

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, John T. & Elizabeth P. Rohs, owners of the property situated 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 ML-IM to DR 5.5 and to an exception for the following reason:

See attached brief.

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 provided 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
 Agent
 Address
 Petitioner's Attorney
 Respondent's Attorney

BY ORDERED By The Zoning Commissioner of Baltimore County, this 20th day of March, 1978, 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 held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 15th day of May, 1978, at 10:30 o'clock A.M.



January 19, 1979

A. Gordon Boone, Jr., Esquire
 31 Allegheny Avenue
 Towson, Maryland 21204

Re: Case No. 78-236-R
 John L. Margereth, et ux
 and
 Case No. 78-237-R
 John T. Rohs, et ux

Dear Mr. Boone:

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

Edith T. Eshenlow, A.S., Secretary

End.

cc: Mr. John Weaver
 Mrs. Barbara Kerr Howe
 Mr. and Mrs. John T. Rohs
 Mr. and Mrs. John L. Margereth
 John W. Hassler, III, Esquire
 Mr. J. E. Dyer
 Mr. S. E. DiNenno
 Mr. G. J. Martino
 Mr. L. H. Groat
 Mr. J. Howell
 Board of Education

RE: PETITION FOR RECLASSIFICATION : BEFORE
 from ML-IM to DR 5.5 :
 SE/5 St. Thomas Drive 425' :
 SW of Fitch Avenue :
 14th District :
 John L. Margereth, et ux :
 Petitioners :
 RE: PETITION FOR RECLASSIFICATION : BALTIMORE COUNTY
 from ML-IM to DR 5.5 :
 NW corner Fitch Avenue :
 and St. Thomas Drive :
 14th District :
 John T. Rohs, et ux :
 Petitioners :

OPINION

At the outset of this hearing it was agreed by all parties that because of the similarity of these petitions that case #78-236-R and case #78-237-R could be heard together. Likewise, the Board feels that because of similarity no clarity of its decision will be lost by combining our findings into one Opinion and Order.

This reclassification is somewhat unusual in that it involves a request by two separate property owners to have their parcels downshifted from an existing ML-IM zone to a DR 5.5 classification. In October of 1976 the County Council reclassified a relatively large area in the northeast quadrant of the Belair Road and the Baltimore Beltway, in the Fourth and Election District, to an ML-IM classification. Included in this ML-IM classification were the properties on St. Thomas Drive. St. Thomas Drive is a small, partially developed, residential street that runs southerly from Fitch Avenue to the terminus of the westbound Beltway ramp which carries traffic from the Beltway to the north-bound lane of the Belair Road. Petitioners' Exhibits #1 and #2 set out the boundaries of each property sought to be reclassified from ML-IM to DR 5.5. Petitioners' Exhibit #3 is a small booklet of photographs which depict the residential character now existing on St. Thomas Drive and Fitch Avenue. It is significant to note that St. Thomas Drive does not appear on the official County zoning map; i.e., neither the 1000 scale nor the 200 scale map.

May 23, 1978

Mr. & Mrs. John T. Rohs
 4222 Fitch Avenue
 Baltimore, Maryland 21236

RE: Petition for Reclassification
 NW corner of Fitch Avenue
 and St. Thomas Drive -
 14th Election District
 John T. Rohs, et ux - Petitioners
 NO. 78-237-R (Item No. 200)

Dear Mr. & Mrs. Rohs:

I have this date passed my Order in the above referenced matter, in accordance with the attached.

Very truly yours,

George J. Eshenlow, A.S., Secretary

GJM/jhm

Attachments

cc: Mr. John Weaver
 4301 Fitch Avenue
 Baltimore, Maryland 21236
 John W. Hassler, III, Esquire
 People's Counsel

Margereth and Rohs - # 78-236-R and #78-237-R

James Howell, a planner for Baltimore County, advised the Board that these properties had been zoned DR 5.5 prior to the October 1976 comprehensive rezoning. Mr. Howell expressly noted that neither the existing residences nor St. Thomas Drive itself showed on the official zoning maps. As an interesting aside, apparently Baltimore County itself failed to recognize the County Council's action in zoning the property industrial as on April 1st, 1977, after the adoption of the comprehensive zoning maps, one of these Petitioners was successful in having a residential record plat issued by Baltimore County. This fact is an aside and has no bearing upon the question as to whether or not the Council erred in October of 1976 when they, in fact, rezoned this existing residential street, including both of the subject properties, from existing residential classification to an industrial zone (ML-IM).

In the judgment of this Board, the testimony and evidence presented in this case clearly indicates that the County Council had no knowledge that this St. Thomas Drive existed and, in fact, was substantially developed as a stable and attractive residential street. After carefully reviewing the testimony and evidence presented, the Board is absolutely convinced that the Council simply did not know this residential street was here and, in fact, developed and utilized residentially and, therefore, erred when it zoned this substantially improved residential street in an industrial classification. For this reason, the Board will grant the requested reclassifications in each case.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 19th day of January, 1979, by the County Board of Appeals, ORDERED that the reclassification petitioned for in case #78-236-R, be and the same is hereby GRANTED, and it is

COLUMBIA OFFICE
 WALTER PARK
 Registered Surveyor
 PHONE 730-9000

TOWSON OFFICE
 HUDKINS ASSOCIATES, INC.
 Engineers, Surveyors and
 Landscape Architects
 200 EAST JONES ROAD
 FROM 101 SHELL BUILDING
 TOWSON, MARYLAND 21204
 PHONE 838-8800
 March 14, 1978

REL. AIR OFFICE
 L. GERALD WOLFF
 Landscape Architect
 PHONE 838-0888

Revised April 20, 1978

0.86 ACRES MORE OR LESS PARCELS

Beginning for the same at a point defined by the extension of the northwest side of St. Thomas Drive (50 foot right of way) and the center line of Fitch Avenue (30 foot right of way) thence running along the center line of said Fitch Avenue North 52 degrees 30 minutes West 105.90 feet thence South 38 degrees 12 minutes West 328.28 feet thence South 55 degrees 01 minutes East 122.78 feet thence along the northwest side of said St. Thomas Drive North 34 degrees 59 minutes East 322.11 feet to the place of beginning, Containing 0.86 Acres of land more or less.

Saving and excepting all that portion of the parcel shown in the bed of Fitch Avenue proposed to be widened to 50 feet



Malcolm E. Hudkins
 Registered Surveyor #5095

Margereth and Rohs - #78-236-R and #78-237-R

FURTHER ORDERED, that the reclassification petitioned for in case #78-237-R, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
 OF BALTIMORE COUNTY

Walter A. Rohs, Jr., Chairman
 Robert L. Gilland

Harbert A. Davis

BRIEF FOR 0.85 ACRE PARCELS

The remainder of Mr. Rohs's property has been planned for three (3) individual dwellings. But the reclassification of the property to ML-IM prevents this from occurring. Considering the existing dwellings in the neighborhood and their residential use, we feel an error has been made by the rezoning of this area. These existing dwellings did not show on the 1976, 200 foot official zoning maps so a true evaluation could not have been made. Except for the corner lots of Belair Road and Fitch Avenue.

There is only one other commercial piece, the remainder are individual dwellings in the vicinity of St. Thomas Drive and Fitch Avenue. There is another property owner on the southeast side of St. Thomas Drive about 425 feet from the intersection of St. Thomas Drive and Fitch Avenue filing because of this same error.

NOTICE TO APPEAR IN COURT

NOTICE TO APPEAR IN COURT

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of error in the original zoning map.

the above Reclassification should be had.

IS ORDERED by the Zoning Commissioner of Baltimore County, this 23rd day of May, 1978, that the herein described property or area should be and the same is hereby reclassified from a M.L. Zone-L.M. District to a D.R. 5.5 Zone, from and after the date of this Order, subject to the approval of a site plan by the Department of Public Works and the Office of Planning and Zoning.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of.

the above reclassification should NOT BE HAD, and/or the Special Exception should NOT BE GRANTED.

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 23rd day of May, 1978, that the above reclassification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued to remain in the same zone, and/or the Special Exception for the same be and the same is hereby DENIED.

Zoning Commissioner of Baltimore County

PETITION FOR RECLASSIFICATION

N/W CORNER OF FITCH AVENUE
and ST. THOMAS DRIVE
14th ELECTION DISTRICT

JOHN T. ROHE, ET-UX-PETITIONERS

NO. 78-237-r (Item No. 200)

ZONING COMMISSIONER

COUNTY OFFICE BUILDING

TOWSON, MARYLAND 21204

APPEAL

Now comes the Protestant, John Weaver by his attorney, A. Gordon Boone, Jr., Esquire who prays that an Appeal be taken from the decision of the Deputy Zoning Commissioner in the above entitled matter. Said decision being dated May 23rd, 1978.

MR. JOHN WEAVER
4801 Fitch Ave.
Baltimore, Maryland 21236

A. GORDON BOONE, JR.
31 Allegheny Ave
Towson, Maryland 21204
823-5500

JUN 20 78 PM



RE: PETITION FOR RECLASSIFICATION
N/W corner of Fitch Ave. & St. Thomas
Drive, 14th Election District
JOHN T. ROHE, et ux, Petitioners

BEFORE THE ZONING COMMISSIONER

OF BALTIMORE COUNTY

Case No. 78-237-r

ORDER TO ENTER APPEARANCE

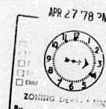
Mr. Commissioner:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

John W. Hession, III
John W. Hession, III
People's Counsel
County Office Building
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 27th day of April, 1978, a copy of the foregoing Order was mailed to Mr. and Mrs. John T. Rohe, 4222 Fitch Avenue, Baltimore, Maryland 21236, Petitioners.

John W. Hession, III



JOHN T. ROHE, ET. UX.

IN THE COUNTY BOARD OF APPEALS

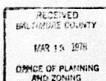
Case No. 78-237 R

Please enter the appearance of Barbara Kerr Howe, and Kerr, Kerr and Howe, as attorneys for John T. Rohe and wife.

Barbara Kerr Howe
Kerr, Kerr and Howe
219 West PA. Avenue
Towson, MD. 21204
823-3414

October 5, 1978

Rec'd 10/5/78
11:56 AM



4222 Fitch Avenue
Baltimore, MD. 21236
March 7, 1978

Mr. Arnold Fleischman
Chairman - Balto. Co. Planning Board
County Building
Towson, Maryland 21204

RE: Property-St. Thomas Dr.
14th Election District

Dear Mr. Fleischman:

I would like to request a cycle exemption for the .85 acres of land located on the south side of Fitch Avenue on St. Thomas Drive, which when subdivided will consist of three (3) lots, one with an existing dwelling.

I have talked with Mr. Eric Delehanna and Mr. James Dyer of the Zoning Dept., and they both agree that the property should not be zoned ML-1.

I am a self employed carpenter and would like to construct a home on one of these lots.

Thanking you in advance, please expedite this matter as soon as possible for a change in zoning.

Sincerely,

John T. Rohe

John T. Rohe



The Honorable Eugene W. Gallagher, Chairman
Baltimore County Council
Court House
Towson, Maryland 21204

Dear Mr. Gallagher:

At its regular meeting on Thursday, March 16, 1978, the Baltimore County Planning Board, under the provisions of Subsection 22-22(i) of the Baltimore County Code 1964, as amended, unanimously approved a motion to certify to the County Council that early action is manifestly required in the public interest on the petition of John T. and Elizabeth P. Rohe to change the zoning classification of their property on St. Thomas Drive from M.L.-I.M. to D.R. 5.5.

After reviewing the letter from the owner and a copy of the zoning map, the Planning Board concluded that residential zoning for the subject property should have been retained on the comprehensive zoning map.

Copies of the petition and of the owner's letter are attached. Additional information will be provided upon your request. Notification of the Council's action should be made to the Zoning Commissioner so that timely actions can be taken by him in accordance therewith.

Sincerely,

Leslie H. Grant, Secretary
Baltimore County Planning Board

LHG:JGH:due
Attachments

cc: The Honorable John V. Murphy, Councilman, First District
The Honorable Gary Huddles, Councilman, Second District
The Honorable Clarence S. Hittor, Councilman, Third District
The Honorable Eugene L. Kibbe, Jr., Councilman, Fourth District
The Honorable Norman A. Lewenstein, Councilman, Fifth District
The Honorable John W. O'Rourke, Councilman, Seventh District
Thomas Toporovich, Secretary, Baltimore County Council
Joseph B. Rosencrantz, Administrative Officer

beginning for the same at an iron pipe planted on the Southeast side of a road and running for a line of division now made South 52 degrees 30 minutes East 125.00 feet to an iron pipe planted in the first line in the aforementioned road at the distance of 240.00 feet from the end of said line thence binding on a part of said first line South 35 degrees 11 minutes West 100.00 feet to an iron pipe planted at the distance of 140.00 feet from the end of said first line thence leaving the outline for another line of division now made North 52 degrees 30 minutes West 125.00 feet to the place of beginning.

BEING a part of the land which by deed dated July 23, 1957, and recorded among the land records of Baltimore County in Liber C.L.B. No. 3000 folio 200 etc., was granted and conveyed by Mary Rohe, widow, to Irene Korporeth, herein of the first part, for the term of her natural life with full power of disposition as therein set forth. The said John J. Korporeth joins in the execution hereof to convey whatever interest, if any, he may have in the property herein conveyed.



April 14, 1978

Mr. S. Eric DiNenna
Office of Planning and Zoning
County Office Building
Towson, MD. 21204

Dear Mr. DiNenna:

Comments on Item #200, Zoning Advisory Committee Meeting, March 28, 1978 are as follows:

Property Owner: John T. & Elizabeth P. Rohe
Location: SW/C Pitch Ave. & St. Thomas Dr.
Existing Zoning: M.L.-I.M.
Proposed Zoning: D.R. 5.5
Acres: 0.86
District: 14th

Metropolitan water and sewer are available, therefore no health hazards are anticipated.

Very truly yours,

Thomas H. Devlin
Thomas H. Devlin, Director
BUREAU OF ENVIRONMENTAL SERVICES

THD/rs/peg

April 17, 1978

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

Item No. 200 - SAC - March 28, 1978
Property Owner: John T. & Elizabeth P. Rohe
Location: SW/C Pitch Ave. & St. Thomas Dr.
Existing Zoning: M.L.-I.M.
Proposed Zoning: D.R. 5.5
Acres: 0.86
District: 14th

Dear Mr. DiNenna:

The special reclassification from M.L. to D.R. 5.5 should reduce the traffic problem.

Very truly yours,

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineer
Planning and Design

CRW/lms

Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: N. Commodari, Chairman
Zoning Advisory Committee

Re: Property Owner: John T. & Elizabeth P. Rohe

Location: SW/C Pitch Ave. & St. Thomas Dr.

Item No. 200 Zoning Agenda Meeting of 03/28/78

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "x" are applicable and required to be corrected or incorporated into the final plans for the property.

- () 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- () 2. A second means of vehicle access is required for the site.
- () 3. The vehicle dead end condition shown at _____ violates the maximum allowed by the Fire Department.
- () 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operations.
- () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1970 Edition prior to occupancy.
- () 6. Site plans are approved as drawn.
- (x) 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWED *[Signature]*
Planning Group
Special Inspection Division

Noted and
Approved: *[Signature]*
Fire Prevention Bureau

March 23, 1978

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

Dear Mr. DiNenna:

Comments on Item #200 Zoning Advisory Committee Meeting, March 28, 1978 are as follows:

Property Owner: John T. & Elizabeth P. Rohe
Location: SW/C Pitch Ave. & St. Thomas Dr.
Existing Zoning: M.L.-I.M.
Proposed Zoning: D.R. 5.5

Acres: 0.86
District: 14th

The items checked below are applicable:

- X A. Structure shall conform to Baltimore County Building Code (B.C.C.) 1970 Edition and the 1971 Supplement and other applicable codes.
- X B. A building permit shall be required before construction can begin.
- C. Additional _____ permits shall be required.
- D. Building shall be upgraded to new use - requires alteration permit.
- X E. Three sets of construction drawings will be required to file an application for a building permit.
- F. Three sets of construction drawings with a registered Maryland Architect or Engineer's official seal will be required to file an application for a building permit.
- G. Work from walls not permitted within 30' of a property line, contact Building Department if distance is between 30' and 60' of property line.
- H. Reported setback variance conflicts with the Baltimore County Building Code, see Section _____
- I. No Comment.
- J. Comment:

Very truly yours,
Charles E. Seever
Charles E. Seever
Plans Review Chief

CRW/rs

BOARD OF EDUCATION OF BALTIMORE COUNTY

TOWSON, MARYLAND - 21204

Date: March 31, 1978

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

Z.A.C. Meeting of: March 28, 1978

RE: Item No: 200
Property Owner: John T. & Elizabeth P. Rohe
Location: SW/C Pitch Ave. & St. Thomas Drive
Present Zoning: M.L.-I.M.
Proposed Zoning: D.R. 5.5

District: 14th
No. Acres: 0.86

Dear Mr. DiNenna:

No adverse effect on student population.

Very truly yours,

W. Nick Petrovich
W. Nick Petrovich
Field Representative

WNT/ry

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Zoning Commissioners Date: May 8, 1978

FROM: Rosellen J. Plant, Industrial
Development Commission

SUBJECT: Item No. 200, Northeast corner of Pitch Ave. & St. Thomas Drive
14th Election District - 6th Councilmanic District
Petition for Reclassification from a M.L. Zone I.M.
District to a D.R. 5.5 Zone

The Industrial Development Commission is in agreement with the Baltimore County 1976 Comprehensive Zoning Maps, as adopted by the County Council, except in obvious cases of change of neighborhood or technical errors in the maps.

Rosellen J. Plant
ROSELLEN J. PLANT

RJP:ppk

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

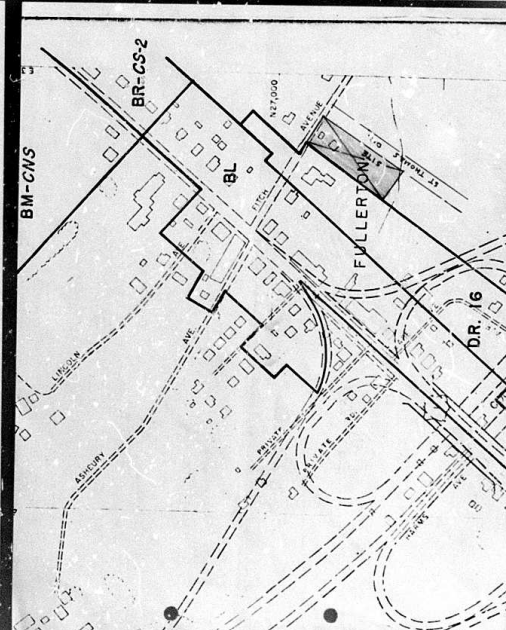
Nicholas B. Commodari
TO: Zoning Advisory Committee Date: April 7, 1978
Rosellen J. Plant

FROM: Industrial Development Commission

SUBJECT: Item No. 200, Property Owner: John T. & Elizabeth P. Rohe
Location: SW/C Pitch Ave. & St. Thomas Dr.
Existing Zoning: M.L.-I.M.
Proposed Zoning: D.R. 5.5

The Industrial Development Commission has no comment on this petition.

Rosellen J. Plant
ROSELLEN J. PLANT





WILKINS ASSOCIATES, INC.
101 WEST BOWLING
200 E. JEFFERSON
TOWSON, MD. 21204



BOARD OF APPEALS
PETITIONER'S
EXHIBIT 2

