

R-87-91	Intersection of NE/S Tawnmoore Lane and NW/S of <u>Marriotts Lane (3616 Marriotts Lane)</u>	2nd Elec. Dist.
7/28/86	Reclassification - filing fee \$100 - Louis Pavlovec, Jr., et ux	
7/28/86	Hearing set for 9/16/86, at 10:00 AM	
9/29/86	Advertising and Posting - \$288.96	
1/8/87	Ordered by the County Board of Appeals that the requested reclassification from a D.R. 5.5 Zone to a B.L. Zone is GRANTED with a restriction and any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.	
1/8/87	Dissenting Opinion of Board Member Harry E. Buchheister, Jr. that an error was not made in rezoning classification in 1984 and this request should be denied at this time.	
2/5/87	Notice of Appeal filed by Liberty Communities Development Corporation, et al, Appellants to Circuit Court for Baltimore County.	
3/12/87	Stipulation of Dismissal of Appellees and Appellants re appeal filed, costs to be paid by Appellants.	

IN THE MATTER OF
THE APPLICATION OF
LOUIS PAVLOVEC, JR., ET UX
FOR RECLASSIFICATION
FROM D.R. 5.5 to B.L.
INT. OF NE/S TAWNMOORE LANE
AND NW/S OF MARRIOTTS LANE
(3616 MARRIOTTS LANE)
2nd DISTRICT

LIBERTY COMMUNITIES DEVELOPMENT
CORPORATION, ET AL, PLAINTIFFS

: Folio No. 174

ZONING FILE NO. R-87-91

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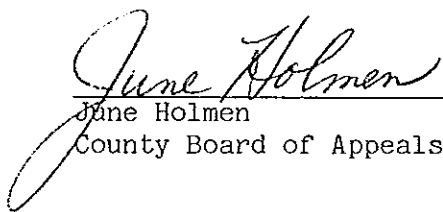
CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(d) of the Maryland Rules of Procedure, William T. Hackett, Patricia Phipps and Harry E. Buchheister, 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, Julius W. Lichter, Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner; Louis Pavlovec, Jr., et ux, 3520 Sams Creek Rd., New Windsor, Md. 21776, Petitioner; Alleen V. Wiggins, 3123 Betlou James Place, Baltimore, Md. 21207, Contract Purchaser; Lucille Whittingham and Jim Janas, Liberty Communities Development Corporation, 3820 Fernside Rd., Randallstown, Md. 21133, Plaintiffs; Newton Williams, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; James E. Kraft, Baltimore County Board of Education, 212 Aigburth Rd., Towson, Md. 21204; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

June Holmen
County Board of Appeals of Baltimore County
Rm. 200, Court House, Towson, Md. 21204
494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Julius Lichter, Esq., 305 W. Chesapeake Ave., Towson, Md. 21204, Counsel for Petitioner; Louis Pavlovec, Jr., et ux, 3520 Sams Creek Rd., New Windsor, Md. 21776, Petitioner; Alleen V. Wiggins, 3123 Betloun James Place, Baltimore, Md. 21207, Contract Purchaser; Lucille Whittingham and Jim Janas, Liberty Communities Development Corporation, 3820 Fernside Rd., Randallstown, Md. 21133, Plaintiffs; Newton Williams, Esq., 204 W. Pennsylvania Ave., Towson, Md. 21204, Counsel for Protestants; James E. Kraft, Baltimore County Board of Education, 212 Aigburth Rd., Towson, Md. 21204; and Phyllis C. Friedman, Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 6th day of February, 1987.


June Holmen

County Board of Appeals of Baltimore County



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204

(301) 494-3180

February 6, 1987

FFB 9 1987

20000 OFFICE

Julius W. Lichter, Esq.
305 W. Chesapeake Ave.
Towson, Md. 21204

Re: Case No. R-87-91
Louis Pavlovec, Jr., et ux

Dear Mr. Lichter:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

A handwritten signature in cursive script, reading "June Holmen", is written over a horizontal line.

June Holmen, Secretary

Encl.

cc: Louis Pavlovec, Jr., et ux
Alleen V. Wiggins
James E. Kraft
Phyllis C. Friedman
Newton Williams, Esq.
Norman E. Gerber
James Hoswell
Arnold Jablon
Jean Jung
James E. Dyer

IN THE MATTER OF	:	BEFORE
THE APPLICATION OF	:	
LOUIS PAVLOVEC, JR., ET UX	:	COUNTY BOARD OF APPEALS
FOR RECLASSIFICATION	:	
FROM D.R. 5.5 to B.L.	:	OF
INT. OF NE/S TAWNMOORE LANE	:	
AND NW/S OF MARRIOTTS LANE	:	BALTIMORE COUNTY
(3616 MARRIOTTS LANE)	:	
2nd District	:	CASE NO. R-87-91
	:	

: :

O P I N I O N

This case comes before this Board on petition for a reclassification from D.R. 5.5 to B.L. on a one-acre parcel located on the corner of Tawnmoore Lane and Marriotts Lane. At the time the petition was filed, the property was owned by Louis Pavlovec, Jr., et ux, but since then has been sold outright to Alleen W. Wiggins who was listed on the petition as contract purchaser. The case was heard this day in its entirety.

Petitioner presented as first witness David Billingsley, a civil engineer, who drew the original plat and the amended plat which is the subject of this hearing and described the same in detail.

Petitioner next presented three real estate agents, Rhonda Bernstein, Jonathan Bishop, and Otis Warren, all of whom described the property and noted their inability over a lengthy period of time to sell the property for residential use. Ella Campbell, President of the Liberty Road Community Council, testified for the Council in support of the petition. David Pearlman, who is in the beauty supply business, testified to Ms. Wiggins' character. Julie Huber, an interior decorator, described the proposed improvements to the interior condition of the building and estimated those costs as \$100,000+. Mrs. Agnes Patterson, a customer in Ms. Wiggins' existing beauty salon, testified as to her good character. Ms. Alleen Wiggins, present owner of the site, testified

that she was unable to find commercial property that she could afford not in a shopping center. She further testified that no external changes to the building would be undertaken but the interior would be completely renovated. She also testified that she had a meeting with area residents in which she explained her proposed use for the property. She further testified that she paid \$76,500 for the site, and that she realized that she was at risk in buying the property for its proposed use as a beauty salon absent the necessary zoning. Bernard Willemain, land planner, testified that he did a study of the site and described all the surrounding uses, and it was his testimony that no reasonable residential use for this property exists. He further noted that the property is abutted on two sides by Baltimore County-owned land, presently zoned D.R. 5.5 but further noted that should the County ever decide to use the land in any fashion whatsoever, they could do so without acquiring proper zoning. The Board will also note that on October 17, 1986, a letter to the Board of Appeals from Norman E. Gerber, of the Baltimore County Planning Board, recommended the B.L. zoning be granted.

People's Counsel presented as their first witness James Hoswell, planner, who testified that the residential zoning provided a reasonable use for the land and that if any zoning change was contemplated it should be done comprehensively. James Janas, representing the Liberty Road Community Development Corporation, testified in opposition to the reclassification request. George Queen, a neighbor, testified in opposition to the petition, citing no need for a beauty salon or commercial zoning on the site. Frances Waterman, another neighbor, concurred with his testimony. Edward Burton, another neighbor, testified that drainage problems from water emanating from this site and the school property already give him problems and that he did not want any more paving on the site.

William Harvey, another neighbor, concurred with his testimony. This concluded People's Counsel's case.

From the testimony and evidence received this day, these conditions exist. Directly across Tawnmoore Lane and abutting the property on its entire length is the rear of a shopping center on B.L. land. At present, this is not a well-maintained shopping center which presents a very unattractive appearance. Nothing buffers this site from the shopping center. Diagonally across Marriotts Lane are a series of properties zoned R.O. At present, they are not being used as R.O. but some are being used for off-street parking from Liberty Road. The Board will concur with Mr. Willemain that the Baltimore County property encompassing this site on two sides and in use as an elementary school does have a D.R. 5.5 classification but recognizes this as a cosmetic classification. The Board will also note that, if the property is developed under the documented site plan, the property owner must address storm water management before any permits can be issued. Testimony presented this day that this one-acre parcel could be subdivided into four building lots causes the question to arise as to the increased amount of impervious surface this proposal would generate and the questionable storm water arrangements that could be made with four small site owners.

The Board will note that in the 1984 Comprehensive Map Process R.O. was afforded properties on Marriotts Lane diagonally across the street from the subject site with evident intent to provide a transition area between the heavy commercialism of Liberty Road and the homes on Marriotts Lane, but no effort was made in any way to buffer the Pavlovec property. In the Board's opinion, this was an error by the County Council given serious consideration by this Board. Much testimony was produced as to the designation of Tawnmoore Lane as

the demarcation line between commercial and residential use. But the Board is convinced that the property line of the Baltimore County-owned property qualifies equally as well as a demarcation line and the proposed use as a beauty salon without any external changes to the building on a documented site plan could well provide a reasonable buffer for the other properties affected by the commercial zoning existing on Liberty Road. For all of the reasons stated above and from all the testimony and evidence produced this day, the Board is of the opinion that the D.R. 5.5 zoning existing on the property is in fact in error and will grant the requested B.L. zoning to permit its use as a beauty salon. In order to negate any possible detrimental domino effect from the B.L. zoning, the Board will require that the documented site plan be recorded among the Land Records of Baltimore County and that any other use will negate the B.L. zoning and revert it back to its D.R. 5.5 zoning.

O R D E R

It is therefore this 8th day of January, 1987, by the County Board of Appeals, ORDERED that the requested reclassification from D.R. 5.5 to B.L. as petitioned for be and the same is GRANTED with the following restriction: That the documented site plan entered before the Board of Appeals be recorded among the Land Records of Baltimore County and that any use other than that evidenced on this site plan will negate the B.L. zoning and revert it back to its D.R. 5.5 zoning.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Patricia Phipps
Patricia Phipps

IN THE MATTER OF	:	BEFORE
THE APPLICATION OF	:	
LOUIS PAVLOVEC, JR., ET UX	:	COUNTY BOARD OF APPEALS
FOR RECLASSIFICATION	:	
FROM D.R. 5.5 TO B.L.	:	OF
INT. OF NE/S TAWNMOORE LANE	:	
AND NW/S OF MARRIOTTS LANE	:	BALTIMORE COUNTY
(3616 Marriotts Lane)	:	
2nd DISTRICT	:	CASE NO. R-87-91
	:	

: :

D I S S E N T I N G O P I N I O N

This case comes before the Board on a petition for reclassification of property from D.R. 5.5 to B.L.

Subject property was submitted for zoning change with a documented site plan, maintaining the existing structure, and providing for a paved parking area to accommodate clients to the proposed beauty salon.

Counsel for the petitioner presented various witnesses who testified to the disadvantages of the residential zoning for this site. Real estate representatives reviewed the efforts made by their firms to sell the property and testified to the problems of the location approximate to a shopping center.

Testimony supporting the zoning request was brought to the Board from the Liberty Road Community Council, Inc. The council president expressed particular support for the new property owner's intention of utilizing a house for purposes that would not be detrimental to the neighborhood. Concern was expressed over the unattractive aspect of the adjacent shopping center and its obvious negative impact on the subject property. Counsel also cited a recommendation for the zoning change from Norman Gerber, Director of Planning & Zoning, Baltimore County.

Additional testimony was presented characterizing the petitioner as a highly experienced and competent entrepreneur with an abiding concern for her

clients and their satisfaction. Subsequent to her purchase of the subject residential location, various improvements have been made to the property. Other expert witnesses reviewed the extensive alterations planned for the interior of this 100-year-old residence.

In opposition to this zoning request was a group of neighborhood residential property owners represented by Mr. Newton Williams. Protesting property owners generally objected to any commercial zoning infringement upon their community, presently served by heavy commercial business locations along Liberty Road.

Counsel for Baltimore County, Ms. Phyllis Friedman, reviewed the conditions as they existed at the time of the last comprehensive zoning review. The property owner did not request a zoning change in 1984, and in fact, brought improvements to his residence. Situated on an acre of land contiguous with the large acreage of a county elementary school, the subject location presents an attractive and serene setting. Counsel for the protestants also suggested that four dwellings could be readily built on the site with access to various public services.

Expert witness for People's Counsel, Mr. James Hoswell, Office of Planning, presented photographic evidence that supported Tawnmoore Lane as a realistic and practical zoning boundary between the subject property, the contiguous school property, and the commercial zoning of the shopping center.

The primary question in regard to the matter is whether the County Council made an error in its zoning of this location in 1984. Mr. Hoswell offered evidence that this was not a location of small concern in the complex considerations of the County's zoning deliberations. This is evidenced by the fact that three residential properties situated on Marriotts Lane, facing the shopping

center property between Liberty Road and Tawnmoore Lane, were zoned R.O. in the 1984 zoning process.

This unsolicited change, coupled with the natural zoning boundary that Tawnmoore Lane offers, indicates that the County was not arbitrary in its zoning decision of this location.

Therefore, it is the opinion of this member of the Board that an error was not made in rezoning classification in 1984, and consequently, this request should be denied at this time.

COUNTY BOARD OF APPEALS OF
BALTIMORE COUNTY

Harry E. Buchheister Jr.
Harry E. Buchheister, Jr.

DATE: January 6, 1987



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

JAN 12 1987

ZONING OFFICE

January 8, 1987

Julius W. Lichter, Esquire
305 W. Chesapeake Avenue
Towson, MD 21204

RE: Case No. R-87-91
Louis Pavlovec, Jr., et ux

Dear Mr. Lichter:

Enclosed is a copy of the Opinion and Order passed today by the County Board of Appeals in the subject case. Also enclosed is a copy of the Dissenting Opinion by Mr. Buchheister.

Sincerely,

A handwritten signature in cursive script, reading "Kathi C. Weidenhammer".

Kathi C. Weidenhammer
Administrative Secretary

Encl.

cc: Mr. & Mrs. Louis Pavlovec, Jr.
Ms. Alleen Vernice Wiggins
Newton A. Williams, Esquire
Mr. James Earl Kraft
Phyllis Cole Friedman, Esquire
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Margaret E. du Bois