proposing D.R. 16 zoning for the subject property. The school site shows the projection of the student population as speculated by the Board of Education. It is considered good planning to place higher density zoning closest to the school, so that those school children which would emanate from the development would be within walking distance of the subject school site. Portions of Back River Neck Road have been widened and have helped to alleviate certain traffic problems that existed several years ago. Mr. MacKenzie indicated that the sewer extension system was under construction at the time of the adoption of the Comprehensive Zoning Map. He felt that the Baltimore County Council should have been aware of this extension and must assume that the Baltimore County Council did not take cognizance of this fact. Mr. MacKenzie brought forth the fact that at the time that this property was down-shifted, several other properties in the area, which enjoyed a R 6 Zone prior to the adoption of the Comprehensive Zoning Map, were up-graded to D.R. 16 zoning, with the adoption of said map in 1971. He felt that this was confiscatory in nature and deprived the Petitioner of reasonable use of the subject property.

Residents of the area in protest of the subject Petition, indicated that the general area would encounter much hardship as a result of the excessive traffic emanating from this proposed development. The area residents also indicated that it would partially overburden the school system as it presently exists.

Mrs. Alberta Pugh, a representative of the Essex-Middle River Community Council, cited a general objection to increased density in this general area.

Without reviewing the evidence further in detail but based on all the evidence presented at the hearing, in the judgment of the Zoning Commissioner of Baltimore County, the Comprehensive Zoning Map, as adopted on March 24, 1971, was in error in classifying the subject property D.R. 5.5 and D.R. 10.5 Zones. The mere fact that the subject property was down-shifted by the Baltimore County Council is not in error as such. The fact that the property was zoned R.A. in 1966 without the benefit of sewer facilities, that the anticipated extension of the sewer facilities, as under construction at the time of the adoption of the aforementioned zoning map and completed in June, 1971, indicates that the subject property was not given considerable study as to its future development.

The addition of utilities to this property have made it more acceptable for development. This said addition cannot be considered as a

JOSEPH D. THOMPSON, P.E., A.L.S.
CIVIL ENGINEERS & LAND SURVEYORS

101 SHELL BUILDING - 200 EAST JOPPA ROAD
TOWSON, MARYLAND 21204 - Valley 2-0830
DESCRIPTION FOR REZONING, HYDE PARK ROAD, 15TH DISTRICT,
BALTIMORE COUNTY, MARYLAND

BEGINNING for the same at a point in the centerline of Hyde Park Road as proposed to be widened to a width of 70 feet said point being 485 feet, more or less, measured Northwesterly along the existing Hyde Park Road from the centerline of Goodwood Road and running thence North 57 Degrees 34 Minutes 03 Seconds West 908 feet, more or less, and North 31 Degrees 55 Minutes 50 Seconds East 840.66 feet to the centerline of Hyde Park Road herein referred to and running thence and binding on said centerline southeasterly by a curve to the right with a radius of 500.00 feet the distance of 199.23 feet, southeasterly by a curve to the right with a radius of 1400.00 feet the distance of 488.69 feet and South 5 Degrees 31 Minutes 14 Seconds East 357.59 feet to the centerline of Marilyn Avenue as proposed to be laid out 70 feet wide and running thence and binding thereon North 71 Degrees 20 Minutes 06 Seconds East 1070.99 feet thence leaving said centerline and running South 34 Degrees 39 Minutes 54 Seconds East 660.00 feet, South 49 Degrees 30 Minutes 58 Seconds West 868.96 feet and North 57 Degrees 34 Minutes 03 Seconds West 643 feet, more or less, to the place of beginning.

CONTAINING 24.13 acres of land, more or less.



10,15,71

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers
FROM: Hoyt V. Bonner
SUBJECT: Item 20 - Zoning Advisory Committee Meeting, October 20, 1971

20. Property Owner: John A. Luetkenmeyer, et al
Location: 81/2 Cor. Hyde Park Rd., prop. Marilyn Ave.
Present Zoning: D.R. 5.5 and D.R. 10.5
Proposed Zoning: Reclass. to D.R. 16
District: 15th
Sector: Eastern
No. Acres: 24.13

Metropolitan water and sewers must be extended to this site before building permit can be approved.

Hoyt V. Bonner
Sanitarian II
Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

HVB:ea

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

Frank E. Ciccone, Esq.,
Suite 411, Jefferson Bldg.,
Towson, Maryland 21204

Re: Type of Hearing: Reclass. to D.R. 16
Location: SE Cor. Hyde Park Rd. & Prop.
Marilyn Ave.
Petitioners: John A. Luetkemeyer, et al
15th District
Item 20

Dear Sir:

The Zoning Advisory Committee has reviewed the plans submitted with the above referenced petition and has made an on site field inspection of the property. The following comments are a result of this review and inspection.

The subject property is located at the intersection of Hyde Park Road and the proposed Marilyn Avenue. The property now is two large undeveloped wooded tracts that border on the property owned by the Board of Education, presumably for future school site. There is no curb and gutter existing at this location.

BUREAU OF ENGINEERING

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Hyde Park Road is an existing road which shall ultimately be improved as a 42-foot curbed street on a 70-foot right-of-way.

Marilyn Avenue is proposed to extend through this site as a 42-foot curbed street on a 70-foot right-of-way.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Frank E. Ciccone, Esq.,
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Studies will be required to determine the size of structures and easements as required.

Sediment Control:

Development of this property through striping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the striping of top soil.

Drainage studies and sediment control drawings will be necessary to be reviewed and approved prior to the issuance of any grading or building permits.

Water:

Public water service is available to serve this site.

Sanitary Sewer:

Public sewer service is currently not available to serve part of this site and major interceptor facilities are not scheduled for construction in the near future. It appears sewerage could be pumped westerly 1,700 feet to the existing gravity sewer as a means of serving that part of the site east of Hyde Park Road with the appropriate off-site easements and extensions.

DEPT. OF TRAFFIC ENGINEERING:

The subject petition is requesting DR 16 for 24 acres. The subject site, as presently zoned, will generate 1500 trips with an increase to 2900, should the request be granted.

At the present time, there is very limited access to the Back River Neck Peninsula and capacity problems do exist on Marilyn Avenue near Eastern Boulevard. This increased trip density can only be expected to aggravate the capacity problems until some of the new major roads out of the peninsula are constructed.

HEALTH DEPARTMENT:

Metropolitan water and sewers must be extended to this site before building permit can be approved.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

Frank E. Ciccone, Esq.,
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BOARD OF EDUCATION:

Schools servicing this area are:

	9/20/71 Enroll.	Capacity	+/-
Middleborough Ele.	618	620	+28
Deep Creek Jr. Hs.	1381	1250	+131
Remond Sr. Hs.	2232	1985	+247

The area as currently zoned could yield, when fully developed, approximately 95 elementary students. A change to 1 & 2 bedroom apartments, however, could yield approximately 46 elem. pupils, 18 Jr. Hs. pupils, & 6 Sr. Hs. pupils when developed as proposed. A change to 3 bedroom apartments or townhouse apartments would naturally increase the pupil yield considerably.

FIRE DEPARTMENT:

Fire hydrants for the proposed site (are required and) shall be in accordance with Baltimore County Standards.

The hydrants shall be located at intervals of 500 feet along an approved road.

The owner shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101, "The Life Safety Code", 1957 Edition, and the Fire Prevention Code when construction plans are submitted for approval.

ZONING ADMINISTRATION DIVISION:

The plat that is submitted does not indicate the size of the proposed buildings, and setbacks to the proposed buildings, or the height of the proposed buildings.

This petition is accepted for filing on the date of the enclosed filing certificate. Notice of the hearing date and time, which will be held not less than 30, nor more than 90 days after the date on the filing certificate, will be forwarded to you in the near future.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

JJG:JD

Enc.

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF TRAFFIC ENGINEERING
JEFFERSON BUILDING
TOWSON, MARYLAND 21204
INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
Attn: Oliver L. Myers
FROM: C. Richard Moore
SUBJECT: Item 20 - Zoning 11
Property Owner: John A. Luetkemeyer, et al
Hyde Park Road, prop. Marilyn Avenue
Reclass. to D.R. 16
Date: November 2, 1971

The subject petition is requesting DR 16 for 24 acres. The subject site, as presently zoned, will generate 1500 trips with an increase to 2900, should the request be granted.

At the present time, there is very limited access to the Back River Neck Peninsula and capacity problems do exist on Marilyn Avenue near Eastern Boulevard. This increased trip density can only be expected to aggravate the capacity problems until some of the new major roads out of the peninsula are constructed.

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineer

CUR:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: S. Eric DiNenna
Attn: Oliver L. Myers
FROM: Oliver L. Myers, Esq.
SUBJECT: Item 20 (Cycle October 1971 - April 1972)
Property Owner: John A. Luetkemeyer, et al
Locations: SE Cor. Hyde Park Rd. & Prop. Marilyn Ave.
Present Zoning: D.R. 5.5 and D.R. 16.5
Proposed Zoning: Reclass. to D.R. 16
District: 15th District
No. Acres: 24.13

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Hyde Park Road is an existing road which shall ultimately be improved as a 42-foot curbed street on a 70-foot right-of-way.

Marilyn Avenue is proposed to extend through this site as a 42-foot curbed street on a 70-foot right-of-way.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Studies will be required to determine the size of structures and easements as required.

Sediment Control:

Development of this property through striping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the striping of top soil.

Drainage studies and sediment control drawings will be necessary to be reviewed and approved prior to the issuance of any grading or building permits.

Water:

Public water service is available to serve this site.

Item 20 (Cycle October 1971 - April 1972)
Property Owner: John A. Luetkemeyer, et al
Date: October 25, 1971

Sanitary Sewer:

Public sewer service is currently not available to serve part of this site and major interceptor facilities are not scheduled for construction in the near future. It appears sewerage could be pumped westerly 1,700 feet to the existing gravity sewer as a means of serving that part of the site east of Hyde Park Road with the appropriate off-site easements and extensions.

Oliver L. Myers
OLIVER L. MYERS, Esq.
Chairman, Bureau of Engineering

DEPARTMENT OF

500 West Street
50 11 Town Street

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Oliver Myers
FROM: ROYAL Y. BONNEAU
SUBJECT: Item 20 - Zoning Advisory Committee Meeting, October 21, 1971

29. Property Owner: Caswell, Caplan, Ryland
Location: N/S Gordon, Ave., 545' W. of Belmont Avenue
Present Zoning: D.R. 3.5
Proposed Zoning: Reclass. to D.R. 16
District: 1st
Sector: Northwestern
No. Acres: 2.71

Metropolitan water and sewers must be extended to building site before building permit is approved.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

Royal Y. Bonneau
Sanitarian II
Water and Sewer Section
BUREAU OF ENVIRONMENTAL HEALTH

NVB:ALV

BALTIMORE COUNTY, MARYLAND

ZONING ADVISORY COMMITTEE MEETING

OF BALTIMORE COUNTY, MARYLAND

Petitioners: JOHN A. LUETKEMEYER, ET AL
Location: SE Cor. Hyde Park Rd. & Prop. Marilyn Ave.
District: 15
Present Zoning: D.R. 5.5 & D.R. 16.5
Proposed Zoning: D.R. 16
No. of Acres: 24.13

	9/20/71 Enroll.	Capacity	+/-
MIDDLEBOROUGH Ele.	618	620	+28
DEEP CREEK JR. HS.	1381	1250	+131
REMOND SR. HS.	2232	1985	+247

THE AREA AS CURRENTLY ZONED COULD YIELD, WHEN FULLY DEVELOPED, APPROXIMATELY 95 ELEMENTARY STUDENTS. A CHANGE TO 1 & 2 BEDROOM APARTMENTS, HOWEVER, COULD YIELD APPROXIMATELY 46 ELEM. PUPILS, 18 JR. HS. PUPILS, & 6 SR. HS. PUPILS WHEN DEVELOPED AS PROPOSED. A CHANGE TO 3 BEDROOM APARTMENTS OR TOWNHOUSE APARTMENTS WOULD NATURALLY INCREASE THE PUPIL YIELD CONSIDERABLY.



