

John B. Howard, Esq.
Appellate Federal Building
12 West Faneuil Avenue
Towson, Maryland 21204

Re: Special Exception - S/W Cor.
Bellona Ave. & Judges Lane
No. 63-66-RX
Jas. M. McCosh, Mary
McCosh and Betsy W.
LeBrun, Petitioners

Dear Mr. Howard:

As requested in your letter of September 20,
I have today granted an extension of the special exception, in the
above entitled matter, to September 10, 1967.

Very truly yours

Zoning Commissioner

cc: Ernest C. Trimble, Esq.,
Jefferson Building
Towson, Maryland 21204

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John B. Rose, Zoning Commissioner Date: September 6, 1967

FROM: Mr. Ernest C. Trimble, Esq., County Director

SUBJECT: 63-66-RX, S.W. Cor. Bellona Avenue and Judges Lane, Apartment Building, Special Exception for Elevator Apartments, being property of James McCosh, Jr., et al.

2nd District

REMARKS: Wednesday, September 13, 1967 (11:30 A.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from S-10 to S-12, and Special Exception for Elevator Apartments, Apartment Building, being property of James McCosh, Jr., et al.

In connection with Petition #2506, the Planning staff has consented to the effect that:

- Zoning reclassifications have occurred in the area which have changed land use potentials from a single family residential to an apartment residential content. The most significant zoning reclassification occurred on the tract between Bellona Lane and Charles Street just south of the Beltway Interchange. Apartment zoning was created by petition and subsequently a special exception for elevator apartments was granted with variance. The order of the Board of Appeals limited the height to 10 stories with a density not to exceed 30 families per acre, based on the standards set forth in the Zoning Regulations for the granting of special exceptions and variances. It is only fair to presume that the Board affirmatively found that the high-rise apartment structure on the westerly side of Bellona Lane would not interfere with the right of owners on the easterly side to use and enjoy their property within the context of its single family residential zoning.
- From a planning viewpoint, an appropriate boundary line has been established for apartment zoning here. Further extension of apartment zoning westerly from Bellona Lane would not be in keeping with the larger 1st single family residential character of the area. The ability of Bellona Lane to absorb the extra volume of traffic which apartment development on both sides would yield also is questionable.
- Notwithstanding the validity of the above comment, it would appear that judgment, or at least favorable judgment, on the subject petition should await the result of the Appeals process on Petition #2506 which seeks this property immediately to the north.

COOK, MUDD & HOWARD

JAMES H. COOK
JOHN A. MUDD
DONALD E. HOWARD
DANIEL V. TRACER

September 20, 1967

Mr. John G. Rose, Zoning Commissioner
County Office Building
11 West Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Reclassification
and Special Exception for
Elevator Apartments - S.W.
Corner Bellona Avenue and
Judges Lane, 2nd District
James M. McCosh, Mary
Ann McCosh and Betsy W.
LeBrun, Petitioners
No. 63-66-RX.

Dear Mr. Rose:

This will confirm our conversation of September 19, at which
time we briefly discussed the procedure for an extension of the
special exception granted in the above matter.

Your records will indicate that you granted a petition for re-
classification to a "R-A" Zone and a special exception for Elevator
Apartments in the above matter on November 1, 1963. This ruling
was subsequently affirmed by the County Board of Appeals, Circuit
Court for Baltimore County and Court of Appeals of Maryland. The
date of filing the Court of Appeals Opinion was April 26, 1965 but I
do not have, at the moment, the date that the mandate was passed.

It is respectfully requested that, pursuant to Section 502.3 of
the Baltimore County Zoning Regulations that an extension be granted
permitting utilization of the special exception for an additional two
years dating from April 26, 1965. The property owner has been unable
to utilize the special exception by reason of circumstances beyond his
control.

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Further to the east of the property and on the other side of Charles Street
from the Ruxton Towers apartments is the cottage development of Kenilworth, and a complete
development of garden-type hillside apartments on the slope toward the Beltway from Joppa
Road.

To the south of this property and occupying the entire north slope from Joppa
Road to Bellona Avenue as well as the frontage on the ridge along Joppa Road, is the Ridge
School on a tract owned by Baltimore County for school purposes most of which now remains
in its original wooded condition. Almost all of the above mentioned construction of apart-
ment and commercial buildings has come about as a result of changes in authorized use under
the zoning laws since the adoption of the zoning map in 1955.

It would be difficult to find an area in Baltimore County in which there have
been more substantial changes in the character of the neighborhood since the adoption of the
zoning map than this one. Under these circumstances the question as to whether or not there
was an error in the original zoning becomes somewhat academic even though many witnesses
for the petitioners testified that in their opinions there had been such error. It is un-
doubtedly true that the County Commissioners in their wisdom in 1955 had no knowledge of the
present demand for apartments in areas of this type, nor apparently had the planners alloraugh
the Department of Planning and Zoning have since that time in numerous cases referred to
this particular general area as an ideal location for apartment use.

Indeed in the "Ruxton Towers" case the Planning staff said: "the exceedingly
good location of the property at the interchange between Charles Street - a major radial
route emanating from the very core of the City, and the Beltway makes the subject property
quite logical and appropriate for a high-rise structure. Such a structure would be not only
a financial asset to the County, but also would serve as a landmark and accent to one of the
principal gateways to the City. It would give variety and vertical accent to an otherwise
horizontal-appearing suburban landscape."

This is, of course, true for the property presently under consideration
although in the present case the Planning Department has not been so enthusiastic. How-
ever, in its report in the present case the Planning Department states that "Zoning reclassi-
fications have occurred in the area which have changed land use potentials from a single
family residential to an apartment residential content." It appears to this Board, unani-
mously, that the circumstances are such almost to compel granting of the reclassification in
the instant case from "R-10" to "R-A".

We now reach the second question in this matter which is the application for
a special exception for elevator apartments. The builder and developer has shown in his
testimony and by the land use plans as submitted what this Board considers an admirable
restraint in comparison to other applications in that he proposes but one building on the
entire tract which will occupy less than four (4) percent of the land area which will make
population density, under his application, of about twenty-five (25) families to the acre



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Mr. John G. Rose, Zoning Commissioner September 20, 1967

If additional information is needed, kindly advise.

Thank you in advance for your kind cooperation.

Very truly yours,

John B. Howard
John B. Howard

JBH/ik

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which compares to a density of thirty-six (36) families to the acre on the Ruxton Towers property
on the other side of Bellona Lane, and he proposes to provide 320 parking spaces for
somewhat over 200 units which is more than required by the Regulations.

The height of the building is well within the required "feet" in all directions,
and he proposes to leave the large trees standing and install a swimming pool and tennis
courts on the property.

None of the adjoining neighbors or property owners are making any protest to
the proposal and testimony was uncontradicted that Bellona Lane, a dead-end street, will be,
when completed in accordance with present plans, adequate to handle all traffic from the
apartment house complex facing upon it. There will be no direct access from either the
present property or Ruxton Towers to either Charles Street or the Beltway, hence there can be
no traffic problem with respect to these two major arteries caused by this development.

Upon the evidence it is obvious that present facilities for both water and
sewer are adequate and if any inadequacy should be threatened by construction or develop-
ment of other property elsewhere such situation will without question be remedied by the
proposed construction of a sewer line through the neighboring property on the west insofar as
sewers are concerned, and the additional supply of water, both for household use and fire
purposes, by the completion of the Mays Chapel Reservoir now under construction and which
will be completed long before any possible need exists as a result of the present application.

The Board can find, upon the evidence, no reason why this application does
not meet all the requirements of Section 502.1 of the Zoning Regulations which must be met
before the granting of a special exception. It is to be noted that even the testimony taken
on behalf of the protestants tends to confirm and fortify this conclusion. The only reserva-
tion which the Board could possibly have would be in connection with the appearance of the
proposed building because of its height which is somewhat in excess of the neighboring
Ruxton Towers apartment. The application calls for twenty (20) stories, however, on the
plan plans and drawings there appears to be only eighteen (18) apartment floors above ground
with a total maximum height of 180 feet from the low point of the building. We believe
that if the apartment is built in accordance with the plan, that is to say with a maximum of
eighteen (18) stories, there cannot be any valid objections to this development even from
the standpoint of aesthetics alone, and if the construction is limited to eighteen (18) stories
of apartment occupancy it may be that the density per acre of the development may be even
less than the application indicates.

It is noted that no variances or other special situations are involved in this
case and the Board will, therefore, grant the special exception as requested with the limita-
tion that if the apartment occupancy shall be limited to eighteen (18) and with the
proviso, of course, that all plans for ingress and egress for the subject property must be
approved by the Office of Planning and Zoning, the Department of Public Works, and the
Traffic Engineers of Baltimore County.

RE: PETITION FOR RECLASSIFICATION
from an "R-10" Zone to an "R-A" Zone,
SPECIAL EXCEPTION for an Elevator
Apartment Building,
SW corner Bellona Avenue &
Judges Lane,
2nd District
James M. McCosh, Jr., et al.,
Petitioners

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. 63-66-RX

OPINION

This is a petition for reclassification from an "R-10" Zone to an "R-A" Zone
and an application for a special exception for elevator apartments, which petition and
special exception were granted by the Zoning Commissioner subject to approval of the site
plan by the State Roads Commission, Bureau of Public Services and the Office of Planning
and Zoning, all of whom have tentatively approved the same.

The property involved consists of slightly less than ten (10) acres of land pre-
sently undeveloped except for two homes belonging to and occupied by the petitioners. The
reasons stated in the petition for reclassification are that there has been a change in the
neighborhood sufficient to warrant reclassification, and that there was an error in the original
zoning at the time of the adoption of the Ninth District zoning map which was in November
of 1955.

The proposed development and site plan indicates that the developer and
builder wishes to construct a building of twenty (20) stories on the lot which will occupy
less than four (4) percent of the total land area. The large trees presently there will in the
main not be removed.

The access to the property will be from what is now called Bellona Lane
which dead-ends south of the Baltimore County Beltway. On this same street there are only
two other property owners north of the property who have not protested the application, and
one south of the property who appeared as a protestant although he testified that he has sold
his property at a profit and moved away from the neighborhood. East of the property on the
other side of Bellona Lane, between it and North Charles Street, is the Ruxton Towers apart-
ment building recently constructed, and west of the property a large tract of land zoned
"R-10" and "R-20", the owner of which has agreed to permit the County to put a sewer line
through to increase the existing capacity of the County sewer line approximately parallel
with the Beltway in this vicinity.

On the north of the property, across the Beltway, there is an area zoned
"B-R" upon which have been built three or more small industrial use buildings and a car-
tractor's storage yard which apparently is a non-conforming use. Behind this area, to the
north, lies some hillside property which has been zoned "R-A" and upon which construction
may begin at any time.

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ORDER

For the reasons set forth in the foregoing Opinion, it is this 10th day
of September, 1964 by the County Board of Appeals, ORDERED that the reclassification
and special exception petitioned for, be and the same is hereby granted subject to the
following conditions and restrictions:

- That the apartment building shall be limited to eighteen (18)
stories of apartment occupancy with a population density not to
exceed twenty-five (25) family units per acre, and with the
provision of 320 parking spaces as proposed on the site
plan filed in this case
- All plans for ingress and egress must be approved by the Office
of Planning and Zoning, the Department of Public Works, and the
Traffic Engineers of Baltimore County

Any appeal from this decision must be in accordance with Chapter 1100,
Subtitle B of Maryland Rules of Procedure, 1961 edition.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William S. Dineen
CHAIRMAN

William S. Dineen
CHAIRMAN

It is this 20th day of September, 1967 by the Zoning
Commissioner of Baltimore County ORDERED that the special exception in the
above entitled matter be and the same is hereby granted to September 10
1967.

John B. Howard
Zoning Commissioner of
Baltimore County

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON 4, MARYLAND

No. 19998
DATE 12/4/63

TO: Ernest G. Trinkle, Mayor
Jefferson Building
Towson 4, Md.

BILLED BY: Office of Planning & Zoning
119 County Office Bldg.
Towson 4, Md.

REPORT TO ACCOUNT NO.	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT COST
01.622		App. costs in matter of property of James H. McCosh, et al No. 63-66	70.00
		12-263 1484 * * * TIL-	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. 20123
DATE 9/19/63

TO: Messrs. Cook, Haid and Howard
22 W. Penna. Ave.
Towson 4, Maryland

BILLED BY: Zoning Department of
Baltimore County

REPORT TO ACCOUNT NO.	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT COST
01A-2		Advertising and posting of property for James H. McCosh, et al 63-66-41	80.53
		12-263 1484 * * * TIL-	80.53

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. 17846
DATE 6/26/63

TO: Messrs. Boone and Cook
22 W. Penna. Ave.
Towson 4, Md.

BILLED BY: Zoning Department of
Baltimore County

REPORT TO ACCOUNT NO.	QUANTITY	DETAILS UPPER SECTION AND RETURN WITH YOUR REMITTANCE	TOTAL AMOUNT COST
01.622		Petition for Reclassification & Special Exception for James McCosh, et al	50.00
		6-1263 1484 * * * TIL-	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.

OFFICE OF
THE BALTIMORE COUNTMAN
THE BALTIMORE NEWS
Baltimore, Md.
THE HERALD - ARGUS
Catonville, Md.

No. 1 Newburg Avenue
CATONVILLE, MD.

September 9, 1963

THIS IS TO CERTIFY, that the annexed advertisement of
John G. Hory, Zoning Commissioner of
Baltimore County
was inserted in THE BALTIMORE COUNTMAN, a group of
three weekly newspapers published in Baltimore County, Mary-
land, once a week for One Week consecutive weeks before
the 3rd day of September, 1963, that is to say
the same was inserted in the issues of
August 30, 1963.
THE BALTIMORE COUNTMAN
By Paul J. Morgan
Editor and Manager

IN THE COURT OF APPEALS OF MARYLAND

No. 225

September Term, 1965

ROBERT VOGEL

v.

JAMES N. MCCOSH, et al.

Hammond
Hornay
Harbury
Barnes
McWilliams,
JV.

Opinion by Barnes, J.

Filed: April 28, 1966

The appellees, James N. McCosh, Mary Ann McCosh, his wife, and Betty M. LeBrun, as owners of a 9.64 acre tract of land in the Ninth Election District of Baltimore County filed an application on June 10, 1963 to rezone that tract from its existing zoning of R-10 (Residence-One family) to R-A (Residence-Apartments) and for a special exception to use the property for elevator apartments.

The 9.64 acre tract (the subject property) is bounded on the north by Judges Lane, on the east by Bellona Lane, on the south by a tract of land, improved by a dwelling, and presently zoned R-10 the south boundary of which is Bellona Avenue and on the west by 40 acres of undeveloped land presently zoned R-10. On the east side of Bellona Lane, across from the subject property, Ruxton Towers, a large high rise apartment on land zoned R-A has been recently constructed. To the east of Ruxton Towers is Charles Street, a dual lane highway which gives access to Baltimore City. East of Charles Street there are three separate tracts of land, all of which have been recently rezoned for apartment use. To the north of Judges Lane is a tract of land zoned R-10, the owners of which did not object to the application involved in the case at bar, and still farther north is the Baltimore County Beltway.

1. The tract lying to the south of the subject property has a frontage on Bellona Avenue of approximately 460 feet and a depth of approximately 250 feet from Bellona Avenue to the southern boundary line (irregular) of the subject property.

The Zoning Commissioner concluded that there had been sufficient changes in the area to justify the requested reclassification, that Bellona Avenue would apparently become the equivalent to a service road to serve apartments on either side of Bellona Avenue, and was not a boundary between zones and that the application should be granted. He granted the reclassification and the special exception on November 1, 1963.

An appeal was taken to the County Board of Appeals of Baltimore County (the Board) and the Board heard the appeal on July 2, 1964. At this hearing the developer testified that it was proposed to erect a 20 story high rise apartment building which would cover approximately 4 1/2 (actually 3.86%) of the subject property; that there would be 250 apartment units - a density of 26 units per acre - and that there would be 320 parking spaces of which 50 would be under cover and 270 exposed; that there would be attractive landscaping which would include the preservation of the existing large trees; and, that there would be a swimming pool constructed to the north of the proposed apartment building. There was also testimony before the Board of various changes in the neighborhood which changed its character since the adoption of the comprehensive zoning map in 1955.

The principal thrust of the argument of the protestants against the granting of the application was because it would allegedly create a traffic hazard. The protestants produced a well-qualified expert Jerome B. Wolff who testified that in his

opinion a traffic hazard would result from the proposed construction. The applicants produced a well-qualified expert Joseph D. Thompson who testified that in his opinion no such traffic hazard would be created. Although Mr. Wolff's testimony was somewhat more detailed and explicit than was Mr. Thompson's testimony, the Board accepted Mr. Thompson's opinion and concluded that no traffic hazard would result. The Board rendered a comprehensive opinion on September 10, 1964 setting out various changes in the neighborhood since 1955, the desirability of the tract for a high rise apartment, granted the reclassification and the special exception but limited the latter to an apartment building of 18 stories (vs. 20 stories in the application) with a population density of 25 families an acre (vs. 26 families an acre in the application). The same number of parking spaces, 320, was continued.

An appeal was taken on October 9, 1964 to the Circuit Court for Baltimore County from the Board's order of September 10 by Robert A. Scheidt, Arthur Ringman, Robert Vogel, Errol Hay and William Oum. The applicants filed a motion to dismiss this appeal on October 30 on the ground that the persons appealing were not persons aggrieved as required by the zoning regulations. Judge Jenifer filed a memorandum opinion and an order on February 9, 1965 in which he granted the motion to dismiss as to all of the persons mentioned except Robert Vogel and denied the motion as to Mr. Vogel, who is the appellant in this Court.

5/18/65

ROBERT VOGEL

VS.

G. MITCHELL AUSTIN,
WILLIAM S. BALDWIN and
W. GILES PARKER

Constituting the County Board of
Appeals of Baltimore County

IN THE
CIRCUIT COURT FOR
BALTIMORE COUNTY

Misc. Docket 7
Folio 428
Case No. 3105

PETITION AND ORDER

Robert Vogel, Appellant, hereby applies for an extension of time for the transmittal of the records from the Circuit Court for Baltimore County to the Court of Appeals of Maryland, and assigns the following reasons thereof:

1. That because of the pressure of work generally and another zoning case presently in preparation to the Court of Appeals by the Attorney for the Appellant, and because of the large number of protestants, on whose behalf the Appellant, Mr. Vogel, is acting, who must be contacted to determine the number of questions to present on Appeal (and therefore the amount of money to be raised and expended on the Appeal), it will be impossible to transcribe the record and prepare the papers within the time prescribed, and therefore suggests that the period for transmittal for the record be enlarged to a period of ninety ⁶⁰ ~~(90)~~ days after the Order of Appeal.

/s/
Ernest C. Trimble
Attorney for Appellant

Leave granted this 8th day of May, 1965 as prayed.

/s/ JOHN E. RAINE, JR.
JUDGE

I HEREBY CERTIFY, That on this 18th day of May, 1965, a copy of the foregoing Petition and Order was mailed to E. Scott Moore, Esquire, County Office Building, Towson, Maryland 21204 and James H. Cook, Esquire, 22 West Pennsylvania Avenue, Towson, Maryland 21204.

/s/
Ernest C. Trimble
404 Jefferson Building
Towson, Maryland 21204

*Rec'd 6-2-65
11:00 AM*

[illegible]

PROPOSED ZONING OF PROPERTY R-1D
 PROPOSED ZONING OF PROPERTY R-1A
 WITH SPECIAL EXCEPTION FOR A 20 STORY
 ADJUTMENT BUILDING
 PROPOSED LABEL OF PROPERTY 261 ACRES
 PROPOSED DENSITY 20 UNITS PER ACRE
 PROPOSED TOTAL NUMBER OF ADJUTMENT UNITS
260 UNITS
 PROPOSED TOTAL NUMBER OF PARKING SPACES 220 OF 9'x16' EACH
0 UNDERCOVER 0
0 TOTAL PARKED 220
 PERCENTAGE OF PARKING AREAS 0
 BY THE PROPOSED BUILDING 0.8%

ELECTION DISTRICT NO 9
PERMITTED NET ACREAGE 9.09
PERMITTED GROSS ACREAGE 9.54
PERMITTED NET DENSITY 14.4 RESIDENCES / ACRE
PERMITTED GROSS DENSITY 14.4 RESIDENCES / ACRE
PROPOSED NET DENSITY 28 UNITS / ACRE
PROPOSED GROSS DENSITY 26 UNITS / ACRE

#63-66 RX
MAP
#9
SEC. 3-C
RA-X
NW-11-A

$$\begin{array}{r} 28 \\ 9 \\ \hline 252 \end{array}$$

$$\begin{array}{r} 9.6 \\ 2.6 \\ \hline 516 \\ 142 \\ \hline 249.6 \end{array}$$

$$\begin{array}{r} 9.09 \\ 28 \\ \hline 7272 \\ 1918 \\ \hline 25452 \end{array}$$

$$\begin{array}{r} 9.1 \\ 28 \\ \hline 72 \\ 142 \\ \hline 25452 \end{array}$$

THE WHITING-TURNER CONTRACTING CO.
ENGINEERS AND GENERAL CONTRACTORS
BALTIMORE MARYLAND

THE CHARLES GATE

PLOT PLAN OF LEBUN AND McCOSH PROPERTIES
 SHOWING PROPOSED USE WITH CHANGE IN ZONING
 FROM R-10 TO R-A WITH SPECIAL EXCEPTION FOR
 A NEW FIVE APARTMENT BUILDING

DESIGN: NABUKO

SCALE: 1" = 50'
DATE: 16 APRIL 1968

1 DWG. NO. 1