

IN THE COURT OF APPEALS OF MARYLAND

No. 221

September Term, 1963

LESTER S. LEVY, et al.

SEVEN SLADE, INC.

Handerson
Hammond
Horney
Marbury
Sperry,
JJ.

Opinion by Hammond, J.

Filed: March 11, 1964

The Zoning Commissioner of Baltimore County drafted an application for a change in classification and a special exception to permit the building of a high rise luxury apartment house on the south side of Slade Avenue, east of Relietown Road, and on appeal to the County Board of Appeals the hearing was held before two of the three members, the third being disqualified. The Board divided one to one, and on the applicant's appeal to the Circuit Court for Baltimore County, Judge Turnbull, noting the problems caused by the split in the Board, felt there was no presumption of correctness of the denial of the application which resulted and that it therefore became incumbent on the Circuit Court to make its own independent determination of the facts as the record disclosed them. Having done this, Judge Turnbull's view was that there had been a change in the neighborhood since the adoption of the comprehensive zoning map in 1957 and that the use of the land for the proposed apartment house would not

FRANK BERNSTEIN GUTERLET & CONAWAY

FIRST NATIONAL BANK BUILDING

BALTIMORE 2, MARYLAND

August 14, 1963

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

Kenneth C. Proctor, Esquire
Campbell Building
Towson, Maryland 21204

Re: Seven Slade, Inc. v. Nathan H. Kaufman, Jr., G. Mitchell Austin and Charles Steinbock, Jr. constituting the County Board of Appeals Case No. 2712

Gentlemen:

Enclosed find Order of Appeal in the above case.

Very truly yours,

Frank A. Kaufman

PAK/te

Enc.

cc: Philip Heller Sachs, Esq.
J. Elmer Weisheit, Jr.

offend any of the six requisites to the granting of a special exception imposed by Sec. 502.1 of the Zoning Regulations of Baltimore County.

Sec. 502.1 of the Zoning Regulations of Baltimore County provides that it must appear before any special exception is granted that the use for which the exception is granted will not (2) be detrimental to the health, safety or general welfare of the locality involved; (3) tend to create congestion in the streets or ways; (4) create a fire or panic hazard; (5) tend to overcrowd land or cause undue concentration of people; (6) interfere with adequate provisions for schools, water, sewerage, transportation or other public requirements or conveniences; (7) interfere with adequate light and air.

At the threshold we must determine the effect of the even division of the County Board of Appeals. It is clear that one effect was to leave the denial of the application by the Zoning Commissioner in force, and to make the Board's order appealable to the Circuit Court. *Montgomery County v. Walker*, 228 Md. 574, 581, at seq., and cases cited; *M. & C. C. of Balto. v. Biermann*, 187 Md. 514, 522.

The right of appeal from the Board to the Circuit Court stems from Code (1957) Art. 25A, Sec. 5 (granting express powers to a chartered county). By Paragraph U of Sec. 5 such a county has power to establish a county board of appeals provided that "any decision by a county board of appeals" may be appealed by an aggrieved party to the circuit court for the county "which shall have power to affirm the decision of the board, or if such decision is not in accordance with law, to modify or reverse such decision." Sec. 501.4 of the Zoning Regulations of Baltimore County, providing for appeals from the Board to the Court, uses the exact language of Sec. 5 U of Art. 25A of the Code, in describing the functions of the Court in deciding on appeal from the County Board of Appeals.

The order of the Board was merely the following notation: "Feb. 5, 1963. Order of Board of Appeals - A two-man Board presided at this hearing, resulting in a split decision." The Order of appeal filed by the applicant (the appellee here) in the Circuit Court reads:

"This Appeal is from the decision of the County Board of Appeals of Baltimore County dated February 5, 1963, by virtue of which the Order of the Zoning Commissioner of Baltimore County dated May 7, 1962, was automatically affirmed, one member of the Board being in favor of affirmance, a second member of the Board being in favor of reversal, and the Chairman of the Board having disqualified himself from sitting in such case."

"For the above reasons the reclassification should not be had and the special exception should not be granted."

One member of the Board, as his opinion shows, accepted the views and conclusions of the Zoning Commissioner (in addition to finding that congestion in the streets nearby would result if the application were granted), and the other member was of a contrary view. The inability of the Board to act affirmatively, which necessarily resulted from the divergent views of its two sitting members, produced a continuance of the denial of the application which the Zoning Commissioner had ordered, and the function of the reviewing court, under *Biermann* and *Walker*, was not to zone or rezone but only to decide whether the presumption of the correctness and constitutionality of the Board's quasi-legislative action had been overcome by the showing of the then appellant, the applicant, that there was no reasonable basis in fact to support the denial as an exercise of the police power.

We turn to a consideration of this question. The record shows that Slade Avenue runs for some two thousand feet between Relietown Road and Park Heights Avenue. Relietown Road is zoned and used as commercial on both sides above and below Slade Avenue. At the northeast corner of the two streets is a bank, at the southeast corner is a filling station. To the east of the filling station is a large high rise luxury apartment house, known as "Eleven Slade," built several years ago by the applicant here.

To the east of Eleven Slade are two large lots, heavily wooded with old trees, improved by two large houses. The applicant bought these for two hundred fifty thousand dollars at the same time he bought the land for Eleven Slade, intending to erect on the lots the apartment house he now seeks leave to build (which would be twelve stories high, having two hundred fifty large apartments and provide parking space for five hundred cars). To the east of those lots are two fine residences, 3 Slade Avenue and 1 Slade Avenue, on large lots. South of Slade Avenue on the west side of Park Heights Avenue are three large old residences with spacious grounds. Just south of the last of these is the Chob Shalom Congregation, most of the land of which and all buildings, but a small brick powerhouse, are in Baltimore City. On the north side of Slade Avenue, east of the bank, is a part of the golf course of the Suburban Club. To the east of that stand four expensive residences on large wooded lots. From there to Park Heights Avenue

It is our view that the Circuit Court, on appeal from a split decision of the Board, cannot make its own independent findings of fact but, rather, must decide only, as it must in appeals where there has been a unanimous or majority decision by the Board, whether, in the words of Art. 25A of the Code and Sec. 501.4 of the Baltimore County Zoning Regulations, the decision of the Board is or is not "in accordance with the law." See *Montgomery County v. Walker*, Md., 197 A.2d 135, 137, where we said, in reference to the statute, which granted on appeal and gave power to reverse if the decision was not "in accordance with law," the following:

"We think it clear that under this section the function of the reviewing court is limited. That court may set aside, as not in accordance with law, action of the district council which is arbitrary, illegal or discriminatory. It may thus set aside action of the district council which is not founded upon any substantial evidence, but the court may not substitute its own judgment on the facts for that of the district council."

In performing this task where there has been a split decision below, the court does not, it is true, have the advantage of the Board having made determinations of fact or of the expertise the law considers the Board to have in the solution of the current zoning problem to the same extent it usually does. In the *Biermann* case, cited above, the applicable statute required the concurring vote of four of five members of the Baltimore Board for the granting of a permit for a filling station in a residential zone. Three members of the Board voted to grant the permit and two voted to the contrary. The Baltimore City Court reversed the Board and directed the permit to be issued. This Court reversed and reinstated the action of the Board, saying at p. 522 of 187 Md.:

"We are inclined to agree that where disapproval rests upon a mere failure to obtain the concurring vote of four out of five members, the action cannot properly be described as that of a fact-finding body. In such circumstances it would be more accurate to say that approval is prevented by the exercise of a veto power. And negative action of this sort is clearly not entitled to the same weight, in considering the merits of a controversy, as a positive determination. But on the other hand, the statute requires concurrence as a condition precedent to the issuance of the permit, and failure to concur cannot be deemed a legal action, even though it may defeat or qualify the other requirement of the statute that the Board act as a fact-finding body. It is our duty to reconcile conflicting provisions of the statute so as to give effect to both, where possible. * * * We hold that although the Board was precluded, by the adverse vote, from acting as a fact-finding body, this fact did not render its action a nullity, or open the question to unlimited review. The question before us is not whether there was substantial evidence before the Board to support a minority finding, but whether there was a reasonable basis in fact to support the refusal as an exercise of the police power. * * *

is land belonging to the Club. Across Park Heights Avenue, almost opposite Slade Avenue (which ends at Park Heights Avenue) are some twenty acres owned by the Baltimore Hebrew Congregation, improved by a temple and other buildings. To the north of the temple is a very fine old residence. Between Slade Avenue and Old Court Road to the north are many expensive modern houses on the east side of Park Heights Avenue. On the west side of the land of the Suburban Club runs all the way from Slade Avenue to Old Court Road. The Club owns most of the land between Park Heights Avenue on the east and Relietown Road on the west, Slade Avenue on the south and Old Court Road on the north, using much of it for a golf course. Several years ago, the Club built a new clubhouse at a cost of over a million dollars.

The last comprehensive zoning map of the area was adopted on January 16, 1957, and all of the land mentioned east of the two corners of Relietown Road and Slade Avenue was zoned residential for individual homes (and the synagogues, Club and golf course which are permitted use in such residential zones). In order to meet a burden, which it concedes it must meet if it is to prevail, the applicant seeks to show that there were mistakes in the original comprehensive zoning or changes in the character of the neighborhood since that zoning extensive enough to warrant a rezoning, or both. *Montgomery County v. Walker*, *supra*; *Shadynook Imp. Assn. v. Malley*, 228 Md. 265. The claims of original error were so insubstantial as to be almost fanciful and do not merit discussion. There are but two worthwhile claims as to change, and the trial judge considered only these. One is the reclassification of the land on which the apartment house known as Eleven Slade was built to R-A (the classification now sought for the adjoining land for the proposed apartment house) and the other is the construction of the Chob Shalom Temple and its accessory school buildings, parking lot and powerhouse (an inconspicuous small brick building screened by trees and shrubs from nearby homes, as is the parking lot, both considerably to the west of Park Heights Avenue contiguous to the southern edge of the proposed parking lot in back of the apartment house now sought to be built on Slade Avenue).

The record supports the conclusions of the Zoning Commissioner and one of the Board members that the granting of the special exception for Eleven Slade was based on

"Considering the action of the Board as an exercise of delegated legislative, or quasi legislative, power, the scope of review is different and in some respects more limited than where the action is quasi judicial. . . . The court must find that the result of the action is beyond the police power and deprives the applicant of property without due process of law. On this question the property owner has the heavy burden of overcoming the presumption of constitutionality of legislative action, even if the legislative body acted without evidence at all."

The *Biermann* holding was followed in the *Walker* case to which we referred earlier. The Courts of New Jersey, where statutes spelled out what the cases have made the law of Maryland, have come to the conclusions reached in *Biermann* and *Walker*. See *Miller v. Rountree Tp. Bd. of Adjustment* (Super. Ct. N. J.), 171 A. 2d 9, 13, where the Court said:

"In view of the legislative judgment, it follows that unless we accord the same presumption of validity to a 'statutory decision' as we would accord a denial resulting from a majority vote, the legislative purpose would be defeated. The result would be that the Superior Court would review the denial of a variance without giving sufficient weight to the expertise of the local board."

"It might be concluded that the usual presumption of validity attaches to a 'statutory decision' of a variance. In other words, the presumption must be accorded the veto of the minority member. Consequently, the question on this appeal is whether the action of the minority member in voting against a variance was arbitrary, capricious or patently unreasonable."

Griggs v. Zoning Bd. of Adjustment, Princeton (Super. Ct. N. J.), 183 A. 2d 444, 447, reiterated the rule saying:

"The general rule enunciated by our courts is that the decision of a local board of adjustment is presumptively correct and should not be set aside unless shown to be arbitrary, capricious or patently unreasonable. * * * Incidentally, the presumption of validity is given the same legal effect by the reviewing court whether the decision is by a majority of the board members or is the result of a statutory decision."

As in the case before us came to the Circuit Court the application had been denied by the Zoning Commissioner, who said in his order of denial:

"The testimony in this matter was voluminous but it would appear that Mr. Malcolm H. Dill, Director of the Office of Planning and Zoning, summed the matter up when he said the present request of the petitioner is premature."

"There are many fine homes on Slade Avenue still occupied by their owners. Certain changes resulting from future road plans have not yet occurred. The present elevator apartment building at 11 Slade Avenue acts as an excellent buffer between commercial land on Relietown Road and the very fine living area on Slade Avenue."

the theory that the apartment building would be a buffer between the commercial zoning and actual use on Relietown Road and the fine residential area to the east.

Protesting neighbors in the present case say that the neighborhood residents accepted the building of Eleven Slade on the premise and understanding and not as a use under the tent for the subsequent building of more apartment houses, and that it has worked satisfactorily as a buffer. Mullin, the principal owner of the applicant corporation and the builder of Eleven Slade, said of that apartment house: "I think it is an excellent buffer for those homes, yes."

The building of Eleven Slade after the adoption of the zoning map was not, in light of its understood function as a buffer, such a change as would require a rezoning of a neighboring tract of land for the same purpose and the zoning authorities who took that view had a reasonable basis in fact to support their refusal to rezone the applicant's land.

The weakness in the applicant's claim that the building of the parking lot and small powerhouse by the Chob Shalom Congregation after the zoning map was put in effect in 1957 is that under Sec. 200.3 and Sec. 200.9 of the Baltimore County Zoning Regulations churches and other buildings for religious worship, together with their accessory buildings and uses, are permitted use in a residential zone.

We held in the *Erter* case that the building and frequent use of an armory and the paving and frequent use of an extensive area around it - as was permitted in the residential zone under consideration by the Montgomery County Zoning Ordinance - did not amount to a change in the neighborhood within the change test which has been applied by the decisions of this Court, and that the zoning authorities' denial of a request to rezone property nearby for apartment use was not "in any way arbitrary, illegal or discriminatory, or that it was not at least 'fairly debatable,' to quote a phrase often used in our decisions."

We think the rationale of the *Erter* decision and the expression thereof which was just quoted are applicable here.

ORDER APPEALED FROM REVERSED, WITH COSTS, AND ORDER OF ZONING COMMISSIONER DENYING APPLICATION OF APPELLEE HERE REINSTATED.

7/22/63

5534
ent77

SEVEN SLADE, INC.,
Plaintiff,
vs.
NATHAN H. KAUFMAN, JR.,
G. MITCHELL AUSTIN, and
CHARLES STEINOCK, JR.,
Defendants.
Circuit Court
FOR
BALTIMORE COUNTY
AT LAW
Misc. Docket 7/231
Case No. 2712

ORDER

The papers in the above entitled case, including the transcript of testimony and trial memoranda, having been read and considered by the Court, and argument of counsel having been heard, it is this 25th day of July, 1963, by the Circuit Court for Baltimore County:

ORDERED that the decision of the County Board of Appeals of Baltimore County, dated February 5, 1963, be and it hereby is reversed; and it is further

ORDERED that the County Board of Appeals of Baltimore County be and it hereby is ordered and directed to grant the zoning and special exception requested in this case.

JUDGE

PROCTOR, ROYSTON & MUELLER
CARRIE W. ROYSTON
J. L. MUELLER
TOWSON 4, MD.
VALLEY 9-1000

Court of Appeals
9/11/63



May 8, 1962

Mr. John G. Rose
Zoning Commissioner
County Office Building
111 W. Chesapeake Ave.
Towson 4, Maryland

Re: Petition for Reclassification and Special Exception for an Elevator Apartment Building - South side of Slade Ave., 788.33 feet E. of Reisterstown Road, 3rd District - Seven Slade, Inc., Petitioner.

Dear Mr. Rose:

Please note an Appeal to the County Board of Appeals from your Order passed in the above captioned matter on May 7, 1962.

Very truly yours,
Kenneth C. Proctor.

KCP/lg

cc: J. Elmer Weisheit, Jr., Esq.
Frank A. Kaufman, Esq.
Arnold Fleishmann, Esq.
Philip Heller Sachs, Esq.

RE: PETITION FOR RECLASSIFICATION
from "R-6", "R-10" and "R-20" Zones
to an "R-A" Zone, and SPECIAL
EXCEPTION for an Elevator
Apartment Building
S/S Slade Avenue, 788.33 feet east
of Reisterstown Road - 3rd District
Seven Slade, Inc. - Petitioner
BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5534-RX

The petitioner seeks a reclassification and special exception for an elevator apartment on the south side of Slade Avenue, 788.33 feet east of Reisterstown Road in the Third Election District of Baltimore County.

The petitioner proposes a 250 unit luxury-type apartment building constructed of brick and concrete slab, twelve stories high, with off-street parking above ground. Seven Slade, Inc. through its general contractor, John A. Mullan who is also an official of Seven Slade, Inc., states that there will be five to seven rooms per unit with no additional services, such as food, drugs, etc. located in the building. The approximate cost of said building will be in the neighborhood of \$7,000,000 and the said building will be serviced by four elevators located within the building.

The general description of the neighborhood is as follows:

On the north side of Slade Avenue beginning at Reisterstown Road going east on Slade Avenue is a Maryland National Bank which adjoins that property known as the Suburban Country Club, said Suburban Country Club property being unimproved.

On the southeast side of the intersection of Slade Avenue and Reisterstown Road is a commercial enterprise consisting of an Atlantic Gasoline Service Station. Moving eastwardly on the south side of Slade Avenue, the next improvement is a high rise luxury apartment known as Eleven Slade, it being a nine story apartment building with parking adjoining. This structure, in the writer's opinion, dominates its surroundings. Moving farther eastwardly on the south side of Slade Avenue we approach the subject property which is flat in character and wooded, being presently improved by two rather old dwellings. Thence, moving farther eastwardly on the south side of Slade Avenue we encounter several large fine homes which are presently in use and which are located on large wooded tracts of ground in most cases shielded from outside view by either large trees or shrubbery.

Directly across from the subject property on the north side of Slade Avenue and adjoining the Suburban Country Club property is a large family dwelling which is principally shielded by trees and shrubbery.

A cursory examination of the exhibits, coupled with testimony, shows that there are several large apartment units in the immediate area, some of which are high rise units.

One of the protestant's chief complaint was that in the event an apartment building of the instant type was erected that a serious traffic hazard would exist on Slade Avenue at the intersections of Park Heights Avenue and Reisterstown Road with Slade Avenue. However, on cross-examination the protestant's own traffic expert admitted that there would be no traffic difficulty from the proposed apartment dwelling on Slade Avenue and that his objection would be to those cars entering Park Heights Avenue, which is not controlled by a traffic light, and Reisterstown Road which is. There was ample testimony to the writer's satisfaction that Slade Avenue could handle the volume of traffic and that Reisterstown Road and Park Heights Avenue could assimilate the same without causing any difficulty. The parking problem, if any, has been reconciled by the fact that the petitioner is bound to provide parking under his proposed plans.

It is the writer's observation that the entire character of the neighborhood is completely dominated by the Eleven Slade apartments and is further complemented by those surrounding apartment units as above stated. The subject property and apartment building, if erected, would be in full view of those commercial enterprises which are many and varied along Reisterstown Road. The writer feels that an apartment unit of this type would complement those uses now being made in the neighborhood. The protestant's argument that the value of their homes would be depreciated is without merit since if apartments of this type would have any detrimental effect on this neighborhood, it has already taken place by the erection of Eleven Slade and those other apartment dwellings as herein described. The large homes herein mentioned are completely secluded from Slade Avenue and their adjoining property because as described above, most of them are situated on large wooded, screened lots.

Conversely, in the writer's opinion the erection of an apartment of this type would unquestionably appreciate those property values in the general neighborhood, and that said erection would be a logical expansion and completion of a pattern which was set by the erection of Eleven Slade apartments. Eleven Slade apartments when completed without question has set a development pattern in the area which cannot be denied.

For the foregoing reasons it is the opinion of this Board member that the within reclassification and special exception should be granted.

J. Mitchell Austin

Date: 2/5/63

RE: PETITION FOR RECLASSIFICATION
from "R-6", "R-10" and "R-20" Zones
to an "R-A" Zone, and SPECIAL
EXCEPTION for an Elevator
Apartment Building
S/S Slade Avenue, 788.33 feet east
of Reisterstown Road - 3rd District
Seven Slade, Inc. - Petitioner
BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 5534-RX

This petition seeks a reclassification of a twelve acre tract of land on the south side of Slade Avenue, 788.33 feet east of Reisterstown Road. The land is presently zoned "R-20", "R-10" and "R-6".

The petitioner proposes to build a 12 story apartment building containing 250 units with outdoor parking space for 500 cars. The subject property adjoins an apartment building known as Eleven Slade Avenue. This high rise apartment building contains 130 units with parking space for 200 cars of which 90 are located in a basement garage. The land to the east of the subject property on both sides of Slade Avenue consists of substantial residential property the entire length of the street to Park Heights Avenue.

Slade Avenue is .4 of a mile in length from Reisterstown Road to Park Heights Avenue. A traffic signal controls the intersection at Slade Avenue and Reisterstown Road where there are commercial uses. However, at Park Heights Avenue where Slade Avenue terminates, there is no traffic signal and it was testified that turning movements in and out of Slade Avenue result in traffic congestion and hazards.

Two large Hebrew synagogues are located on Park Heights Avenue near Slade Avenue and it was stated that congestion becomes acute when services are held at these temples. Dr. Samuel L. Fox, Vice-President of the Board of Trustees of Oheb Shalom Congregation, said that the parking lot of the proposed apartment house would be 50 feet from the sanctuary of Oheb Shalom.

Mr. Jerrold Hoffberger, President of Baltimore Hebrew Congregation on the east side of Park Heights Avenue at Slade, said that the traffic problem in the vicinity would be worsened by the erection of another apartment house. He said that his congregation has 1550 family members with 600 to 700 in attendance on Friday evenings and 1440 children enrolled in their religious school meeting on Saturday and Sunday mornings.

Slade Avenue has 24 feet of paved surface with a 70 foot right of way. There is no curbing for most of its length and there are no parking restrictions. Photographs were introduced showing right angle parking on the north side of Slade Avenue.

PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY

SEVEN SLADE, INC., legal owner of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an R, 6, R, 10, and R, 20 zone to an R, A, zone; for the following reasons:

Because of changes in the area and error in the comprehensive zoning map;

See Attached Description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for an Elevator Apartment Building, including accessory business uses for the convenience of its tenants as conditioned in Section 502.1.

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.

SEVEN SLADE, INC.

By: *Charles D. Mullan*

Contract purchaser
Address: 7 Slade Ave., Pikesville 8, Md.

Kenneth C. Proctor
Petitioner's Attorney
Kenneth C. Proctor
Address: Campbell Bldg., Towson 4, Md.

ORDERED By The Zoning Commissioner of Baltimore County, this 1st day of March, 1962, 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 property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10th day of April, 1962, at 2:00 o'clock.

MAR 1 - 1962



(over)

2:00 P
4/8/62
3 copies

Dr. Arnold Petz, a resident of Slade Avenue, stated that traffic on Slade Avenue has increased since Eleven Slade was built.

Dr. Edward F. Lewison who has lived at the northeast corner of Slade Avenue and Park Heights Avenue for 22 years said that he has difficulty getting out of his driveway during the morning rush hour because of congestion at the intersection.

In defining traffic congestion, Dr. Walter W. Ewell, traffic expert for the petitioners, said that congestion means awareness of vehicles around you - conditions other than normal. Mr. Allan M. Vorhees, traffic expert for the protestants, said that congestion was delay in free flowing movement of vehicles. These two definitions represent the closest point of agreement of the traffic engineers.

After considering the testimony in this case and personally inspecting the site and surrounding neighborhood, this member of the Board concludes that the granting of this special exception would not meet the conditions set forth in Section 502.1 of the Baltimore County Zoning Regulations in that it would be detrimental to the general welfare of the locality; it would tend to create congestion in the roads; it would tend to overcrowd the land; and would interfere with adequate provisions for transportation. This member of the Board further feels that reclassification of the subject property would adversely affect the value of the large, substantial and well kept homes on Slade Avenue. The reclassification of Eleven Slade Avenue in September, 1957 could probably be justified in that it created a buffer zone between the "R-6" zoning on Reisterstown Road and the "R-20" zoning on Slade Avenue. I see no justification at this time to considerably enlarge this buffer zone. In my opinion, any reclassification would, at this time, be premature.

Date: February 5, 1962

ENGINEER & ARCHT
NAVY
#5534RX
#3
SEC-2-C
RA
11/14/62
October 16, 1961
Zoning Description of Wallace, Balyin and Singer Property, Slade Avenue
All that piece or parcel of land situate, lying and being in the Third Election District of Baltimore County, State of Maryland and described as follows to wit:
Beginning for the same on the South East side of Slade Ave. at the distance of 788.33 feet, North westerly from the North East corner of Reisterstown Road and Slade Ave. and running thence and binding on the South East side of Slade Ave. the 2nd following courses and distances: North 52 degrees 06 minutes 50 seconds East 430.75 feet, North 52 degrees 21 minutes 50 seconds East 401.05 feet, thence leaving said road and running the seven following courses and distances:
South 36 degrees 41 minutes 50 seconds East 449.13 feet
North 49 degrees 04 minutes 17 seconds East 121.10 feet
South 44 degrees 33 minutes 28 seconds East 350.76 feet
South 44 degrees 47 minutes 20 seconds East 469.43 feet
North 47 degrees 11 minutes 53 seconds East 105.43 feet
South 49 degrees 36 minutes 04 seconds East 51.48 feet
North 36 degrees 45 minutes 17 seconds East 407.12 feet
to the place of beginning.
Containing 121.17 Acres more or less.
Being all and the same land which was surveyed by Lewis Sachs et al to Thomas F. Wallbridge et al by deed dated 20th June 1906 and recorded among the land records of Baltimore County in Liber 3745 folio 277.
Diaper K B Stutts

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Hon. Christian H. Kahl Date: February 11, 1962
FROM: Office of Law
SUBJECT: Preliminary Sketches
Seven Slade Avenue Apartments
The above property is on the south side of Slade Avenue east of the apartment building known as Eleven Slade, and they have submitted two preliminary sketches, the first dated January 18, 1962, and the second dated February 5, 1962, which are returned herewith.
The office of planning and zoning has interpreted the zoning regulations so as to require a side yard greater than 25 feet, saving that section 216 of the Baltimore County Zoning Regulations applies. This has to do with maximum building height from the required setback line. In section 101, "Definitions", setback is defined as follows:
"The shortest distance between the building line and the street right-of-way line."
Side yards in R.A. zone in section 217.3 provides for not less than 25 feet from any building to a side property line.
It is the opinion of this office that section 216 applies only to the front yard, and that the preliminary sketch of January 18, 1962 has a side yard that is acceptable and should be approved.
However, your attention is directed to section 502.1(f) of the regulations, which provides that before any Special Exception shall be granted, it must appear that the use for which the Special Exception is requested will not interfere with adequate light and air.
John Bowe
County Solicitor
JB:mg
cc: Mr. John G. Rose
Mr. George Gavrilis

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Mr. John D. Rose, Zoning Commissioner Date: April 6, 1962
FROM: Mr. George E. Gavrilis, Deputy Director
SUBJECT: #5534-RX, R-6, R-10 and R-20 to R-4 and Special Exception for an Elevator Apartment Building including Assessor's Business uses for the Convenience of its tenants as conditioned in Section 402.1a. South side of Slade Avenue 788.33 feet East of Reisterstown Road. Being property of Seven Slades, Inc.
3rd District
HEARING: Wednesday, April 18, 1962 (2:00 P.M.)
The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from single family residential zoning to apartment zoning together with the special exception for a elevator apartment building. It has the following advisory comments to make with respect to pertinent planning factors:
1. Section 216 of the Zoning Regulations established height limitations for elevator apartment structures based on a "tent" defined by a 45° angle extending inward and upward from a 35 foot elevation at the required setback line. The intent of the Regulations as drafted was to require setbacks from the front, sides, and rear of apartment structures which would be proportionately greater as their height increased. This was proposed to guarantee light and air to adjacent properties - a fundamental principle of zoning.
Through an inadvertent error in the definition of the word "setback", the 45° "tent" idea has been lost because the 45° angle applies only to the height and setback as measured from the street-side of the property. The planning staff does not believe that this in fact is the intent of the Zoning Regulations. It noted that the proposed tentory structures closest to Slade Avenue have side setbacks of only 25 and 30 feet instead of 30 feet as would be required if the "tent" were applied to the front, sides, and rear. The Planning Board has approved a preliminary report on a zoning amendment to clarify the original intent of the regulations.
2. Special exceptions are judged as to whether or not they tend to create congestion in the roads, streets, or alleys therein. The planning staff believes that the petitioner should show clearly that the additional 330 families here will not tend to create congestion on Slade Avenue, particularly at the Reisterstown Road and Park Heights Avenue intersections. Widening and improvement at those points will come about only as a result of as yet unbudgeted capital expenditure by the County rather than through development of adjacent properties.
3. Special Exceptions also are judged as to whether or not they tend

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Mr. John D. Rose, Zoning Commissioner Date: April 6, 1962
FROM: Mr. George E. Gavrilis, Deputy Director
SUBJECT: #5534-RX, R-6, R-10 and R-20 to R-4 and Special Exception for an Elevator Apartment Building including Assessor's Business uses for the Convenience of its tenants as conditioned in Section 402.1a. South side of Slade Avenue 788.33 feet East of Reisterstown Road. Being property of Seven Slades, Inc.
2-2
to overwork land and cause undue concentration of population. The petitioner proposes to erect 330 apartment units on a 12.2-acre tract - a density of 27.1 families per net acre. It is the feeling of the staff that when the usual net density of 18 is exceeded under the interpretation of Section 217.7, it becomes doubly important to assure that there is not overcrowding of the open land area around the tall buildings. The staff questions the extent to which the yard areas are proposed to be filled with off-street parking with no provision made for parking within any of the structures.
4. Special Exceptions have been judged on the basis of whether or not the specific use sought will enable the adjoining property to be developed or utilized within the context of its zoning. Will the erection of three tentory apartment structures have a good effect or a bad effect on the ability of adjoining single family residents to enjoy their property?
5. The staff is not satisfied with the arrangement of interior circulation and parking. If granted, the granting should be conditioned upon approval of site plans by this office.
GE:mas
APR 6 1962
OFFICE OF PLANNING AND ZONING

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 2nd Date of Posting: 3-28-62
Posted for: George R. Hummel, Esq.
Petitioner: Seven Slade, Inc.
Location of property: S. Slade Ave. 788.33 ft. East of Reisterstown Rd.
Location of Signs: Both signs posted on property known as 7 Slade Avenue.
Remarks: George R. Hummel
Posted by: George R. Hummel Date of return: 3-28-62

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 11595
DATE 4/28/62
TO: Messrs. Proctor, Eyrston & Mueller
Campbell Building
Towson 4, Maryland
BILLED BY: Zoning Department of Baltimore County
DEPOSIT TO ACCOUNT NO. 01622 DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE
QUANTITY: 1 Advertisment and posting of property for Seven Slade, Inc. 76.00
TOTAL AMOUNT: \$76.00
COST: 76.00
IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 10770
DATE 3/11/63
TO: Kenneth C. Proctor, Esq.
Campbell Building
Towson 4, Maryland
BILLED BY: County Board of Appeals (Zoning)
DEPOSIT TO ACCOUNT NO. 01712 DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE
QUANTITY: 1 Cost of Certified Documents for No. 5534-RX Seven Slade, Inc. 5/5 Slade Avenue, 788.33 feet east of Reisterstown Road 3rd District \$7.00
TOTAL AMOUNT: \$7.00
COST: 7.00
IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 2nd Date of Posting: 3-26-62
Posted for: George R. Hummel, Esq.
Petitioner: Seven Slade, Inc.
Location of property: S. Slade Avenue, 788.33 ft. East of Reisterstown Rd.
Location of Signs: Both signs posted on property known as 7 Slade Avenue.
Remarks: George R. Hummel
Posted by: George R. Hummel Date of return: 3-27-62

CERTIFICATE OF PUBLICATION
TOWSON, MD., April 6, 1962
THIS IS TO CERTIFY that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., on 2 times before the 18th day of April, 1962, the first publication appearing on the 30th day of March, 1962.
THE JEFFERSONIAN.
Frank Stutts, Manager.
Cont of Advertisement, \$.
JOHN G. ROSE, Zoning Commissioner of Baltimore County
Mar. 25-Apr. 6.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 11642
DATE 5/10/62
TO: Messrs. Proctor, Eyrston & Mueller
Campbell Building
Towson 4, Maryland
BILLED BY: Office of Planning & Zoning 119 County Office Bldg., Towson 4, Md.
DEPOSIT TO ACCOUNT NO. 01622 DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE
QUANTITY: 1 Cost of appeal to County Board of Appeals \$70.00
TOTAL AMOUNT: \$70.00
COST: 70.00
IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND
No. 10384
DATE 3/1/63
TO: Messrs. Proctor, Eyrston & Mueller
Campbell Building
Towson 4, Md.
BILLED BY: Zoning Department of Baltimore County
DEPOSIT TO ACCOUNT NO. 01622 DETACH UPPER SECTION AND RETURN WITH YOUR REMITTANCE
QUANTITY: 1 Petition for Reclassification & Special Exception for Seven Slade, Inc. \$50.00
TOTAL AMOUNT: \$50.00
COST: 50.00
IMPORTANT! MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON 4, MARYLAND
PLEASE RETURN UPPER SECTION OF THIS BILL WITH YOUR REMITTANCE.

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 2nd Date of Posting: 3-30-62
Posted for: George R. Hummel, Esq.
Petitioner: Seven Slade, Inc.
Location of property: S. Slade Ave. 788.33 ft. East of Reisterstown Rd.
Location of Signs: Both signs posted on property known as Seven Slade, Inc.
Remarks: George R. Hummel
Posted by: George R. Hummel Date of return: 3-31-62

PETITION FOR ZONING
RECLASSIFICATION AND
SPECIAL EXCEPTION
3RD DISTRICT

ZONING: From R-6, R-10 and
R-20 Zones to R-A Zone. Petition
for Special Exception for an Elevator
Apartment Building including
Accessory Business uses for the
Convenience of its tenants as
conditioned in Section 402.4.

LOCATION: South Side of
Slade Avenue 788.33 feet East of
Reisterstown Road.

PUBLIC HEARING: Room 108,
County Office Building, 111 W.
Chesapeake Avenue, Towson,
Maryland.

DATE & TIME: WEDNES-
DAY, APRIL 18, 1962 at 2:00
P.M.

The Zoning Commissioner of
Baltimore County, by authority of
the Zoning Act and Regulations
of Baltimore County, will hold a
public hearing:

Concerning all that parcel of
land in the Third District of Bal-
timore County.

Beginning for the same on the
South East side of Slade Ave.
at the distance of 788.33 feet,
North Easterly from the North
East corner of Reisterstown Road
and Slade Avenue and running
thence and binding on the South
East side of Slade Ave. the 2
following courses and distances:
North 53 degrees 06 minutes 50
seconds East 400.75 feet, North
53 degrees 21 minutes 50 seconds
East 201.05 feet, thence leav-
ing said road and running the
seven following courses and dis-
tances:

South 36 degrees 41 minutes
50 seconds East 449.41 feet;
North 49 degrees 00 minutes 17
seconds East 121.10 feet; South
44 degrees 33 minutes 28 sec-
onds East 350.76 feet; South 44
degrees 49 minutes 38 seconds
West 649.83 feet; North 47 de-
grees 11 minutes 23 seconds West
405.50 feet; South 49 degrees 36
minutes 04 seconds West 53.48
feet; North 36 degrees 45 min-
utes 12 seconds West 487.21 feet
to the place of beginning.

Containing 12.177 Acres more
or less.

Being all and the same land
which was conveyed by Louis
Sachs et al to Thomas F. Mullian,
Jr. et al by deed dated 20th
June 1960 and recorded among
the land records of Baltimore
County in liber 3715 folio 277.

Being the property of Seven
Slade, Inc. as shown on plat plan
filed with the Zoning Department.

BE ORDER OF

JOHN G. ROSE,
ZONING COMMISSIONER
OF BALTIMORE COUNTY

March 30.

OFFICE OF

THE BALTIMORE COUNTIAN

THE COMMUNITY NEWS
Reisterstown, Md

THE COMMUNITY PRESS
Dundalk, Md.

THE HERALD - ARGUS
Catonsville, Md.

No. 1 Newburg Avenue

CATONSVILLE, MD.

April 2, 19 62.

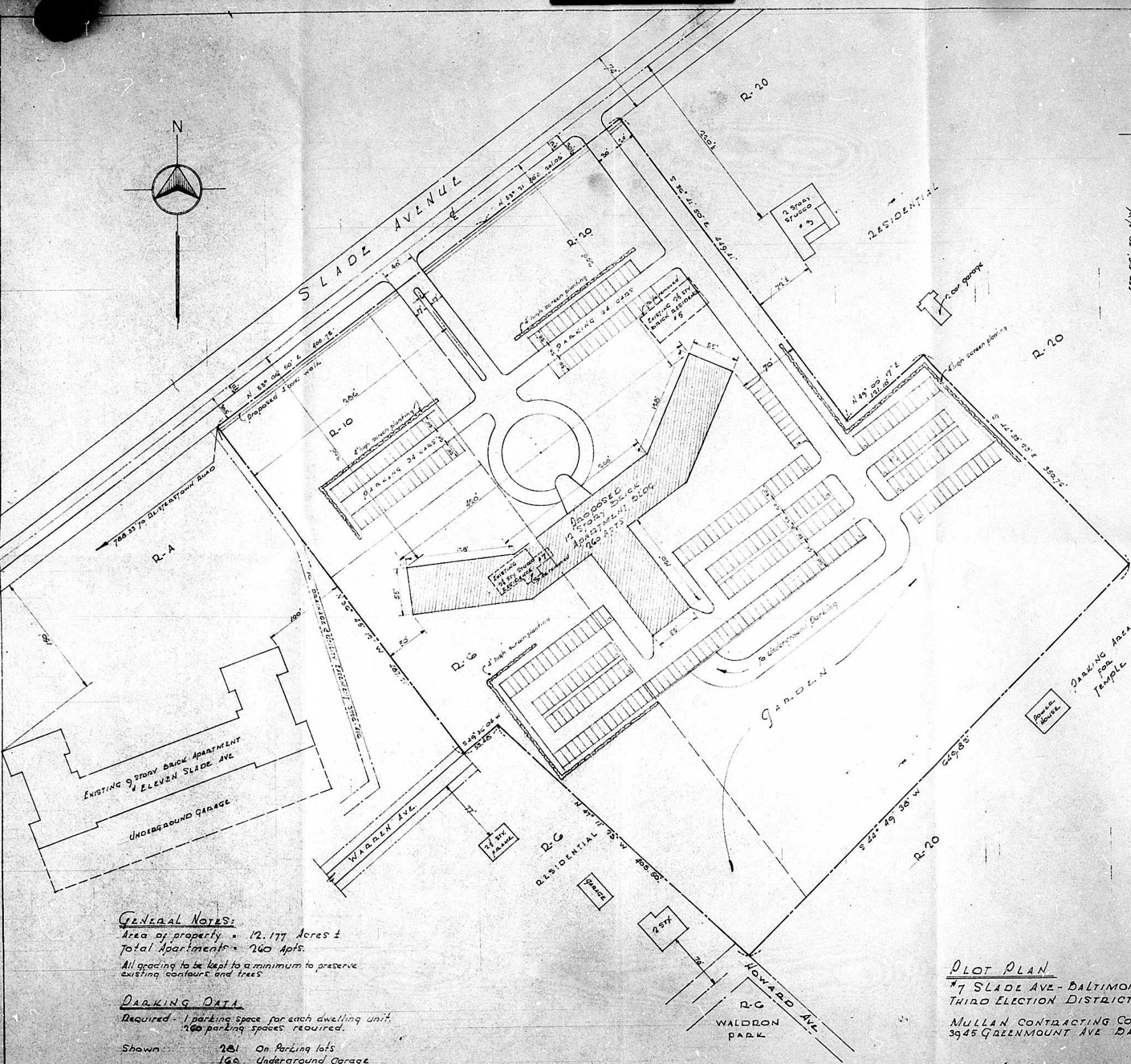
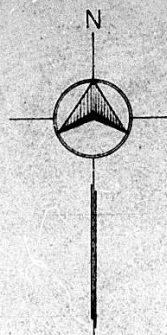
THIS IS TO CERTIFY, that the annexed advertisement of
John G. Rose, Zoning Commissioner of
Baltimore County

was inserted in THE BALTIMORE COUNTIAN, a group of
three weekly newspapers published in Baltimore County, Mary-
land, once a week for One ~~successive~~ weeks before
the 2nd day of April, 19 61, that is to say
the same was inserted in the issues of

March 30, 1962.

THE BALTIMORE COUNTIAN

By Paul J. Morgan
Editor and Manager



GENERAL NOTES:

Area of property - 12.177 Acres ±
Total Apartments - 260 Apts.

All grading to be kept to a minimum to preserve existing contours and trees

PARKING DATA:

Required - 1 parking space for each dwelling unit.
160 parking spaces required.

Shown: 281 On Parking lots
169 Underground Garage
450 - Total Parking (Space Size 9'x10')

PLOT PLAN

#7 SLADE AVE - BALTIMORE COUNTY
THIRD ELECTION DISTRICT

MULLAN CONTRACTING CO.
3945 GREENMOUNT AVE BALTO. 18, MD.

DATE: MAY 3, 1962

SCALE: 1" = 50'

