

RE: PETITION FOR SPECIAL EXCEPTION
FOR OPEN DUMP - S. S. Pulaski
Highway at rear of 66th St.,
15th District - Bobb Tyler,
Elizabeth W. Tyler, Refuse
Disposal, Inc., Chesaco Park
Holding Co., Inc. and Indus-
trial Enterprises, Inc.,
Petitioners
BALTIMORE COUNTY
No. 5105-X

Petitioners have requested that a special exception be granted under the Zoning Regulations of Baltimore County, to use the parcels described in the petition, for an open dump to be used in connection with refuse disposal.

On August 28, 1961 the Zoning Commissioner of Baltimore County in his opinion, said that a zoning violation existed on the property described in the present petition. An order to cease and desist was signed the same day and was executed on November 6, 1961 to the date of the Order following this opinion.

In reaching a conclusion the following must be considered:
Baltimore County Code 1961 Supplement - Section 23-18:

"For the purpose of promoting health, safety, morals and general welfare of the community, zoning maps and appropriate regulations shall be prepared in the manner hereinafter provided, to regulate and restrict, within the county, the height, number of stories and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards or courts, the setback or distance of any buildings or structures from front or side lot, road, street or alley line and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes. Such zoning maps and regulations shall be made in accordance with a comprehensive plan. They shall be designed to reduce congestion in the roads, streets and alleys; to promote safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land to avoid undue concentration of population; to facilitate adequate provision for schools, parks, water, sewerage, transportation and other public requirements, conveniences and improvements including gas and electric structures and facilities. (Bill No. 60, 1960, Sec. 23-18.)"

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was not familiar with a possible rat problem connected with garbage, trash, etc. dumped on the property.

Dr. Warthen did not have minimum mandatory requirements available for a dump as set forth in "Section 110 - Open Dumps - For requirements see Baltimore County Health Department Regulations".

This section was passed by the County Commissioners of Baltimore County on March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition). He indicated suitable regulations could be promulgated in time.

However, Dr. Warthen agreed that his department would have some control over trash, etc., not handled by the County garbage collection service by virtue of Sec. 13-29 (b) and Sec. 13-31 of the Baltimore County Code, 1958:

"Sec. 13-29. Garbage receptacles and trash bundles; undue burden on trash or garbage collection service".

(b) In the event that any person shall have for removal such amount of garbage, trash, ashes or other offal, as will, in the opinion of the county health officer, burden the trash or garbage collection service of the county, then and in that event the county, by notice in writing addressed to such person may require such person to arrange for disposition of such garbage, trash, ashes or other offal, at his own expense, and without the aid of the county trash or garbage collection facilities. Such notice and order may be rescinded at any time by the county, if the condition necessitating same is deemed in its opinion no longer to exist. (P.L.L. 1958, Art. 3, sec. 307, Balto. Co. Code, 1958, sec. 176, 216, sec. 561, 1958, sec. 307, 1958, Sec. 131, 1959, sec. 150, 1960, ch. 515; ch. 587, sec. 131, 1963 ch. 682, sec. 307.)"

Sec. 13-31 - Transporting, storing or dumping offensive material.

(a) No person except the employees of the county engaged in public work or persons under contract with the county for public work shall convey any garbage, house offal or other refuse, animal or vegetable matter upon, over or through any street, lane, road, alley or public highway in the county or dispose of, store or dump any such garbage, house, offal, other refuse, animal or vegetable matter in the county, without first obtaining a permit so to do from the county health officer, and then only in

"Sec. 23-21. Authority of Zoning Commissioner to provide for special exceptions and variances.

Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the Zoning Commissioner may grant variances from area and height regulations and may make special exceptions to the Zoning Regulations in harmony with their general purpose and intent, provided that the issuance of all such special exceptions and variances shall be subject to appropriate principles, standard, rules, conditions and safeguards set forth in the zoning regulations, and that all decisions of the Zoning Commissioner with respect to such matters shall be subject to appeal to the Board of Appeals as provided in this article. (Bill No. 60, 1960, Sec. 23-21.)"

Baltimore County Zoning Regulations - Section 502.1:

"Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets, or alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air."

Section 256.1 - Special Exceptions - The following uses only when permitted as Special Exception (See Sections 270 and 502):

Open dump.

Section 101 - Definitions:

Open Dump: Any land used for disposal of garbage, trash or other refuse without cover, the lots where garbage and/or other types of refuse are permitted to accumulate are considered open dumps (see Section 110).

Section 110 - Open Dumps:

For requirements see Baltimore County Health Department Regulations.

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accordance with the terms and conditions of such permit and in no other manner. Nothing herein contained, however, shall be construed to prohibit any farmer whose lands lie on either side of a public highway from hauling manure from one part of his farm to another and using any public highway to do so, or spreading manure on his farm for the purpose of enriching the soil for the cultivation of the crops without the necessity of obtaining a permit from the county health officer for such purposes; provided, however, that should at any time in the judgment of the county health officer such use constitutes a public nuisance, the county health officer shall have the right to order cessation of the same, upon the same penalties for refusal to comply with such order as herein provided for by persons refusing to obtain a permit. The county health officer may, in his discretion grant the permit herein referred to whenever in his judgment the public health will not be endangered thereby, upon such terms and conditions as to him shall seem proper, and is authorized in his discretion to revoke the same at any time that in his judgment the public health may be jeopardized or endangered by the continuance thereof.

(b) Any person or persons hauling or dumping any garbage, house offal or other refuse, animal or vegetable matter in violation of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction, subjected to a fine of not less than five dollars nor more than one hundred dollars or imprisonment in the county jail not exceeding thirty days or both fine and imprisonment in the discretion of the Court. (Balto. Co. Code 1958, sec. 137, 1959, sec. 151, 1961, ch. 281, sec. 306.)"

It seems readily apparent even to the uninitiate that Baltimore County itself is not ready at the present time to regulate and supervise the operation of an open dump.

This places the onus of every facet of appropriate principles, standards, rules, conditions and safeguards squarely on the petitioners. Are the petitioners ready to undertake this obligation?

To all intents and purposes the operator of the proposed open dump will be Mr. Bobb Tyler. Mr. Tyler has admitted that he has conducted an illegal operation for an indefinite period of time. He has also testified that he had had conferences with officials, both

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What appropriate principles, standards, rules, conditions and safeguards may be considered in granting a special exception for an open dump?

Mr. Malcolm H. Dill, Director of Planning and Zoning indicated that "The Planning staff is of the opinion that the problems inherent in an open dump operation make it almost impossible to satisfy the conditions of Section 502.1 of the Zoning Regulations". Section 502.1 has been quoted above.

There was no testimony by the Office of Planning and Zoning that a special exception for an open dump be removed from the Zoning Regulations or that strict standards be set for such an operation.

Mr. Albert B. Kaltenbach, Director of Public Works of Baltimore County, indicated that his department has no rules or regulations pertaining to open dumps. This would include the Sanitation Division. Mr. Kaltenbach said such regulations might be worked out in the future.

The fact that frequent fires break out on subject property was not contradicted.

Marshall Louis C. Miesel testified that he had visited the subject property many times over a period of quite a few years. Corroborative were made but no fires occurred in new places quite often. Minimum mandatory requirements for fire prevention in connection with an open dump were not available at the time of the hearing, but Marshall Miesel said they could be set up at some later time.

Chief Winfield H. Winthorst mentioned some equipment that a private organization might maintain to fight fires and stressed training operators and testing equipment. Petitioners did not testify to a reasonable compliance with the Fire Chief's recommendations. The petitioners have relied on the Rosedale Volunteer Fire Company.

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Sub-Lt. William M. Biddle of that Company testified that it was necessary to lay 1000 feet of hose to the nearest water. Since January 1, 1960, the volunteers have suffered some \$2700.00 damage to their equipment. Some of the damage is attributed to fighting fires on subject property.

There was a conflict in testimony concerning the size of fires on the property. Marshall Miesel indicated fires somewhat larger than a large bon-fire, but films taken at the scene depicted a rim of fire around an oil lake and on the lake. Fire-fighters were shown carrying other fire-fighters from the scene of the fire. The billowing smoke was intense.

Mr. Fred L. Good, Mechanical engineer, and Mr. Henry Burice, Chief Building Inspector, both of the Department of Permits and Licenses, visited the property at the request of the County Solicitor on October 25, 1961 from 11:00 a. m. to 12:30 p.m. A dredge was pumping silt and water in the area used for receiving silt and ash. There were two open fires burning. A Wilco Refuse Burner was on the property for which no permit has been issued by the Department of Permits and Licenses. Both gentlemen have been visiting the subject property for a time in excess of a year.

Dr. William H. F. Warthen testified that he had never visited the subject property, but that employees in his department would know of the situation. He did not have a recollection of any reports concerning the matter at hand, but they might be available. Whether or not the State or County Health Departments had issued a permit for the operation of some use on the subject property was not clear. No permit, either past, present or temporary was produced, however a permit of some kind with limitations was discussed. Dr. Warthen as Deputy State and County Health Officer, declined to answer questions on respiratory ailments affected by odors that might come from the subject property, but as a medical doctor gave a limited opinion. Dr. Warthen

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RAT BAITING - Mr. Requist wants the petitioners to comply with requirements and recommendations of the Maryland State Department of Health and the Baltimore County Health Department.

The question is what requirements and what recommendations? Testimony indicated that Bobb Tyler, Inc. has been operating a long time without making any attempt to meet any such requirements or recommendations if such did exist.

What methods will be used to supervise and guarantee proper depth of fill?

What methods will be used? No satisfactory answer.

Mr. Requist suggested means of hauling tires, flammable liquids and salvage. These are minimum suggestions. The petitioners have not set forth how or when they intend to carry out the recommendations.

Unless a plan for "adequate" supervision and policing is set forth, how can a decision be made that is "adequate"? The answer is the decision cannot be made.

Past performance insofar as fire-fighting and fire prevention is concerned has not been commendable. No type of open dump use should ever have been started without proper fire prevention and without there being proper fire-fighting equipment and trained fire-fighting personnel available on the subject property.

Mr. Requist concludes his recommendation with an allusion to "land filling operations". The matter under discussion is not a landfill operation. It is an open dump.

The Baltimore County Zoning Regulations provide for but one kind of landfill operation and that is:

"A planned systematic method of disposal of garbage and other combustible or non-combustible refuse whereby waste material is placed, compacted, and covered with at least 12 inches of compacted natural earth by the end of each day's operation; when the fill is completed a covering of at least 24 inches of compacted natural earth is added."

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County and State for an indefinite period of time. He cannot recall the exact number of meetings or conferences, but there have been several. The results of these meetings or conferences have not been satisfactory. Mr. Tyler was not sure just what kind of permit he had from the County or State Health Departments. If it now exists, it was not produced. No permit was produced for the construction of a Wilco Refuse Burner, an item vital to the operation of the proposed dump. The description of existing fire fighting equipment was inadequate. The prospect of obtaining sufficient fire equipment in the future was not definite. The existing operation of some years' duration should not have proceeded without adequate fire protection. Past supervision was not good and concrete evidence of proper supervision in the future was not outlined in a satisfactory fashion. Economics was a word much used. To save money at the expense of public health is beyond entitlement of an individual to earn a fair profit in his business.

The petitioner's chief witness was Gustave J. Requist, Consulting Engineer, Whisman Requist & Associates. Mr. Requist's background is unquestioned and his proposals sound to fit his description of a "Modified Land Fill". His statement was that the present operation has not been very good and is now improving. He steered away from indicating that the proposed use would be a dump, but it is an open dump we must consider.

Mr. Requist tells us that incinerator ash residue, if properly conditioned, will provide excellent cover. How is this to be guaranteed? This guarantee was not explained.

The incinerator ash should be deposited to cool. Two new fires were observed October 25, 1961. What caused the fires?

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PETITION FOR ~~SPECIAL EXCEPTION~~ **SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

We, Chesaco Park Holding Co., Inc., legal owner of Parcel #1, Robb Tyler and Elizabeth W. Tyler, his wife, legal owners of Parcel #2, and Refuse Disposal, Inc., legal owner of Parcel #3, all of which parcels are described in the descriptions and plats attached hereto and made a part hereof, and all of which parcels are situated in the Fifteenth Election District of Baltimore County, hereby petition

See Attached Descriptions

for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for an open dump to be used in connection with refuse disposal.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification 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.

CHESACO PARK HOLDING CO., INC.

By: Robb Tyler Legal Owner
Address: Rear 66th St. & Pulaski Hwy.
Baltimore 6, Maryland

By: Elizabeth W. Tyler Legal Owner
Address: Rear 66th Street & Pulaski Hwy.
Baltimore 6, Maryland

ORDERED By The Zoning Commissioner of Baltimore County, this 20th day of October, 1961, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in a newspaper of general circulation throughout Baltimore County, 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 November, 1961, at 10:00 o'clock

...at M. ...at 10:00 o'clock



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NOV 28 1961 AM
PETITION FOR ~~SPECIAL EXCEPTION~~ **SPECIAL EXCEPTION**
COMMISSIONER OF BALTIMORE COUNTY

We, Chesaco Park Holding Co., Inc., legal owners of Parcel #1, Robb Tyler and Elizabeth W. Tyler, his wife legal owners of Parcel #2, and Refuse Disposal, Inc., licensees, and Industrial Enterprises, Inc., Owner of Parcel #3, all of which parcels are described in the descriptions and plats attached hereto and made a part hereof, and all of which parcels are situated in the Fifteenth Election District of Baltimore County, hereby petition for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for an open dump to be used in connection with refuse disposal.

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above reclassification 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.

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Baltimore 6, Maryland

RE: PETITION FOR SPECIAL EXCEPTION : BEFORE
for an open dump to be used in connection with refuse disposal : COUNTY BOARD OF APPEALS
E/S Pulaski Highway at rear of 66th Street : OF
15th District : BALTIMORE COUNTY
Robb Tyler Refuse Disposal, Inc. & Chesaco Park Holding Co., Inc. : No. 5405-X

ORDER OF DISMISSAL

Petition of Robb Tyler Refuse Disposal, Inc. and Chesaco Park Holding Co., Inc. for a special exception for an open dump to be used in connection with refuse disposal, on property located on the east side of Pulaski Highway at the rear of 66th Street, in the Fifteenth Election District of Baltimore County.

WHEREAS, the Board of Appeals is in receipt of a Letter of Dismissal of Appeal filed September 24, 1970 (a copy of which is attached hereto and made a part hereof) from the attorney representing the petitioner-appellant in the above entitled matter.

WHEREAS, the said attorney for the said petitioner-appellant requests that the appeal filed on behalf of said petitioner be dismissed and withdrawn as of September 24, 1970.

IT IS HEREBY ORDERED, this 24th day of September, 1970, that said appeal be and the same is DISMISSED.

COUNTY BOARD OF APPEALS
BALTIMORE COUNTY

By: John A. Slowik Chairman

By: John A. Miller

By: William H. Gaffney

County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Room 301
Towson, Maryland 21204

Attention: Mr. John A. Slowik, Chairman

Re: Case #5405-X
Robb Tyler, Refuse Disposal, Inc. and Chesaco Park Holding Co., Inc. for Special Exception for an open dump to be used in connection with refuse disposal E/S Pulaski Highway at rear of 66th Street

Dear Mr. Chairman:

Please enter the above entitled cause dismissed as my client, Robb Tyler, et al., do not desire to have a hearing on the denied special exception.

If you have any further questions about this matter, please do not hesitate to contact me.

Very truly yours,

Elmer L. Reese, Jr.
Elmer L. Reese, Jr.,
Attorney for Petitioner
Robb Tyler, Refuse Disposal, Inc.
& Chesaco Park Holding Co., Inc.

ELRjr/lk

Rec'd 9/24/70
9am

PROCTOR, ROYSTON & MUELLER
ATTORNEYS AT LAW
CUMMINS BUILDING
BALTIMORE 18, MD.



November 30, 1961

Mr. John G. Rose
Zoning Commissioner of Baltimore County
County Office Building
Towson 4, Maryland

Re: Petition for Special Exception for Open Dump - E.S. Pulaski Highway at rear of 66th St., 15th District - Robb Tyler, Elizabeth W. Tyler, Refuse Disposal, Inc., Chesaco Park Holding Co., Inc. and Industrial Enterprises, Inc., Petitioners. No. 5405-X.

Dear Mr. Rose:

Please note an Appeal from your Order passed in the above captioned matter on November 29, 1961, to the County Board of Appeals of Baltimore County.

Very truly yours,

Harold B. O'Leary
Harold B. O'Leary
Attorneys for Petitioners

KCP/lg

cc: Mr. John B. Banz
Essex Improvement Association
107 Mace Avenue
Baltimore 21, Maryland

cc: Mr. Kay Wolff
Rosedale Improvement Association
511-1/2 Rosedale Avenue
Baltimore 6, Maryland

cc: Johnson Bowie, Esq., County Solicitor

EDWIN J. KIRBY
REGISTERED SURVEYOR
171 E. 22ND STREET
BALTIMORE 18, MD.

PARCEL #1

DESCRIPTION OF PROPERTY OF THE CHESACO PARK HOLDING CO., INC., located in the Fifteenth Election District of Baltimore County, Maryland.

BEGINNING for the same on the center line of a road right of way 30 feet wide leading from the property now being described to Pulaski Highway, said point being also on the southeasternmost side of the Baltimore & Ohio Railroad right of way line, and running thence as now surveyed and with courses referred to true by a meridian and binding thereon the four following courses and distances, viz: by a curve to the right with a radius of 11518.00 feet a distance of 607.30 feet, North 53 degrees 36 minutes East 609.00 feet, South 36 degrees 24 minutes East 25.00 feet, and North 53 degrees 36 minutes East 107.16 feet, South 32 degrees 49 minutes East 90.70 feet, South 23 degrees 05 minutes East 107.16 feet, South 3 degrees 32 minutes East 115.00 feet, and South 51 degrees 15 minutes East 87.68 feet, thence South 51 degrees 05 minutes 37 seconds West 2025.64 feet, South 66 degrees 00 minutes West 120.50 feet, South 84 degrees 24 minutes West 95.50 feet, North 68 degrees 10 minutes West 223.70 feet, North 73 degrees 13 minutes West 151.20 feet, South 87 degrees 46 minutes West 96.90 feet, South 76 degrees 41 minutes West 95.30 feet, and North 3 degrees 01 minutes West 233.30 feet to the above mentioned southeasternmost right of way line of the Baltimore and Ohio Railroad, thence binding thereon North 56 degrees 36 minutes East 1256.11 feet to the place of beginning.

Containing 26.414 acres, more or less.

SAVING AND EXCEPTING THEREFROM, however, the following:

1. Lease to 1360 Broadcasting Co., Inc., dated July 2, 1941, and recorded in the Land Records of Baltimore County in Liber C.W.B. Jr. No. 1020, folio 336.
2. Lease to 1360 Broadcasting Co., Inc., dated December 18, 1956, and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2611, folio 61.
3. Utility right of way to the County Commissioners of Baltimore County, dated August 12, 1958, and recorded in the Land Records of Baltimore County in Liber G.L.B. No. 3392, folio 83.

EDWIN J. KIRBY
REGISTERED SURVEYOR
171 E. 22ND STREET
BALTIMORE 18, MD.

PARCEL #2

DESCRIPTION OF PROPERTY OF ROBB TYLER AND ELIZABETH W. TYLER, his wife, located in the Fifteenth Election District of Baltimore County, Maryland.

BEGINNING for the same at a point on the edge of the waters of Red House Run and on the tenth or South 43 degrees 44 minutes East 117 feet line described in a deed from Ludwig Madi, et al., to Maryland Brass Co. and Metal Works dated May 16, 1930, and recorded among the Land Records of Baltimore County in Liber L.M.C.L.M. No. 853, folio 243, at the distance of 29.32 feet from the end thereof, thence running and binding on the edge of the waters of Red House Run the eleven following courses and distances, viz: South 51 degrees 15 minutes East 29.32 feet, South 0 degrees 05 minutes West 206.20 feet, South 42 degrees 41 minutes East 198.38 feet, South 25 degrees East 114.50 feet, thence South 51 degrees 03 minutes West 523.80 feet, North 48 degrees 25 minutes West 296.33 feet, North 79 degrees 09 minutes West 907.75 feet, North 84 degrees 57 minutes West 138.60 feet, North 73 degrees 01 minutes West 158.40 feet, South 89 degrees 55 minutes West 278.50 feet, South 66 degrees 00 minutes West 46.31 feet, thence North 51 degrees 05 minutes 37 seconds East 2025.64 feet to the place of beginning.

Containing 32.57 acres of land, more or less.

EDWIN J. KIRBY
REGISTERED SURVEYOR
171 E. 22ND STREET
BALTIMORE 18, MD.

PARCEL #3

Licensee, and Industrial Enterprises, Inc., Owner, DESCRIPTION OF PROPERTY OF REFUSE DISPOSAL, INC. located in the Fifteenth Election District of Baltimore County, Maryland.

BEGINNING for the same at a point on the northwesternmost side of Quad Avenue as laid out 80 feet wide at the northeasternmost end thereof, said point being 3855.38 feet from the intersection of Quad Avenue and the City Line, and running thence and binding on the northeasternmost outlines of the Industrial Enterprises, Inc. property the five following courses and distances, viz: North 63 degrees 26 minutes West 197.11 feet, North 26 degrees 36 minutes West 101.00 feet, North 50.00 feet, North 23 degrees 52 minutes West 288.00 feet, and North 38 degrees 04 minutes 20 seconds West 404.25 feet, thence binding part of the southwesternmost outline of Baltimore City land, North 43 degrees 27 minutes East 111.00 feet to the southernmost outlines of lands of Robb Tyler, thence binding thereon the four following courses and distances, viz: South 84 degrees 57 minutes East 137.60 feet, South 79 degrees 09 minutes East 907.75 feet, South 48 degrees 25 minutes East 296.33 feet, and North 51 degrees 03 minutes East 448.00 feet to the southwesternmost side of Moore Run, thence binding on or near thereto, South 69 degrees 05 minutes East 852.00 feet to the northwesternmost outlines of other lands of Industrial Enterprises, Inc., thence binding thereon the eight following courses and distances, viz: South 18 degrees 15 minutes West 70.19 feet, South 4 degrees 00 minutes West 330.00 feet, South 27 degrees 45 minutes West 310.20 feet, South 38 degrees 00 minutes West 66.00 feet, South 21 degrees 30 minutes West 66.00 feet, South 28 degrees 00 minutes West 128.00 feet to the northwesternmost right of way line of the Philadelphia, Baltimore and Washington Railroad, thence binding thereon the four following courses and distances, viz: South 66 degrees 25 minutes 30 seconds West 543.80 feet, North 80 degrees 41 minutes West 111.75 feet, South 66 degrees 25 minutes 30 seconds West 506.93 feet and North 87 degrees 41 minutes 30 seconds West 20.00 feet to the northeasternmost side of a Utility Right of Way 20 feet wide, thence binding thereon North 5 degrees 45 minutes West 610.00 feet to the outlines of the first above mentioned lands of Industrial Enterprises, Inc., thence binding thereon the seven following courses and distances, viz: North 81 degrees 33 minutes West 140.00 feet, South 55 degrees 11 minutes West 81.00 feet, North 85 degrees 35 minutes West 48.00 feet, North 65 degrees 24 minutes West 113.00 feet, North 46 degrees 49 minutes West 59.00 feet, North 22 degrees 16 minutes East 115.00 feet, and North 63 degrees 26 minutes West 50.89 feet to the place of beginning.

Containing 37.842 acres of land, more or less.

11-25-70

OFFICE OF PLANNING AND ZONING

Inter-Office Correspondence

Date November 10, 1961To: Mr. Jean G. Rose, Zoning CommissionerFrom: Mr. George L. Cavrells, Deputy Director

Subject: #5405-X. Special Exception for an Open Dump
 to be used in connection with refuse disposal.
 Eastside of Pulaski Highway at the rear of both St.
 Being property of Robb Tyler.

15th DistrictHEARING: Tuesday, November 21, 1961 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for special exception for an open dump. It has the following advisory comments to make with respect to pertinent planning factors:

1. Special Exceptions are judged by the criteria listed in Section 502.1 of the Zoning Regulations. The planning staff finds it difficult to conceive of an open dump operation here which would not be detrimental to the health, safety, or general welfare of the locality. At the same time, the staff is unable to suggest standards of operation for an open dump here which would in fact make it compatible with the adjoining residential area.
2. No data has been submitted with the petition indicating the existing means of access to the property nor are there data which indicate the extent of future traffic to the dump. No finding of fact can be made at this time as to whether or not the open dump operation would tend to create congestion in the roads or accessways leading to the dump operation. This point should be clarified by the petitioner.
3. Operation of the dump as it existed in the past has created a potential hazard from fire, panic, and other dangers. What steps can the petitioner take to show conclusively that such incidents will not be repeated?
4. The subject property is at the lower reaches of the Herring Run drainage area and is partly on tidal water, and is subject to flooding. If granted, the granting should be conditioned upon provision of the proper reservations of land to contain a fifty-year flood in a manner in accordance with the standards of and acceptable to the Department of Public Works. Otherwise, the petition would interfere with "other public requirements, conveniences, or improvements".
5. The planning staff is of the opinion that the problems inherent in an open dump operation make it almost impossible to satisfy the conditions of Section 502.1. of the Zoning Regulations.

GHS:bms

Mr. Requardt is correct in his statement that Robb Tyler, Inc., as well as other private refuse collectors and disposers, are performing a service which is vital to each and every member of our regulated society, whether direct or indirect, but the petitioners have not met the burden of presenting sufficient standards of operation so proper conditions and safeguards might be prescribed.

The sum and substance of the foregoing and the many hours of testimony is that Baltimore County is not now in a position to regulate an open dump and the petitioners have not set forth sufficient capabilities to warrant granting permission to them to operate an open dump without such regulations.

For the above reasons the special exception is denied.

It is this 29th day of November, 1961, by the Zoning Commissioner of Baltimore County, ORDERED that the aforesaid special exception is hereby denied.

[Signature]
 Zoning Commissioner

RE: PETITION FOR SPECIAL EXCEPTION
FOR OPEN DUMP - E. S. Pulaski
Highway at rear of 66th St.,
15th District - Robb Tyler
Elizabeth M. Tyler, Marlene
Disposals, Inc., Chesaco Park
Holding Co., Inc. and Industrial
Enterprises, Inc.,
Petitioners
BALTIMORE COUNTY
No. 5405-X

Petitioners have requested that a special exception be granted under the Zoning Regulations of Baltimore County, to use the parcels described in the petition, for an open dump to be used in connection with refuse disposal.

On August 28, 1961 the Zoning Commissioner of Baltimore County in his opinion, said that a zoning violation existed on the property described in the present petition. An Order to cease and desist was signed the same day and was extended on November 6, 1961 to the date of the Order following this opinion.

In reaching a conclusion the following must be considered:
Baltimore County Code 1961 Supplement - Section 23-18:

"For the purpose of promoting health, safety, morals and general welfare of the community, zoning maps and appropriate regulations shall be prepared in the manner hereinafter provided, to regulate and restrict, within the county, the height, number of stories and size of buildings and other structures, the percentage of a lot that may be occupied, the size of yards or courts, the setback or distance of any buildings or structures from front or side lot, road, street, or alley line and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes. Such zoning maps and regulations shall be made in accordance with a comprehensive plan. They shall be designed to reduce congestion in the roads, streets and alleys; to promote safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land to avoid undue concentration of population; to facilitate adequate provision for schools, parks, water, sewerage, transportation and other public requirements, conveniences and improvements including gas and electric structures and facilities. (Bill No. 80, 1950, Sec. 23-18.)"

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Dr. Warthen did not have minimum mandatory requirements available for a dump as set forth in "Section 410 - Open Dumps - For requirements see Baltimore County Health Department Regulations". This section was passed by the County Commissioners of Baltimore County on March 30, 1955, in accordance with Title 30, Section 532 (c) of the Code of Public Local Laws of Baltimore County (1955 Edition). He indicated suitable regulations could be promulgated in time.

However, Dr. Warthen agrees that his department would have some control over trash, etc., not handled by the County garbage collection service by virtue of Sec. 12-19 (b) and Sec. 12-31 of the Baltimore County Code, 1958:

"Sec. 12-29. Garbage receptacles and trash bundles; undue burden on trash or garbage collection service."

(b) In the event that any person shall have for removal such amount of garbage, trash, ashes or other refuse, as will, in the opinion of the County Health Officer, burden the trash or garbage collection service of the county, then and in that event the County, by notice in writing addressed to such person may require such person to arrange for disposition of such garbage, trash, ashes or other refuse, at his own expense, and without the aid of the County trash or garbage collection facilities. Such notice and if the condition necessitating same is deemed in its opinion no longer to exist. (P.L.L. 1930, Art. 3, sec. 107; Balt. Co. Code, 1958, sec. 176; 1916, sec. 161; 1918, sec. 167; 1919, sec. 171; 1955, sec. 150, 1902, ch. 515 ch. 581, sec. 131; 1943 ch. 682, sec. 107.)"

Sec. 12-31 - Transporting, storing or dumping offensive material.

(a) No person except the employees of the County engaged in public work or persons under contract with the County for public work shall convey any garbage, house refuse or other refuse, animal or vegetable matter upon, over or through any street, lane, road, alley or public highway in the County or dispose of, store or dump any such garbage, house, refuse, animal or vegetable matter in the County, without first obtaining a permit so to do from the County Health Officer, and then only in accordance with the terms and conditions of such permit and in no other manner. Nothing herein contained, however, shall be construed to prohibit any farmer whose lands lie on either side of a public highway from hauling manure from one part

"Sec. 23-23. Authority of Zoning Commissioner to provide for special exceptions and variances.

Subject to the appropriate principles, standards, rules, conditions and safeguards as set forth in the zoning regulations, the Zoning Commissioner may grant variances from area and height regulations and may make special exceptions to the Zoning Regulations in harmony with their general purpose and intent; provided that the issuance of all such special exceptions and variances shall be subject to appropriate principles, standards, rules, conditions and safeguards set forth in the zoning regulations, and that all decisions of the Zoning Commissioner with respect to such matters shall be subject to appeal to the Board of Appeals as provided in this article. (Bill No. 80, 1950, Sec. 23-23.)"

Baltimore County Zoning Regulations - Section 502-1:

"Before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not:

- a. Be detrimental to the health, safety, or general welfare of the locality involved;
- b. Tend to create congestion in roads, streets, or alleys therein;
- c. Create a potential hazard from fire, panic or other dangers;
- d. Tend to overcrowd land and cause undue concentration of population;
- e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements;
- f. Interfere with adequate light and air."

Section 256.4 - Special Exceptions - The following uses only when permitted as Special Exception (See Sections 270 and 502):

Open dump.

Section 101 - Definition:

Open Dump: Any land used for disposal of garbage, trash or other refuse without cover. Big lots where garbage and/or other types of refuse are permitted to accumulate are considered open dumps (see Section 410).

Section 410 - Open Dumps:

For requirements see Baltimore County Health Department regulations.

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of his farm to another and using any public highway to do so, or spreading manure on his farm for the purpose of enriching the soil for the cultivation of the crops without the necessity of obtaining a permit from the County Health Officer for such purposes; provided, however, that should at any time in the judgment of the County Health Officer such use constitutes a public nuisance, the County Health Officer shall have the right to order cessation of the same, upon the same penalties for refusal to comply with such order as herein provided for by persons refusing to obtain a permit. The County Health Officer may, in his discretion grant the permit herein referred to whenever in his judgment the public health will not be endangered thereby, upon such terms and conditions as to him shall seem proper, and is authorized in his discretion to revoke the same at any time that in his judgment the public health may be jeopardized or endangered by the continuance thereof.

(b) Any person or persons hauling or dumping any garbage, house refuse or other refuse, animal or vegetable matter in violation of the provisions of this section, shall be deemed guilty of a misdemeanor and upon conviction, subjected to a fine of not less than five dollars nor more than one hundred dollars or imprisonment in the County Jail not exceeding thirty days or both fine and imprisonment in the discretion of the court. (Balt. Co. Code, 1918, sec. 132, 1955, sec. 151; 1941, ch. 281, sec. 1064.)"

It seems readily apparent even to the uninitiate that Baltimore County itself is not ready at the present time to regulate and supervise the operation of an open dump.

This places the onus of every facet of appropriate principles, standards, rules, conditions and safeguards squarely on the petitioners. Are the petitioners ready to undertake this obligation?

To all intents and purposes the operator of the proposed open dump will be Mr. Robb Tyler. Mr. Tyler has admitted that he has conducted an illegal operation for an indefinite period of time. He has also testified that he has had conferences with officials, both County and State for an indefinite period of time. He cannot recall the exact number of meetings or conferences, but there have been several. The results of these meetings or conferences have not been satisfactory. Mr. Tyler was not sure just what kind of permit he had from the County or State Health Departments. If it now exists, it was not produced. No permit was produced for the construction of a Wilco Refuse Burner,

What appropriate principles, standards, rules conditions and safeguards may be considered in granting a special exception for an open dump?

Mr. Malcolm H. Dill, Director of Planning and Zoning indicated that "The Planning staff is of the opinion that the problem inherent in an open dump operation makes it almost impossible to satisfy the conditions of Section 502-1 of the Zoning Regulations". Section 502-1 has been quoted above.

There was no testimony by the Office of Planning and Zoning that a special exception for an open dump be removed from the Zoning Regulations or that strict standards be set for such an operation.

Mr. Albert B. Kaltenbach, Director of Public Works of Baltimore County, indicated that his department has no rules or regulations pertaining to open dumps. This would include the Sanitation Division. Mr. Kaltenbach said such regulations might be worked out in the future.

The fact that frequent fires break out on subject property was not contradicted.

Marshall Louis C. Maisel testified that he had visited the subject property many times over a period of quite a few years. Corrections were made but new fires occurred in new places quite often. Minimum mandatory requirements for fire prevention in connection with an open dump were not available at the time of the hearing, but Marshall Maisel said they could be set up at some later time.

Chief Winfield H. Winholt mentioned some equipment that a private organization might maintain to fight fires and stressed training operators and testing equipment. Petitioners did not testify to a reasonable compliance with the Fire Chief's recommendations. The petitioners have relied on the Rosedale Volunteer Fire Company.

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an item vital to the operation of the proposed dump. The description of existing fire fighting equipment was inadequate. The prospect of obtaining sufficient fire equipment in the future was not definite. The existing operation of some years' duration should not have proceeded without adequate fire protection. Past supervision was not good and concrete evidence of proper supervision in the future was not outlined in a satisfactory fashion. Economics was a word much used. To save money at the expense of public health is beyond entitlement of an individual to earn a fair profit in his business. The petitioner's chief witness was Gustave J. Requardt, Consulting Engineer, Whitman Requardt & Associates. Mr. Requardt's background is unquestioned and his proposals sound to fit his description of a "Modified Land Fill". His statement was that the present operation has not been good and is now improving. He steered away from indicating that the proposed use would be a dump, but it is an open dump we must consider.

Mr. Requardt tells us that incinerator ash residue, if properly conditioned, will provide excellent cover. How is this to be guaranteed? This guarantee was not explained.

The incinerator ash should be deposited to cool. Two new fires were observed October 25, 1961. What caused the fire?

RAT BAITING - Mr. Requardt wants the petitioners to comply with requirements and recommendations of the Maryland State Department of Health and the Baltimore County Health Department.

The question is what requirements and what recommendations? Testimony indicated that Robb Tyler, Inc. has been operating a long time without making any attempt to meet any such requirements or recommendations if they had existed.

What methods will be used to supervise and guarantee proper depth of fill?

What methods will be used? No satisfactory answer.

Mr. Requardt suggested means of hauling tires, and handling liquids and salvage. There are minimum suggestions. The petitioners have not set forth how or when they intend to carry out the recommendations.

Unless a plan for "adequate" supervision and policing is set forth, how can a decision be made on what is "adequate"? The answer is the decision cannot be made.

Past performance insofar as fire-fighting and fire prevention is concerned has not been commendable. No type of open dump use should ever have been started without proper fire prevention and without there being proper fire-fighting equipment and trained fire-fighting personnel available on the subject property.

Mr. Requardt concludes his recommendation with an allusion to "land filling operations". The matter under discussion is not a landfill operation. It is an open dump.

The Baltimore County Zoning Regulations provide for but one kind of landfill operation and that is:

"A planned systematic method of disposal of garbage and other combustible or non-combustible refuse whereby waste material is placed, compacted, and covered with at least 12 inches of compacted natural earth by the end of each day's operation; when the fill is completed a covering of at least 24 inches of compacted natural earth is added."

Mr. Requardt is correct in his statement that Robb Tyler, Inc., as well as other private refuse collectors and disposers, are performing a service which is vital to each and every member of our regulated society, whether direct or indirect, but the petitioners have not met the burden of presenting sufficient standards of operation so proper conditions and safeguards might be prescribed.

The sum and substance of the foregoing and the many hours of testimony is that Baltimore County is not now in a position to regulate an open dump and the petitioners have not set forth sufficient capabilities to warrant granting permission to them to operate an open dump without such regulations.

For the above reasons the special exception is denied.

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11-25-70

It is this 29th day of November, 1961, by the Zoning Commissioner of Baltimore County, ORDERED that the aforesaid special exception is hereby denied.

John J. Timmons
Zoning Commissioner

TELEPHONE
CHESAPEAKE 3-1801

W. LLOYD WALLACE
SURVEYOR AND CIVIL ENGINEER
REGISTRATION NO. 63
3205 THE ALAMEDA
BALTIMORE 18, MD.



Beginning for the acre at a point on the northwest side of Quad Avenue, 60 feet wide, distant 3895.17 feet northeasterly, measured along said northwest side of Quad Avenue, from the intersection of said northwest side of Quad Avenue and the Eastern Boundary of Baltimore City, said point being in the sixteenth line of the land firstly described in a deed from Manor Real Estate and Trust Company to Industrial Enterprises, Inc., dated February 18, 1955 and recorded among the Land Records of Baltimore County in Liber G.L.B. No. 2656, folio 49, thence, binding reversely on said sixteenth line, North 65°-26' West 187.11 feet to the beginning thereof, thence, binding reversely on the fifteenth, fourteenth, thirteenth and twelfth lines of said deed the four following courses and distances, namely:- North 26°-36' West 101.00 feet, Due North 50 feet, North 23°-58' West 288 feet and North 58°-04' West 404.33 feet, thence North 81°-30' East 170 feet to the center line of Moore Run as shown on an aerial photograph made in 1955, thence, binding on said center line of Moore Run the thirteen following courses and distances, namely:- North 50°-00' East 200 feet, North 32°-30' East 100 feet, North 26°-00' East 125 feet, North 47°-30' East 100 feet, North 76°-00' East 100 feet, South 68°-00' East 150 feet, South 55°-00' East 200 feet, South 62°-30' East 100 feet, South 78°-00' East 150 feet, South 55°-00' East 250 feet, South 73°-30' East 200 feet, South 81°-00' East 200 feet and South 72°-30' East 500 feet, thence South 68°-00' East 205 feet to end of the seventh line of the land described in a deed from The Philadelphia, Baltimore and Washington Railroad Company to Industrial Enterprises, Inc., recorded among said Land

TELEPHONE
CHESAPEAKE 3-7851

W. LLOYD WALLACE
SURVEYOR AND CIVIL ENGINEER
REGISTRATION NO. 63
3205 THE ALAMEDA
BALTIMORE 18, MD.

Records in Liber G.L.B. No. 2554, folio 462, thence, binding reversely on the seventh, sixth, fifth, fourth, third, second and first lines of said last mentioned deed the seven following courses and distances, namely:- South 72°-34' West 90.75 feet, South 15°-41' West 70.13 feet, South 1°-25' West 330 feet, South 25°-11' West 210.20 feet, South 35°-26' West 66 feet, South 18°-56' West 66 feet and South 25°-25' West 58.06 feet to the beginning of the fourth line of the land described in a deed from The Philadelphia, Baltimore and Washington Railroad Company to Industrial Enterprises, Inc., dated August 17, 1960, thence, binding on the fourth and fifth lines of said last mentioned deed, Southwesterly by a line curving to the left with a 11955 foot radius the distance of 587.99 feet and South 66°-25'-30" West 102 feet to end of the twenty-sixth line of said first mentioned deed from Manor Real Estate and Trust Company to Industrial Enterprises, Inc., thence, binding reversely on the twenty-sixth, twenty-fifth, twenty-fourth, twenty-third, twenty-second, twenty-first, nineteenth, eighteenth and seventeenth lines of said deed the ten following courses and distances, namely:- North 63°-48' West 248 feet, North 59°-00' West 188 feet, North 44°-55' West 140 feet, North 74°-40' West 114 feet, North 81°-33' West 140 feet, South 55°-11' West 81 feet, North 85°-35' West 48 feet, North 65°-24' West 113 feet, North 16°-49' West 59 feet and North 28°-16' East 115 feet, thence, binding reversely on a portion of the sixteenth line of said deed North 63°-26' West 60.89 feet to the place of beginning. Containing 65 acres more or less.

The courses in the above description all refer to the true meridian established by the City of Baltimore Topographical Survey Commission.

Baltimore County, Maryland
DEPARTMENT OF PERMITS AND LICENSES
CHARLES R. WHEELER, DIRECTOR
Inter-Office Correspondence

From Mr. Fred L. Good, Mechanical Engineer
To Mr. Charles R. Wheeler, Director and Buildings Engineer
Subject Robb Tyler's Dump

As per Mr. Johnson Bowie's request an inspection of the above-mentioned dump was made by Mr. Henry Burice and Mr. Fred L. Good, of this department, on October 25, 1961, from 11 a.m. to 12 p.m., in order to check the dredging operation at this site.

The dredging unit is operating, pumping silt and water in the area used for receiving the ash and residue from the City incinerator.

Attached are eight photographs covering the entire dump operation, with descriptions of same on the reverse sides. They are as follows:

A & B - Photos showing dredge pumping approximately 90% water and 10% silt through 8" line marked A discharging through 8" line marked B, approximately 200' on top of hill consisting of buried residue from City incinerator.

C & D - Photos showing location of 8" discharge line and pond on top of hill.

E - Photo showing lake and silt, including new fire #1.

F - Photo showing oil lake and new fire #2.

G - New open dump and oil lake. Unfortunately, this will be the next big fire due to improper management.

H - Swamp being dredged for virgin landfill.

RE: ZONING VIOLATIONS
No. 507-2V
Pulaski Highway & 66th St.,
Industrial Enterprises, Inc.
No. 508-2V
Pulaski Highway & 66th St.,
Robb Tyler, Inc.
No. 509-2V
Pulaski Highway & 66th St.,
Refuse Disposal, Inc.

BEFORE THE
ZONING COMMISSIONER
OF
BALTIMORE COUNTY

The Industrial Enterprises, Inc., Robb Tyler, Inc., and Refuse Disposal, Inc., petitioned that the Zoning Commissioner, as provided in Section 500.7 of the Zoning Regulations, shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject, to the right of appeal to the Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported non-conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these Regulations.

In addition to the petition it is necessary to decide:

1. May the Zoning Commissioner grant a definite amount of time in which to comply with his order in the case of a violation?

The answer is he may. From the time of the first Zoning Commissioner, John J. Timmons, it has been customary to grant time to any and all violators so that they may comply with the Baltimore County Zoning Regulations.

2. May the Zoning Commissioner extend the time given on such an order?

There is no definite regulation or ruling to guide the Zoning Commissioner but in Madison vs State 205 Md. 431, the Court had this to say:

"In Maryland all judgments are under the control of the Court during the term in which they are entered, and during that time the Court has inherent power to strike out or modify judgments in both civil and criminal cases."

In the September term of 1960, Judge Stedman

Prescott, Associate Judge of the Maryland Court of Appeals in the case of Scott vs State, 233 Md. 376, had the following to say:

"The record makes it crystal clear that the learned trial judge 'leaned over backwards' in his efforts to afford the appellant every opportunity for a full, fair and impartial trial. We think, however, that he fell into error when he stated, on December 16th, that he could not strike out his verdict. There is no doubt that he had discretionary review power over his verdict until the expiration of the term of court at which it was rendered. Seth v. Chamberlaine, 11 Md. 156, 184; State v. Butler, 72 Md. 98, 10 A. 1105; Madison v. State, 205 Md. 425, 109 A. 2d 96. Cf. Jones v. State, 211 Md. 525, 136 A. 2d 252. And we think it was irregular to reserve the taking of testimony as to the defendant's guilt or innocence, without striking out the verdict of 'guilty generally'. The record clearly shows (and we had recited a part of it above) that the defendant desired to reserve his right to move for a new trial before the Supreme Bench. The staple and proper procedure for the court to have pursued was to have stricken out the verdict (provided it was done during the term), then to have received any further evidence relating to the guilt or innocence of the accused that he, in his discretion, deemed proper, and then to have entered a new verdict consistent with all of the evidence that had been adduced. This would have permitted the trial judge to have received in an orderly manner all of the evidence that he desired, and, at the same time, afforded the defendant an opportunity to file his motion for a new trial."

We think the erroneous belief of the trial judge that he did not have the power to strike out his verdict, coupled with the other irregularities, in practical effect, denied to the appellant his right to prosecute his motion for a new trial, and this constituted prejudice.

Having reached this conclusion, it becomes unnecessary to consider the other questions raised by the appellant."

It is my opinion that the courts look with favor upon

considering a case on its merits, therefore, I believe the Zoning Commissioner may extend the time given in the original order.

From the facts presented this date it is my opinion that the petitioner's request should be granted.

It is this 6th day of November, 1961, ORDERED that the original Order dated August 26, 1961, setting the time in which the petitioners had to comply with Section 255.4 of the Baltimore County Regulations, is hereby extended to the date of the passage of an Order by the Zoning Commissioner of Baltimore County on petitioners' petition No. 5105-X for a special exception for the operation of an open dump.

John J. Timmons
Zoning Commissioner of
Baltimore County

INTER-OFFICE CORRESPONDENCE
DEPARTMENT OF PUBLIC SAFETY
Baltimore County, Maryland
FIRE BUREAU
TOWN 4, Maryland

Date: November 27, 1961

TO: J. H. Winchell, Chief Engineer
FROM: Louis C. Miesel, Fire Marshal
SUBJECT: Operation of Open Dumps

In reference to the letter from Mr. John G. Rose, Zoning Commissioner for Baltimore County, dated November 23, 1961, Mr. Rose requested the minimum requirements of the Fire Bureau for the operation of an open dump in Baltimore County.

The requirements, taken from the Fire Prevention Code of Baltimore County, are as follows:

STATE FIRE PROTECTION REGULATIONS

Adopted under the provisions of Chapter 732 of the Acts of 1943 of the General Assembly of Maryland, effective December 2, 1946.

Around each private dump shall be constructed a safety strip at least 300 feet wide horizontally, which must at all times be kept free of inflammable material. Additional safety measures may, if necessary, be required by the District Forestry Board. Owners of private dumps may, however, obtain permission to burn during closed periods, provided that, in the judgment of the District Forestry Board, this can be done safely.



11-25-70

MEMORANDUM ON BEHALF OF PETITIONERS

I. SUFFICIENCY OF THE APPLICATION.

The question has been raised concerning whether Parcel #3, owned by Industrial Enterprises, Inc. (herein called "Industrial"), and used by Refuse Disposal, Inc. (herein called "Refuse"), under a License Agreement, is properly before the Commissioner.

Prior to the execution of the License Agreement, in 1955, this area was a swamp having no utility whatsoever. The agreement granted to Refuse the right to deposit trash and garbage on such parcel and an easement of a right of way which provided access to such parcel. The agreement obligates Refuse to obtain all necessary permits.

The License Agreement not only constituted a valuable property right but also is an interest in the land. In American Law Real Property, Volume II, Section 8.110, it is said "for some purposes it must, however, be admitted that any privilege to use land constitutes an interest in land". See also Restatement of the Law of Property, Volume 7, Section 512. It necessarily follows that Refuse is the owner of such property right and to that extent, at least, is the owner of an interest in the land. As a matter of fact, until the filling operation is completed, Refuse owns the only thing of value incident to the ownership of the land in question.

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The Baltimore County Zoning Regulations, Section 500.2, provide in part as follows:

"In cases in which the (building) permit applied for shall be for a use not permitted under regulations then in effect, the Zoning Commissioner may entertain a petition for the reclassification of such property. Such petition shall be filed by the legal owner of such property on forms adopted by the Zoning Commissioner. * * *

Attention is directed to the fact that this provision deals only with a Petition for Reclassification. No reference is there made to a Petition for Special Exception. The latter is governed by Section 500.5 which states in part that:

"In cases of petitions for Special Exceptions under Section 502 of these regulations, the Zoning Commissioner shall resolve such petitions in such form as he may prescribe."

Basically, therefore, only a matter of form and not substance is involved. This is further demonstrated by the reference in Section 502.2 to "owners, lessees or tenants of the property for which a Special Exception is granted". The License Agreement is, in substance, a lease. It gives Refuse Disposal, Inc. the right to use and occupy the property for the refuse fill. Such a use in the nature of things is exclusive. In return for this right, Refuse Disposal, Inc. is required to make a monthly payment in a fixed amount to Industrial Enterprises, Inc. The agreement is on a month-to-month basis since it provides for termination on 30 days' notice. Refuse Disposal, Inc., in legal effect, is a lessee. The fact that the agreement is labeled as a license is immaterial. By virtue of the agreement, Refuse is the owner of an interest in the property -- of, in fact, the only interest of present value. It is of no consequence that this interest (though of indefinite duration) is terminable where a Special Exception is concerned. Unlike the case of a reclassification, the Zoning Commissioner clearly has a right under

-3-

Section 502.2 to include in the conditions, restrictions and regulations to be imposed by him in granting a Special Exception, a provision that it will expire upon the termination of the License Agreement or at such other time as he may prescribe.

It is, therefore, respectfully suggested that the Petition is in proper form and that Parcel #3 is before the Commissioner.

II. MERITS OF THE CASE.

In the case of Oursler v. Board of Zoning Appeals, 204 Md. 397, at 402, the Court of Appeals held that a use permitted under what was then called a "Special Permit", now called a "Special Exception", is prima facie permissible in the zone where authorized; that in such a case a petitioner "must show only that the exception would be in harmony with the zoning plan and would not be detrimental to the welfare of the neighborhood".

The most recent case dealing with Special Exceptions in Baltimore County is that of Crowther, Inc. v. Johnson, 225 Md. 379. This was concerned with an application for a Special Exception for a trailer camp in an M.L. zone. The tract in question contained 12.7 acres. It was bounded on the north by a drive-in theatre (a non-conforming use), on the east by the southerly end of Greenspring Drive (across which there are commercial uses), on the south by a residential development, and on the west by a residential development. The M.L. zone ran along both sides of Greenspring Drive, ending on the south and west boundaries of the property. The Court of Appeals held that the evidence in that case was clear that granting a Special Exception would be detrimental to the general welfare of the community, first, because it would be inconsistent with the planned development of the adjacent manufacturing area "in accordance with a compre-

-4-

hensive plan", and, secondly, because it would adversely affect property values in the vicinity.

It must be conceded that if the property involved in this application were to be used in the future as it has been at times in the past, such use would be in the teeth of the holding in the Crowther case. On the other hand, the Zoning Commissioner, under the powers conferred upon him by Baltimore County Zoning Regulations, Section 502.2, has the power, in granting a Special Exception, to impose "such conditions, restrictions, or regulations as may be deemed necessary or advisable for the protection of surrounding and neighboring properties". So that the real question presented for determination is -- Are there workable and enforceable conditions, restrictions or regulations which, if imposed by the Zoning Commissioner in this case, would meet the applicable requirements of Section 502.1, result in a use consistent with the comprehensive plan, and avoid an adverse effect on property values in the vicinity? (It must be borne in mind that industrial property values as well as residential values in the locality are to be considered. Compare the Crowther case opinion at page 383.) If the answer to the above question is in the affirmative, then the Petitioner should be granted subject to such conditions, restrictions and regulations. If the answer is in the negative, then such Petition should be denied.

In considering this question it must be borne in mind that, unlike the Crowther case, no protest was made by any of the adjacent industries; that the protest was by owners of homes in the Rosedale and Chesaco Park area and by Baltimore County, Maryland. This was based upon three complaints: (1) Fires which have occurred in the recent past and consequent deposit

-5-

of soot and ash on neighboring properties; (2) vermin and flies; and (3) acrid permeating odor. Thus factors a and c of Section 502.1 are involved.

Does the evidence in this case demonstrate that by means of workable and enforceable conditions, restrictions or regulations, the causes for these complaints can be either eliminated or reduced to a point where they will be no more objectionable than uses which are permitted in an M.H. zone? It is to be noted that a number of uses, which though properly operated might be objectionable to home owners, are permitted as of right in such a zone. For example, a brewery or distillery, a chemical fertilizer plant, a steel plant, a plant for the manufacture or processing of meat products, a railroad classification yard and round house, and a sanitary landfill are permitted.

III. THE TESTIMONY.

The testimony is fresh in the Commissioner's mind and we will not attempt to set it forth here even in outline. We will, however, discuss briefly what we consider to be the salient points in the testimony.

1. The public necessity involved. All three experts in the field, Messrs. Kaltenbach, Requardt and Moore testified that an operation of this kind is essential to industry. Mr. Kaltenbach further stated that neither the City of Baltimore nor Baltimore County had facilities with which to dispose of refuse of the kind and quantity now disposed of on the site in question. Mr. Requardt's report points out (p. 1) that in this metropolitan area large quantities of such refuse must be disposed of privately. The foregoing testimony is uncontradicted.

2. The nature of the cover. Tyler and Moore estimated that not more than one or two percent of the refuse re-

-6-

ceived on this site is garbage. Especially in view of this fact, both Moore and Requardt testified that, if properly handled in the manner recommended by the latter, the City incinerator ashes are more than adequate both in quantity and quality for operation of an acceptable landfill. There was no evidence to the contrary.

3. Fire hazard. Fire Marshal Maisel testified that conditions at the site had improved substantially in recent weeks to the extent that, in his opinion, there is no longer any serious fire hazard. The major factor in the large fires, with their consequent tremendous volume of black sooty smoke and the requirement of extensive services of fire companies, has been the oil pits. The "drastic change" recommended by Mr. Requardt will all but eliminate the possibility of any further major fires. Already one large oil pit has been eliminated entirely and the other is in process of being filled and closed.

4. Acrid and permeating odors. This topic is not unrelated to the preceding one. Most protestants seemed to believe that the objectionable odor has been caused by fires, including smoldering ones, and wetting of hot incinerator ashes. In this respect, Moore testified as to a recent change-over (in process for several months as we recall) from the use of 5 or 6-yard containers to a truck with a 40-yard capacity loaded with a 30-yard load. As we understand it, heretofore the City would wet down a 6-yard container which container was then carried away by the truck to the dump site. Under the current practice, five of the smaller containers of soaked ashes are lifted up and dumped successively into the large hauling container. Each successive up-tilting helps quench and cool the

-7-

ashes at the water in the bottom of each small container; is again poured over the ashes as they are spilled into the large container on the truck.

The system of first depositing the ashes in rows adjacent to the alternate two dumping areas (as recommended by Mr. Requardt) involves stockpiling at the site each week for the following week's operations. This is in vivid contrast to the former condition under which dumping was sometimes permitted simultaneously over a considerable area and city ashes (because of the failure of the fly-ash supply) were mixed with trash.

The new method should greatly reduce both the size and frequency of fires on the dump site and, what is of greater importance, should permit the rapid extinguishment of fires as they occur. As Marshal Maisel testified, prompt discovery and prompt action before the fire spreads are of utmost importance, and under such circumstances, the bulldozer is the best fire-fighting equipment. This is true in part because under the confined alternate areas with stockpiled windrows, a smothering cover will be available provided there is always someone present to take the necessary action. All night, every night and on all holidays competent employees, with a bulldozer available, should be on hand under standing instructions to inspect the site periodically and to initiate prompt fire-fighting measures upon the discovery of a fire. Mr. Tyler testified that this can be done.

5. Health conditions: vermin and flies. Mr. Requardt's report recommends periodic rat baiting and insect spraying in this regard. As Mr. Tyler testified, the United States Department

-8-

of Health at petitioners' request is supplying them with recommendations along these lines. However, this aspect of the case is a matter for the local Health Department. The Zoning Commissioner cannot be expected to act as a Health Commissioner. Dr. Warthan testified that his Department could supply a statement of the necessary regulations and conditions. This procedure will accomplish three things: (1) it will free the Zoning Commissioner of a responsibility which the law does not place upon him; (2) it will provide flexibility, that is to say, a freedom to alter requirements in the public health field as changing conditions or experience may require and (3) it will avoid the situation, which might possibly otherwise occur, of having the Zoning Commissioner prescribe a set of conditions compliance with which might conflict, now or hereafter, with conditions upon which health department permits are granted.

We, therefore, suggest that (as the Zoning Regulations themselves contemplate) the Special Exception, if granted, need, so far as health matters are concerned, merely require compliance with such regulations and conditions as the Health Department may from time to time lawfully impose.

This procedure would be entirely consistent with the Crowther case. There, one of the grounds on which the Zoning Board denied the application was that the proposed trailer park would constitute a hazard to the health of the community. The Circuit Court held that this was error and the Court of Appeals concurred as follows (p. 384):

"We agree, as the trial court ruled, that the health threat could not in itself preclude the appellant from acquiring the special permit. The zoning regulations in such case require prior approval of the Baltimore County Health Department before a special permit is issued. They also subject the trailer park to all the rules and regulations of that Department."

Thus any protection arising from the fact that the waste is so as to constitute a health hazard could be easily alleviated and controlled by the Health Department authorities."

6. Permissive burning. Mr. Tyler would like to have permissive burning, limited to wood and perhaps other similarly innocuous combustibles. If properly done, this is the most economical disposition and greatly reduces the rate at which the dwindling fill area is used up. It also avoids handling of some bulky wooden material which is awkward to dispose of in a landfill.

Mr. Requardt flatly recommended that there be no open burning of any refuse of any character. (Report p. 6). He further recommended that the Wilco burner be used. Although at the time the incinerator was put up a number of County officials knew of it and welcomed at least its experimental use, no building permit has been issued and the County insists that under the present law none can be.

Possible provisions with respect to burning as a disposal method are:

- (1) No open burning at all.
- (2) Incinerator burning of wood and related material (e.g. cardboard) if and when a building permit is obtained.
- (3) Controlled open burning of such material to the extent (if any) and in the manner permitted by the fire prevention and smoke control authorities.

7. Flood plain. Mr. Kaltenbach testified that Baltimore County is interested in reserving an undesignated portion of the marsh area as a flood plain. He stated that he was not in a position to recommend a specific reservation at this time

Tyler testified that, if necessary, he could operate for possibly three years within the present confines of the fill site, i.e. without advancing the outside edges of the fill any closer to the Herring Run channel than they now are. Under these circumstances, the landfill could be continued within present confines until the County's suggested reservation is available for consideration.

8. Requardt recommendations. We have deliberately refrained from discussing in this memorandum some of the recommendations contained in the joint report of Messrs. Requardt and Xanter. We have done so in the interest of brevity in those cases where we felt that such discussion would serve no useful purpose. Needless to say, such omitted recommendations (for example, the "crash program") are not withdrawn or abandoned.

IV. CONCLUSION

On page 4 above we state what we believe is the basic question involved, viz:

Are there workable and enforceable conditions, restrictions or regulations which, if imposed by the Zoning Commissioner in this case, would meet the applicable requirements of Section 502.1, result in a use consistent with the comprehensive plan, and avoid an adverse effect on property values in the vicinity?

For the reasons set out in this memorandum and in the Requardt-Xanter report, coupled especially with Mr. Tyler's testimony, we urge that the stated question can and should be answered in the affirmative in order that the vitally necessary commercial and industrial service here involved may be continued.

Respectfully submitted,
Kenneth C. Proctor
Kenneth C. Proctor
Howard B. Ordick
Attorneys for Petitioners

November 28, 1961

FROM: INDUSTRY
COMMERCIAL
DOMESTIC
- must continue -

An open dump consisting of waste from the three above-mentioned sources creates rats, roaches, lice and vermin of all types. The end result is constant dump fires.

A modern dump is not only a place to destroy waste and surplus material but a salvage operation which has a million dollar return in some instances.

This statement was made clear on July 1, 1961, when men from the Baltimore County Building Division and Baltimore County Health Department paid a visit to Heller's Dump and Incinerator in Darby, Delaware County, Pennsylvania. This unit handles ash from the Philadelphia Incinerator in addition to all other types of trash delivered by trash collecting routes and private truckers.

The success of Heller's dump is proper management, plus a Welco Refuse Burner for handling trash normally, placed on an open dump. However, we are confident improvements can be made on this operation for disposal and salvage of all materials in Baltimore County, as follows:

1. Installation of a drum header and burner. This unit will clean all types of drum and prepare same to be sold as scrap metal.
2. Install a baling press to be used for baling drums, burned out auto bodies and scrap sheet metal.
3. Install a defluffing or equal for grinding auto tires and tubes into cube-sized of approximately 3" x 1". This product has a salvage value equal to steel mill slag and shredded newspaper strips.

The three above-mentioned operations will be a specialized operation and a business apart from a dump operation. However, tires, drums and car bodies are a growing problem bordering between a dump and junk yard.

There are sites zoned in Baltimore County for an operation of this type, therefore it is important to encourage this specialized business and eliminate the County as an entirely from becoming a dump and junk yard. A centralized salvage plant will eliminate a growing problem and we are confident will be more than self-sustaining.

FROM: ALBERT B. KALTENBACH, Director
Department of Public Works
TO: JOHN G. ROSE, Zoning Commissioner
SUBJECT:

Date: NOVEMBER 30, 1961

I regret that I cannot reply briefly and probably not completely to your query of November 22.

The major elements that are potential nuisances in refuse disposal are odors, smoke and fire, rats, flies and other types of vermin. Transportation to and from the disposal site may become a cause of complaint.

Comparison with the County's sanitary landfill operation is difficult as the County collects the refuse from residences and small commercial establishments, which is a relatively uniform conglomerate.

The diversity of materials and large quantities of similar types received at open dumps make it mandatory that careful engineering precede the physical disposal operations by a considerable time interval. The random receipt of large quantities of similar types of waste creates problems that might be alleviated by programming the routine pickups to conform, insofar as possible, with the disposal phase. Dump areas for various classes of materials should be assigned. All loaded trucks should pass through the entrance where instructions would be received as to the unloading locale.

Programmed salvage should be allowed from dry materials dumped on a specific salvage area. This would require another handling of the remaining materials to the assigned disposal area. Random scavenging by independent pickers should not be allowed.

Adequate compaction with heavy equipment (and enough of it) should be a part of the daily operation. Storage piles of approved cover materials, such as dirt, ashes and other inert workable wastes, should be stockpiled and then used at the completion of the day's operation to provide overnight coverage where required for putrescible materials. Drainage of surface runoff at all times is one of the primary considerations.

Another hazard to be avoided, by controlled planning and performance, is the pollution of stream, tidal or underground water.



John G. Rose
Ref: Open Dumps
November 30, 1961
Page 2

Some materials, such as large tires, oils and tree trunks with roots, have been found by experience to require special precautions. Tires should be cut into small pieces and root structures should be definitely separated from tree trunks. The disposal of dead animals and slaughter house waste create other types of problems. A small incinerator for some of these fractions of the waste products would be a solution.

Rigid controls should be maintained of putrescible materials, such as fresh vegetables and meats.

Water supplies, pumping equipment and hoses should be available for fire control. Three 550 gallon per minute fire streams available on a spacing of about 100 feet should be on the site. Each site will have its own particular conditions of terrain and water sources; hence nothing more than a generality can be stated here.

Live domestic animals should not be allowed to roam over the operation.

You requested that I give consideration as to methods of control by Baltimore County. I believe that the County should have a representative at the entrance to each dump who will either approve or veto the dumping area of each load. Segregation of loading in the trucks would be helpful. Another County Inspector should also be assigned to each dump on a roving basis to verify dumping places, scavenging, adequacy of compaction, etc. These salary costs for the inspectors should be shared equally by the dump operator and the County.

Collection and disposal of refuse as a commercial daily routine process should be limited to parties licensed by Baltimore County. This may create a hardship at some small operations of "dry" dumps. A compromise solution may be found whereby an inspector from the Bureau of Sanitation would ascertain that nuisances or health hazards do not prevail and are not imminent.

Experience may prove that a planned operation will not be much more costly than a random approach.

Albert B. Kaltenbach
ALBERT B. KALTENBACH, Director
Department of Public Works

ABK:NDK:des

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

November 6, 1961

Messrs. Proctor, Royston & Mueller
Campbell Building
Towson 4, Maryland

Attention: Kenneth C. Proctor, Esq.

Re: Zoning Violations:
No. 507-ZV
Pulaski Highway & 66th St.,
Industrial Enterprises, Inc.
No. 508-ZV
Pulaski Highway & 66th St.,
Robb Tyler, Inc.
No. 509-ZV
Pulaski Highway & 66th St.,
Refuse Disposal, Inc.

Dear Mr. Proctor:

For reasons stated in the attached copy of Order, the time has been extended from August 26, 1961 to such time as the Zoning Commissioner passes an Order in the matter of a special exception scheduled for hearing on November 21, 1961.

Very truly yours,

John G. Rose
John G. Rose
Zoning Commissioner

Enclosure

OFFICE OF PLANNING AND ZONING Inter-Office Correspondence

Date: November 10, 1961

To: Mr. John G. Rose, Zoning Commissioner
From: Mr. George E. Garraffo, Deputy Director

Subject: 15th District
HEARING Special Exception for an Open Dump
to be used in connection with refuse disposal.
Hawthorne of Pulaski Highway at the rear of 66th St.
being property of Robb Tyler.

15th District
HEARING Tuesday, November 21, 1961 (10:00 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for special exception for an open dump. It has the following advisory comments to make with respect to pertinent planning factors:

1. Special Exceptions are judged by the criteria listed in Section 502.1 of the Zoning Regulations. The planning staff finds it difficult to conceive of an open dump operation here which would not be detrimental to the health, safety, or general welfare of the locality. At the same time, the staff is unable to suggest standards of operation for an open dump here which would in fact make it compatible with the adjoining residential area.
2. No data has been submitted with the petition indicating the existing means of access to the property nor are there data which indicate the extent of future traffic to the dump. No finding of fact can be made at this time as to whether or not the open dump operation would tend to create congestion in the roads or accessways leading to the dump operation. This point should be clarified by the petitioner.
3. Operation of the dump as it existed in the past has created a potential hazard from fire, pests, and other dangers. What steps can the petitioner take to show conclusively that such incidents will not be repeated?
4. The subject property is at the lower reaches of the Herring Run drainage area and is partly on tidal water and is subject to flooding. If granted, the granting should be conditioned upon provision of the proper reservations of land to contain a fifty-year flood in a manner in accordance with the standards of and acceptable to the Department of Public Works. Otherwise, the petition would interfere with "other public requirements, conveniences, or improvements".
5. The planning staff is of the opinion that the problems inherent in an open dump operation make it almost impossible to satisfy the conditions of Section 502.1 of the Zoning Regulations.

GPE:des

11-25-70

WHITMAN, REQUARDT AND ASSOCIATES

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EDWARD A. WOODS
ROBERT A. CLARK
CHARLES F. WILLIAMS
JOSEPH J. POWERS
NEVIN E. WELLS
H. HUGHSON MITCHELL, JR.

November 17, 1961

Robb Tyler, Inc.
Pulaski Highway and 66th Street
Baltimore, Maryland

Dear Mr. Tyler:

We are submitting, in the attached report, our findings and recommendations concerning improvements to your land fill operations east of the Baltimore City line in Baltimore County, in accordance with your recent request.

As a result of our investigation, we make recommendations for improving your method of operation in a manner which will create the least amount of nuisance.

In our report we discuss both the "crash program" presently in effect and a subsequent method of operation which, if rigidly adhered to, should tend to reduce complaints.

Very truly yours,

WHITMAN, REQUARDT AND ASSOCIATES

Gustav J. Requardt, Partner

William A. Xanten
Special Consultant
Superintendent, Division of Sanitation
Washington, D. C.

GJR/WAX/hr

REPORT TO
ROBB TYLER, INC.
ON
LAND FILL OPERATION
EAST OF BALTIMORE CITY
IN BALTIMORE COUNTY

REPORT TO

ROBB TYLER, INC.

ON

LAND FILL OPERATION

EAST OF BALTIMORE CITY

IN BALTIMORE COUNTY

INTRODUCTION:

The collection and disposal of refuse has been one of the necessary services required by any regulated society since the beginning of time. Where large groups of people congregate in confined geographic locations to live and work, this service becomes not only necessary but vital to the health of all of these individuals. To meet this need, privately operated collection and disposal businesses have been operating throughout history in practically all geographic locations. In many areas private collectors were forerunners of a planned disposal service being provided by the local government. In many other areas the need for private operators to dispose of refuse of a special nature has been brought about by the failure of local governments to establish programs of disposal which are designed to accommodate all of the various kinds of refuse. The economic structure and the existing regulations in the metropolitan area of Baltimore City and the surrounding counties have created situations so that large quantities of special and various kinds of refuse must be collected and disposed of privately. The recognized existence of many private and public land fill operations surrounding the congested metropolitan area of Baltimore City and the adjacent counties bears out the premise that the operator of a land fill operation is performing a necessary service for the inhabitants of the entire metropolitan area.

-1-

The refuse materials collected by private operators are, in many instances, materials creating special disposal problems if any method other than land filling is used in their disposal. The material brought to the Robb Tyler, Inc., land fill is no exception. It is not unusual for the Robb Tyler, Inc., operation to encounter quantities of diverse types of waste from commercial and industrial sources which include non-combustible roofing materials, lumber, metals, oil, ink, rubber tires, and various types of readily combustible mixed refuse. The large quantities of the particularly hard-to-dispose of materials dictate that either special provisions be made for their disposal or that they be included in a land fill operation.

Land fill operations not only have the advantage of providing a reasonably easy and economical method for disposing of the undesirable offfall of a regulated society but has the additional desirable feature of eventually replacing the blemishes of nature such as marsh land, unsightly ravines, etc., with fill to elevations which fit more reasonably into the surrounding contours. This filling process is slow and must be done in a reasonable manner to realize these ends. An example of an area where usable land has been realized from a filling operation is the area of Pulaski Highway adjacent to and across from Old North Point Road where structures have been built on land salvaged from valueless waste land in the last generation.

Private land fill operations must, as a matter of economics, produce a profit if the operator is to continue to provide the necessary refuse disposal service. Nevertheless, the profit motive should not serve to generate conditions which constitute nuisances. Where nuisances exist, they can be remedied by the establishment and adherence to sound methods of operation.

-2-

Investigation of the Robb Tyler, Inc., landfill operation east of the City line indicates a need for a modification of past practices as well as the establishment of accepted principles of operation which will serve to present the least amount of nuisances to the surrounding area. These modifications are discussed below:

RECOMMENDED OPERATING PROCEDURES:

1. Cover Material:

It will be necessary to procure not less than 2000 cubic yards a week of suitable inert material for covering the refuse being filled in the area. Fortunately the proximity of Baltimore City Incinerator No. 4 provides the required quantity of material for this operation. Incinerator ash residue, if properly conditioned, provides one of the best materials available for covering the filled refuse. The ash residue compacts easily and does not create muddy or soft conditions. The Baltimore City Bureau of Sanitation is presently making this material available to Robb Tyler, Inc., for the purpose of covering the fill, and the desirability of the material is once again borne out by the results obtained over the last six to eight week period when proper use has been made of the material. This material is available under an existing five year contract between Robb Tyler, Inc., and Baltimore City. It is reasonable to expect that this contract can be extended beyond this period to the mutual benefit of both the City and the recipients of the Robb Tyler, Inc., service.

2. Utilization of Material:

The incinerator ash residue should be deposited in a continuous pile along the area being filled in order to allow the residue to cool and be ready for use in covering the filled refuse. The windrowing of this ash will

also have the effect of screening the filling operation from wind and sight. The material will then be readily available, adjacent to the filling operation, for a twice weekly covering of the fill to add to the general appearance and condition of the operation.

3. RAT BAITING:

Rat baiting and insect spraying programs should be established to prevent rodents from becoming a menace and abate insect nuisances. These programs should be established and continued in full accordance with the requirements and recommendations of the Maryland State Department of Health and the Baltimore County Health Department.

4. Operation Confinement:

The general land filling operation should be confined in such a manner as to allow the maximum flexibility of operation with the minimum number of operating areas on the site. Two general refuse disposal areas, operated on an alternate week schedule, will provide the flexibility required to allow for the previously mentioned twice-weekly covering without materially affecting the filling operation. While one area is being filled, ash residue can be stockpiled and conditioned adjacent to the next area in preparation for the following week's filling operation.

5. Depth of Fill:

In order to maintain a reasonable depth of exposed face on the fill, maximum depths of filling (including refuse and inert material covering) should not exceed ten feet. This depth is indicated by the type of refuse material being disposed of since there is a relatively small quantity of garbage present. After stabilization of the material at this level, future filling can proceed over the same area but the depth of each successive lift should not exceed this ten foot maximum.

6. Tires:

In the past, automobile and truck tires have been disposed of in a separate area, creating a problem of both odor and unsightliness. In the future, all refuse, with the exception of ~~oil~~ ^{flammable} liquids, should be mixed in the fill in order to prevent special nuisances growing out of the operation.

7. Flammable Liquids:

A drastic change is indicated in the method of disposing of flammable liquids in the planned operation of this land fill. It will be necessary to select disposal areas well above the general water table in order to prevent the intrusion of ground water. At these selected sites the inert fill material should be used to construct dykes around a small area of not more than twenty feet in diameter in which the flammable liquids can be dumped. As liquid accumulates within this dyked area, a covering of inert material should be utilized on a bi-weekly basis to prevent inordinate accumulations of liquid and to allow the liquid to be absorbed by the inert material. This procedure should be followed in not more than two areas on the site and should be used on alternate weeks until the small areas within the dykes are exhausted. At that time, additional locations should be provided with dykes for use. In no instance should general refuse materials be mixed in the flammable liquid disposal operation. Oil received for disposal should be used periodically for laying dust where roadways are used over the filled area.

8. Salvage:

Any salvaged material, with the exception of oil drums and metal products, should be removed from the site of the land fill daily in order to prevent an unsightly accumulation of this material. Oil drums should be

neatly stacked at one location on the site for periodic removal. Steel and other salvageable metal products should be stored in suitable containers which, when filled, are to be removed from the site. Salvage operations should be controlled in a manner which will prevent them from creating unsightly conditions on the land fill.

9. Wilco Refuse Burner:

The Wilco refuse burner, installed on the property for burning refuse, should be operated for the purpose of burning materials which do not create smoke nuisances. Materials such as rubber products, wire insulation, etc., should not be burned in this device at any time and the burning of acceptable materials should not occur when weather conditions are such that they will tend to increase the smoke nuisance from the unit. The open burning of refuse of any character should never be permitted.

10. Supervision and Policing:

There should be adequate supervision and manpower at the land filling operation at all times to maintain the appearance of the area in a generally good condition. This should include personnel, on a continuous basis, to pick up any scattered trash that might spill from transporting vehicles and generally maintain the overall conditions of appearance.

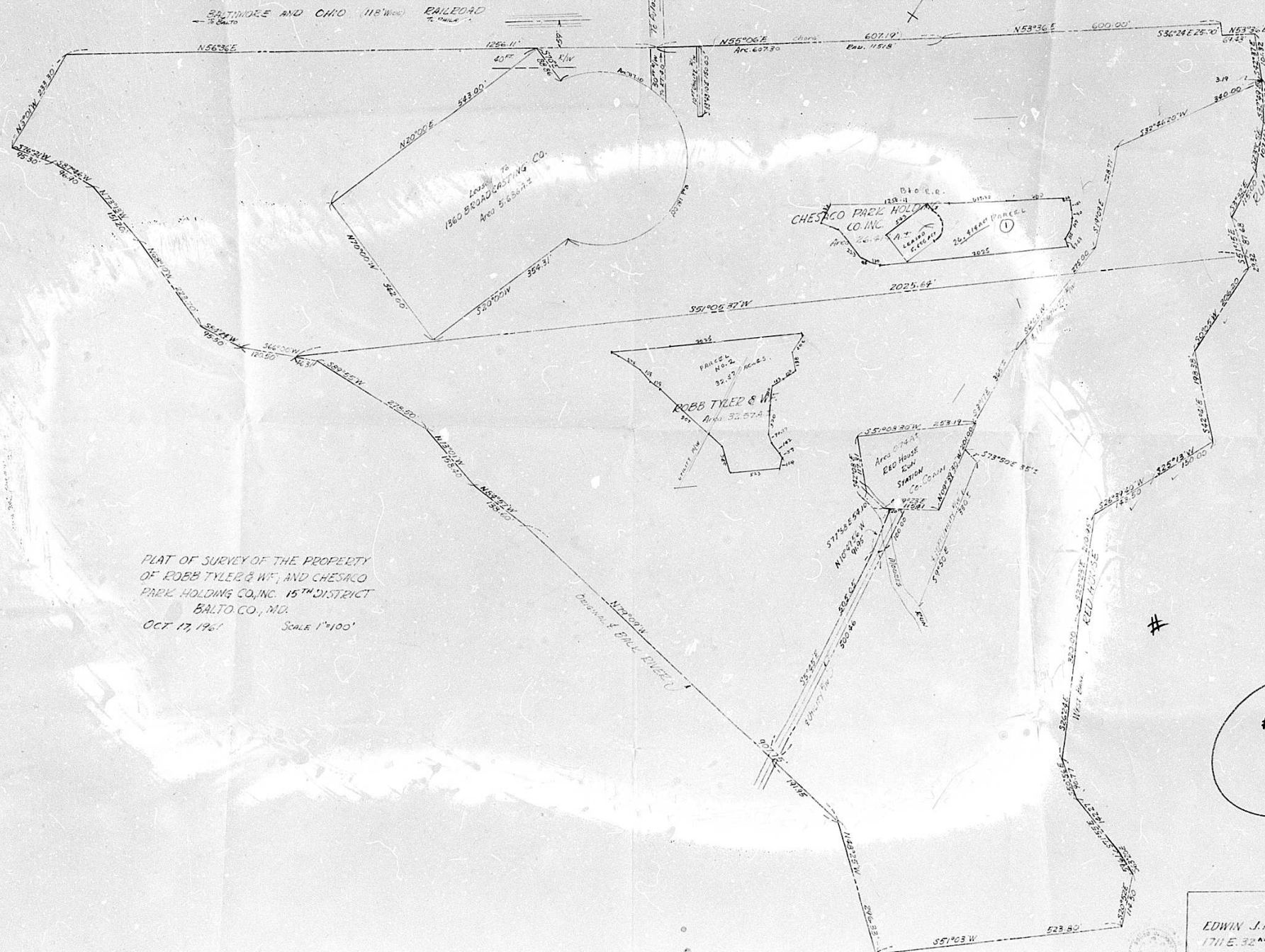
11. Fire Fighting:

Well organized fire fighting facilities such as pumps, hose, equipment and other tools should be maintained at the site and personnel should be trained to combat fires as soon as detected.

12. Immediate Program:

The preceding recommendations are offered as general operating requirements for the Robb Tyler, Inc., land-fill east of the City. However,

11-25-70



PLAT OF SURVEY OF THE PROPERTY
OF ROBB TYLER & WIFE, AND CHESICO
PARK HOLDING CO., INC. 15TH DISTRICT
BALTO. CO., MD.
OCT 17, 1961 SCALE 1"=100'

✓
#5405-X
MAP
15-A

EDWIN J. KIRBY R.S. 1100
1711 E. 32ND ST BALTO. 18, MD.



11-25-70