

10-13-70

IN THE COURT OF APPEALS OF MARYLAND

No. 432

September Term, 1967

FRANKLIN CONSTRUCTION COMPANY

v.

GOLDBERGSON, J. WELSH, et al

Remond, J.J.
Bryant
C. Williams
C. Smith

et al.

Opinion by Barnes, J.

Filed: December 31, 1968

MICROFILMED

This case involves an appeal by the Franklin Construction Company (Franklin), from an order of the Circuit Court for Baltimore County (Proctor, J.), dated January 3, 1968, which affirmed a decision of the County Board of Appeals of Baltimore County (the Board), dated December 12, 1966, denying the petition of Franklin to rezone from an R-10 zone (residential, one family, 10,000 square feet per lot) to a B-1 zone (business-local) a 7.3 acre tract of land owned by Franklin in the Catonsville area of the First Election District of Baltimore County (the subject property).

The subject property has a frontage of approximately 340 feet on the east side of Bloomsbury Avenue. It is bounded on the south by Spring Grove Lane, on which it has a frontage of approximately 494 feet, on the southeast by the right-of-way of the Catonsville Short Line Railroad for a distance of 735.8 feet, and on the north by the property of the German General Orphan Home for a distance of 849.37 feet. The subject property is improved by two old residential buildings.

Immediately to the southeast of the railroad right-of-way lies the property of the Spring Grove Asylum, the principal of the Asylum being located at the intersection of Spring Grove Lane and the railroad right-of-way. The Asylum operates an elevated spur of the railroad for use in dumping coal for the operation of its power plant.

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The subject property slopes from the north to the south with a grade varying between 10% to 15% and in some areas as much as 20%. From west to east it slopes an average of 10%, with a drop of approximately 40 feet over a 200 foot distance.

The subject property was zoned R-10 by the County Council of Baltimore County in the comprehensive zoning adopted on April 5, 1960. North of the subject property, on the same side of Bloomsbury Avenue the land is also zoned R-10 and is used for institutional purposes by the German General Orphan Home. The eastern edge of the subject property abuts the large tract of land occupied by another institutional use, the Spring Grove State Hospital. To the south of the subject property between Spring Grove Lane and Holmes Avenue is a tract of land zoned R-6 (residential, one and two-family, 6000 square feet per lot) and developed with several single family homes. South of Holmes Avenue, between Holmes Avenue and the Catonsville Senior High School, the land is zoned R-10 and is so developed. West of Bloomsbury Avenue the land is also zoned R-10 with the exception of a small triangular tract of land adjacent to the subject property zoned B-1 (residence, apartments, etc., served by garden apartments).

Bloomsbury Avenue had for some years, and at the present time has, a right-of-way of 30 feet of which 22 feet are paved. There is a proposal to expand its right-of-way to 50 feet with 44 feet of paving, but the uncontradicted testimony

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of George E. Javrelis, Director of Planning in the Baltimore County Office of Planning and Zoning, indicated that the "current county capital program, which extends through the year 1971, contains no specific program for improvement to Bloomsbury Avenue, or any road in the very immediate area of the subject property."

Franklin acquired the subject property in 1954. In 1958, it applied for B-1 (manufacturing-restricted) zoning but the Board denied this application for rezoning principally on the ground that a traffic hazard would be created. On appeal to the Circuit Court for Baltimore County, the decision of the Board was affirmed on January 26, 1960. No appeal was taken to this Court. The present application for B-1 zoning, as amended, is for the erection of six buildings principally used for commercial purposes, offices and parking. Three of the proposed buildings, generally facing Spring Grove Lane, would have either eight or nine levels and would be 100 feet above Bloomsbury Avenue. The required parking would be for 645 vehicles. The development plan would provide for 104 parking spaces in Building No. 5, 104 parking spaces in Building No. 6 and 44 surface parking spaces, a total of 252 spaces, or five more than the required parking spaces. There would be approximately 1,000 square feet in the proposed buildings for commercial use and 1,000 square feet for office space. In the amended application there would be no apartments.

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Jack O. Short, Jr., a vice president and minority stockholder of Franklin, was the principal witness for Franklin at the hearing before the Board. He is a consulting engineer and graduated from the School of Engineering of the Johns Hopkins University in 1934. He testified in regard to the project, the terrain and surrounding property and also in regard to the traffic problem. He had personally made a traffic count and considered that the traffic situation was critical. He testified further that there had been a severe traffic problem since 1947 and that it would remain critical until Baltimore County relieved it. He also testified that the operation of the project would increase the traffic to Bloomsbury Avenue. It was his opinion that if Bloomsbury Avenue were widened it would be of ample capacity to take care of the traffic which would be generated by the project. On the question of the use of the subject property under R-10 zoning, he testified: "It is not suitable; nothing is impossible, but I can't possibly picture anyone that would buy the property or build homes on an R-10 development plan."

David H. Wilson, an architect and site planner, testified on behalf of the applicant. He testified that after he had visited the subject property an analysis was made at his office in regard to the traffic situation and other relevant

matters. Mr. Wilson conceded that the subject property could be used for R-10 development but that, in his opinion, it was "less than ideal" and as a site planner he would advise a client not to build in the area under the R-10 zoning. He further conceded that the 10% slope was not excessive and although one would not pick a 10% slope for development "it certainly could be used for R-10 zoning, there are many individual house developments where 10% slopes and greater slopes have been adapted for use." In regard to the traffic situation Mr. Wilson testified that he "couldn't but concur with the statement that the road is inadequate. The traffic was heavy when we were there. The road appeared unsafe, and there was congestion . . . a half mile north of Frederick Road."

Mr. Wilson was prepared to offer an opinion in regard to the proper and best use of the land but the Board refused to receive the evidence on the ground that Mr. Wilson was not qualified to give such an opinion. Counsel for the applicant made a proffer of what would be Mr. Wilson's testimony and the proffer was refused, counsel taking an exception to this ruling.

Dr. W. Worthington Bell, a well-qualified traffic engineer, was called as a witness for the applicant. Dr. Bell has made a traffic study of the area. He testified that beginning in the year 1963 there had been approximately a 35% increase in the amount of traffic on Bloomsbury Avenue which he testified as an inordinate increase so far as the road is concerned and further that Bloomsbury Avenue "during the peak hour of the morning is constantly jammed." He further testified that additional institutional construction in the neighborhood would

"undoubtedly create more traffic" and that even development of the subject property on the basis of R-10 zoning would create more traffic problems. It was his opinion that if Bloomsbury Avenue were widened to the contemplated 44 feet, it would have a capacity to handle traffic generated by the proposed development.

Mr. Javrelis testified for the protestants and pointed out that the planning department of Baltimore County had recommended that the proposed rezoning should not be granted. The comments of the planning staff were as follows:

"1. Property adjacent to the subject parcel generally is zoned R-10 or is unincorporated public land. The surrounding area is developed residentially or with institutional use. The rezoning requested would result in the creation of a spot zone.

"2. Accessibility to the subject parcel is extremely poor. Bloomsbury Avenue, which is the primary road serving the property, has only a thirty-foot right of way, with a twenty-two-foot-wide pavement. There are no east-west cross connections. Thus, the site is under a dead-end served for any Business Local use at all, much less for uses of the scale shown on the petitioner's plan. The latter is a good example of the grossly out-of-proportion land-use potentials which this property would have were the rezoning requested to be granted. The development shown on the plan would be appropriate in a town center, perhaps near an expressway interchange, or possibly integrated with a large industrial park by the creation of the development could it be considered appropriate at the subject location.

"3. It is our considered opinion that the Joint District Comprehensive Zoning Map, as currently adopted, and that there have been no changes in the area of the subject property that would justify any change in the present zoning."

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Mr. Javrelis testified that, in his opinion, he would not say that the subject property was no longer suitable as R-10 and stated "R-10 was recommended as a zone that will allow this property to develop in some fair harmony with its neighbors, at a density of somewhere around three to the acre. He further testified that he was "not taking a position that simply improving a road per se is going to necessarily justify other alternate land use zoning classifications."

A number of neighboring property owners testified in opposition to the granting of the application. Their testimony principally dealt with the dangerous road conditions on Bloomsbury Avenue and with the ever increasing danger to school children and pedestrians.

As already indicated, the Board denied the application. After describing the subject property and reviewing the past zoning history of the property, the Board, in its opinion, stated:

"There have been virtually no changes in the neighborhood since 1960 that would justify the rezoning requested here. The petitioner admits that the traffic on Bloomsbury Avenue is heavily congested, and that it is undeniably more congested now than in 1960 when the Board affirmed the Board's denial of the previous zoning request. However, he advances the rather unconvincing argument that by virtue of the County's failure to improve Bloomsbury Avenue, the County is depriving the property owner of any reasonable use of his property.

"The Board cannot agree with this contention as the property has definitely been used in its present classification. Further,

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if we were to accept this argument, any person, for example, who a large tract of land situated in a remote rural area not served with public utilities, could use the same argument that he was being deprived of the use of his land by reason of the County's failure to extend utilities to his property.

"The Board cannot find, from the evidence, that there has been any change in conditions between 1960 and the present time and, therefore, feels constrained to follow Judge Bottom's decision in the previous case and finds that the petition here is again premature."

As we have stated, Judge Proctor in the Circuit Court for Baltimore County affirmed the Board's action. Judge Proctor filed an opinion substantially concurring in the findings of the County Board that there was no change in the area and no substantial evidence in the record which would justify the rezoning in this case and that the Board's action was not arbitrary, unreasonable, illegal or capricious. We agree with Judge Proctor's conclusion and will affirm the order affirming the Board's action in this case.

Franklin makes two principal contentions:

1. The present R-10 zoning combined with the failure on the part of Baltimore County for a number of years to provide an adequate access road, deprive Franklin of all beneficial use of the property and results in an unconstitutional taking of its property.
2. There are neighborhood changes and an error in original zoning which justify the requested rezoning.

Franklin also argues that the Board erred in rejecting certain evidence proffered to it by Franklin at the zoning hearing.

1.

In our opinion the evidence offered by Franklin does not establish that the subject property may not reasonably be developed under the present R-10 zoning.

Mr. Chertkof did not categorically testify that it was impossible to develop the land for single dwellings under the R-10 zoning but stated that in his opinion it "was not suitable." On the other hand, Mr. Wilson testified that the 10% slope was not excessive and that the subject property "could be used for R-10 development." In short, Franklin's own proof does not even establish, prima facie, any taking of its property for a public purpose without compensation as prohibited by Article III, Section 40 of the Constitution of Maryland. When the testimony of Mr. Gavrelis was also considered, it seems clear to us that there has been no proof sufficient to establish an unconstitutional taking of Franklin's property; on the contrary, there was substantial evidence that the subject property can be used under the present R-10 zoning. The burden on an applicant to establish an unconstitutional taking under the zoning law is a heavy one and not only must the applicant for rezoning show that a particular use of the property cannot be made under the existing zoning but that the subject property cannot reasonably be used for any of the uses permitted in the existing zoning. Taubert v.

Montgomery County Council, 244 Md. 330, 223 A.2d 615 (1966); Mayer and City Council of Baltimore v. Boring, 239 Md. 611, 212 A.2d 508 (1965). As the uses as permitted and as limited in the R-10 zone are permitted in the R-10 zone, Franklin would have to establish that the subject property could not be used for these permitted uses in addition to the single family development use. Franklin made no attempt to do this.

Franklin urges the novel contention that if the Board did grant the requested B-1 zoning, the great addition of motor traffic on Bloomsbury Avenue would force the County officials to proceed with the widening of that road and that for this reason, the requested zoning should be granted. It is clear to us that the determination of county policy in regard to the widening of roads - a policy which involves a consideration of many factors, financial and otherwise - is not committed to the Board but to the executive and legislative branches of the county government and it would have been improper for the Board to have granted the requested zoning on this theory. The Board was confined to the consideration of the traffic problem as it existed at the time of the hearing and it is undisputed that the granting of the requested zoning and the construction of the project would substantially increase the present traffic hazard.

2.

Franklin urges that the granting of the R-A zoning for the small triangle adjacent to the subject property and on which the Westridge Apartments (garden-apartments) were subsequently built, with other factors, constitute changes in the

neighborhood sufficient to justify the requested rezoning of the subject property to B-1. Franklin also suggests that since the R-10 zoning represented an unconstitutional taking, there was error in original zoning. In regard to the latter contention, we have already indicated that, in our opinion, there was and is no unconstitutional taking so that this suggested ground for error in the original zoning is not established.

Assuming, without deciding, that the changes in which Franklin relies would have been sufficient to have justified the Board in granting the requested B-1 zoning, it is clear from our prior decisions that the change in conditions in the neighborhood of the property in question does not give the Board the right to grant the requested rezoning. Appellate, 239 Md. 611, 212 A.2d 508, 223 A.2d 757, 761 (1967); Putnam Trust Co. v. Board of County Commissioners, 230 Md. 536, 539, 194 A.2d 840, 842 (1963). When the Board granted the requested rezoning notwithstanding changes in conditions which might justify such rezoning, the question is whether or not the Board's action was arbitrary, unreasonable and capricious. Montgomery County Council v. Brackman, 249 Md. 194, 199, 238 A.2d 912, 914-15 (1968); Appellate, 249 Md. 194, 199, 238 A.2d 912, 914-15 (1968); Appellate, 249 Md. 194, 199, 238 A.2d 912, 914-15 (1968); Appellate, 249 Md. 194, 199, 238 A.2d 912, 914-15 (1968).

As we view the evidence, the issues before the Board were at least fairly debatable and when this is the situation, the Courts do not substitute their judgment for that of the Board or hold that the action of the Board was arbitrary, unreasonable and capricious. Montgomery County v. Substantial Supply, 249 Md. 606, 241 A.2d 404, 405 (1968).

Franklin argued that the Board was in error in refusing the proffer of the opinion xxx evidence of Mr. Wilson which we have already mentioned and also in refusing to permit Franklin to introduce into evidence an official publication made by the authorities of Baltimore County concerning the development plans for the Otonoville area.

Assuming, without deciding, that the Board was in error in refusing to admit this evidence, our review of it indicates to us that, in any event, Franklin was not prejudiced by the rulings as the evidence if admitted would not, in our opinion, have changed the result which the Board reached. An erroneous ruling on the admission of evidence will not justify a reversal unless there has been prejudice resulting from the ruling. Fennell v. G.A.O. Finance Corp., 242 Md. 209, 213 A.2d 402 (1966); Shane Agro Products Co. v. R. E. Darling, Inc., 238 Md.

2. We have held that the recommendation of the Technical Staff in the proposed rezoning in a well reasoned report is sufficient, in itself, to constitute probative evidence justifying a denial of rezoning by the Board. Montgomery County Council v. Shikata, 249 Md. 194, 199-200, 238 A.2d 912, 915 (1968) and cases cited in the opinion in that case.

93, 208 A.2d 74 (1965) cert. den. 382 U. S. 843, 86 S.Ct. 77, 15 L.Ed.2d 83; Mered v. Yellow Cab Co., 237 Md. 240, 206 A.2d 257 (1965); Marlow v. Davis, 227 Md. 204, 176 A.2d 215 (1961); Hughes v. Averna, 223 Md. 12, 161 A.2d 671 (1960).

ORDER AFFIRMED, THE APPELLANT
TO PAY THE COSTS.

FRANKLIN CONSTRUCTION
CO. INC., a body corporate,
19 West Franklin Street
Baltimore, Maryland 21201,
Appellant
vs.
WILLIAM S. BALDWIN,
W. CLARE PARKER, and
R. BRUCE ALDERMAN,
Constituting the
County Board of Appeals
of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204,
Appellee

IN THE

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Case No.

At Law

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ORDER OF APPEAL

MR. CLERK:

Please enter an appeal to the Circuit Court for Baltimore County on behalf of Franklin Construction Company from the Order of the County Board of Appeals of Baltimore County denying reclassification from R-10 zoning to a B-1 zoning of property at the northeast side of the intersection of Bloomsbury Avenue and Spring Grove Lane in the First District of Baltimore County.

W. Hamilton Whiteford
Sun Life Building
Charles Center
Baltimore, Maryland 21201
Phone 2-0987
Attorney for Appellant

I HEREBY CERTIFY that a copy of the foregoing

Order of Appeal was mailed to William S. Baldwin, W. Giles Parker and R. Bruce Alderman, 111 West Chesapeake Avenue, Towson, Maryland 21204, Richard D. Payne, Esquire, 26 West Pennsylvania Avenue, Towson, Maryland 21204, John H. Massey, IV, Esquire, 1311 Fidelity Building, Baltimore, Maryland 21201.

W. Hamilton Whiteford

if we were to accept this argument, any person, for example, with a large tract of land situated in a remote rural area not served with public utilities, could use the same argument that he was being deprived of the use of his land by reason of the County's failure to extend utilities to his property.

"The Board cannot find, from the evidence, that there has been any change in conditions between 1950 and the present time and, therefore, feels constrained to follow Judge Gottman's decision in the previous case and finds that the petition here is again premature."

As we have stated, Judge Proctor in the Circuit Court for Baltimore County affirmed the Board's action. Judge Proctor filed an opinion substantially concurring in the findings of the County Board that there was no change in the area and no substantial evidence in the record which would justify the rezoning in this case and that the Board's action was not arbitrary, unreasonable, illegal or capricious. We agree with Judge Proctor's conclusion and will affirm the order affirming the Board's action in this case.

Franklin makes two principal contentions:

1. The present R-10 zoning combined with the failure on the part of Baltimore County for a number of years to provide an adequate access road deprives Franklin of all beneficial use of the property and results in an unconstitutional taking of its property.

2. There are neighborhood changes and an error in original zoning which justify the requested rezoning.

Franklin also argues that the Board erred in rejecting certain evidence proffered to it by Franklin at the zoning hearing.

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In our opinion the evidence offered by Franklin does not establish that the subject property may not reasonably be developed under the present R-10 zoning.

Mr. Chertoff did not categorically testify that it was impossible to develop the land for single dwellings under the R-10 zoning but stated that in his opinion it "was not suitable." On the other hand, Mr. Wilson testified that the 10% slope was not excessive and that the subject property "could be used for R-10 development." In short, Franklin's own proof does not establish, prima facie, any taking of its property for a public purpose without compensation as prohibited by Article III, Section 40 of the Constitution of Maryland. When the testimony of Mr. Givrelle was also considered, it seems clear to us that there has been no proof sufficient to establish an unconstitutional taking of Franklin's property; on the contrary, there was substantial evidence that the subject property can be used under the present R-10 zoning. The burden on an applicant to establish an unconstitutional taking under the zoning law is a heavy one and not only must the applicant for rezoning show that a particular use of the property cannot be made under the existing zoning but that the subject property cannot reasonably be used for any of the uses permitted in the existing zoning. Tucker v.

Montgomery County Council, 244 Md. 338, 245 A.2d 615 (1968); Mayor and City Council of Baltimore v. Farinow, 239 Md. 611, 212 A.2d 508 (1965). As the uses as permitted and as limited in the R-10 zone are permitted in the R-10 zone, Franklin would have to establish that the subject property could not be used for these permitted uses in addition to the single family development use. Franklin made no attempt to do this.

Franklin urges the novel contention that if the Board did grant the requested B-1 zoning, the great addition of motor traffic on Bloomsbury Avenue would force the county officials to proceed with the widening of that road and that for this reason, the requested zoning should be granted. It is clear to us that the determination of county policy in regard to the widening of roads - a policy which involves a consideration of many factors, financial and otherwise - is not committed to the Board but to the executive and legislative branches of the county government and it would have been improper for the Board to have granted the requested zoning on this theory. The Board was confined to the consideration of the traffic problem as it existed at the time of the hearing and it is undisputed that the granting of the requested zoning and the construction of the project would substantially increase the present traffic hazard.

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Franklin urges that the granting of the R-A zoning for the small triangle adjacent to the subject property and on which the Westridge Apartments (garden-apartments) were subsequently built, with other factors, constitute changes in the

neighborhood sufficient to justify the requested rezoning of the subject property to B-1. Franklin also suggests that since the R-10 zoning represented an unconstitutional taking, there was error in original zoning. In regard to the latter contention, we have already indicated that, in our opinion, there was and is no unconstitutional taking in that this suggested ground for error in the original zoning is not established.

Assuming, without deciding, that the changes on which Franklin relies would have been sufficient to have justified the Board in granting the requested B-1 zoning, it is clear from our prior decisions that the change in conditions in the neighborhood of the property in question does not require the Board to grant the requested rezoning. Shenfield, Inc. v. Board, 247 Md. 612, 620, 233 A.2d 757, 761 (1967); Thurman Branch Land Co. v. Board of County Council, 239 Md. 535, 539, 191 A.2d 640, 642 (1963). When the Board granted the requested rezoning notwithstanding changes in conditions which might justify such rezoning, the question is whether or not the Board's action was arbitrary, unreasonable and capricious. Montgomery County Council v. Shenfield, 249 Md. 194, 199, 235 A.2d 912, 914-15 (1968); Annapolis, Inc. v. Board of County Council for Montgomery County v. Sandelman, 247 Md. 491, 494, 177 A.2d 687, 690 (1962).

As we view the evidence, the issues before the Board were at least fairly debatable and when this is the situation, the Courts do not substitute their judgment for that of the Board or hold that the action of the Board was arbitrary, unreasonable and capricious. Montgomery County v. Shenfield, supra; Brouillett v. Budwood Shopping Plaza, Inc., 245 Md. 606, 608, 241 A.2d 404, 405 (1968).

Franklin argued that the Board was in error in refusing the proffer of the opinion xxx evidence of Mr. Wilson which we have already mentioned and also in refusing to permit Franklin to introduce into evidence an official publication made by the authorities of Baltimore County concerning the development plans for the Catonsville area.

Assuming, without deciding, that the Board was in error in refusing to admit this evidence, our review of it indicates to us that, in any event, Franklin was not prejudiced by the rulings as the evidence if admitted would not, in our opinion, have changed the result which the Board reached. An erroneous ruling on the admission of evidence will not justify a reversal unless there has been prejudice resulting from the ruling. Fennell v. G.A.C. Finance Corp., 242 Md. 209, 215 A.2d 492 (1966); Spase Aero Products Co. v. W. E. Darling Co., 238 Md. 241, 243, 238 A.2d 100, 102 (1968).

3. We have held that the recommendation of the Technical Staff against the proposed rezoning in a well reasoned report to the Board, in itself, to constitute probative evidence justifying a denial of rezoning by the Board. Montgomery County Council v. Shenfield, 249 Md. 194, 199, 235 A.2d 912, 914-15 (1968) and cases cited in the opinion in that case.

95, 208 A.2d 74 (1965) cert. den. 384 U.S. 843, 86 S.Ct. 77, 15 L.Ed.2d 83; Marlow v. Yellow Cab Co., 237 Md. 340, 205 A.2d 257 (1965); Marlow v. Davis, 227 Md. 204, 176 A.2d 215 (1961); Hughes v. Aversa, 225 Md. 12, 161 A.2d 671 (1960).

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WILLIAM S. BALDWIN, W. GILES PARKER, and R. BRUCE ALDERMAN, Constituting the County Board of Appeals of Baltimore County County Office Building 111 West Chesapeake Avenue, Towson, Maryland 21204, Appellee

IN THE
CIRCUIT COURT
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W. Hamilton Whiteford

10-13-70

IN THE MATTER OF : BEFORE THE
THE PETITION OF : COUNTY BOARD OF APPEALS
FRANKLIN CONSTRUCTION CO. : FOR BALTIMORE COUNTY

Case No. 65-342-R
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PETITIONER'S BRIEF

Because of the fact that there was virtually no dispute on the more important factors in this case, reference to these factors will not be extended.

1. PROPERTY IS NOT NOW NOR WAS IT AT THE TIME OF THE ADOPTION OF THE ZONING MAP ADAPTABLE TO R-10.

The topography of the ground, the adjacency of the Spring Grove Institute, the unattractiveness of the coal tipples and large smoke stack of that latter institute, the noise emanating from the power house at Spring Grove, the railroad track, all lead to the inescapable conclusion that the land is not adaptable to those present zoning restrictions. Dr. David H. Wilson, a highly reputable architect in the community, testified he would not advise a client to try to adapt the land to R-10 usage and that economically it would not be feasible. Mr. Jack Chertkof, himself an expert in the land planning field in addition to being an officer of the petitioner corporation, testified in like respect. Even one of the protestants, Mr. P. T. Lemmon, gave convincing reasons as to the unadaptability of the land as presently zoned. Judge Gontrum in his opinion of some years ago reiterated that fact.

Hence the Petitioner has been paying taxes to Baltimore County for a number of years on property to which he cannot put

to use for the only use allowed under the zoning map. This is tantamount to basic legal confiscation.

The Court of Appeals in the case of Baltimore vs. Cohn, 204 Md. 523, has characterized a like situation in the following language:

"A zoning restriction will be regarded as arbitrary and unreasonable as to a property owner who is unable to use his property for any of the permitted purposes and is therefore deprived of beneficial use thereof. Thus we reaffirm the doctrine that a zoning ordinance which permanently so restricts the use of property that it cannot be used for any reasonable purpose goes beyond permissible regulation, and must be regarded as a taking of property without compensation."

2. THERE HAVE BEEN NEIGHBORHOOD CHANGES JUSTIFYING CHANGE IN ZONING.

In recent years an adjacent land owner has been granted RA zoning. The building of new scholastic institutions such as the nearby University of Maryland Catonsville campus will produce upon the neighborhood new pressures, new demands and necessities for additional concentrated living quarters for faculty and students and for the accessory retail outlets. Apartment units are obviously the type of concentrated houses which will be needed for faculty and out-of-town students at the university. New traffic patterns are being generated. Additionally, the deterioration of the business area of Catonsville as testified to by various witnesses not only demonstrates neighborhood changes but highlights the necessity for the type of community service that the Petitioner proposes to give.

3. HISTORICAL BACKGROUND JUSTIFIES CHANGE IN ZONING.

Seven or eight years ago when the Petitioner

endeavored to reclassify its land to MR there was testimony by the then and now Director of the Office of Planning for Baltimore County which indicated that even at that time the authorities realized that the R-10 zoning on this tract should not remain static. Mr. Gravelis in his testimony in July, 1958, used the following expressions: "A reclassification use at the present time would be premature." Note that he did not say it was undesirable but he related the problem of traffic about which there will be further discussion. Again quoting Mr. Gravelis: "The classification has been recommended based primarily on the lot sizes on the west side of Bloomsbury Road." Since the date of his testimony there has been a change in the lot sizes on the west side of Bloomsbury Road (the RA zoning previously alluded to). Mr. Gravelis: "I believe our memorandum *** suggested that a future use of this property for MR would be proper and logical." "If Bloomsbury Road were the proper width to handle the traffic, we might recommend the change to MR but we would like to see the road there first." The then Board of Zoning Appeals rejected the petition for rezoning because of traffic and the case then went before Judge Gontrum whose opinion is part of the evidence in this case. Judge Gontrum had no difficulty in finding that the land was not adaptable for residential purposes, that the use to which the Petitioner wanted to put it to was in keeping with the surrounding area, but that because of the existing traffic situation he, Judge Gontrum, did not believe he should overrule the Board.

There have been no events in the intervening eight

years which alters the situation as it then existed, namely: that the land was not fit for R-10 zoning, that some form of commercial usage would be the highest and best use for the land; and that the accessory road, Bloomsbury Road, is undersized and overburdened.

The Petitioner has had to sit by for these eight years and although Baltimore County completed its engineering plans for the widening of Bloomsbury Road and even at one time had funds allocated for that purpose, nothing happened. The land has remained virtually unoccupied, the County has been deprived of potential revenue which a reassessment after building would bring, the land owner has been paying taxes and receiving no interest or yield on the value of the property, neighbors must still travel a minimal distance of one-half a mile to shop at retail outlets in a deteriorating neighborhood.

Nearly a year ago Petitioner becoming desperate with this moribund situation and after consultation with counsel and experts, endeavored to file a petition for reclassification to RL zoning with accessory residential uses. This application was to be accompanied by prepared development plans for 40,000 square feet accessory businesses, 60,000 square feet offices and approximately 130 apartments. These preparations were not hurried or made without consultation with experts but represented the most advisable use of the land. Mr. Chertkof testified that the Zoning Commissioner, Mr. Rose, refused to accept this application because there was no such classification in the Zoning Code.

It is Petitioner's position that it is not the function of the authorities preparing, interpreting and administering the

Zoning Code to resist or take a negative attitude in a situation which relief from the present zoning is obviously equitable and urgent. It is rather their obligation as we conceive it to be pliable to take proper measures to correct an obvious wrong. Whether or not this Board has ever exercised its amendatory powers under 501.7, we urge this is a situation for which 501.7 was specifically patterned. We set forth the regulation.

"501.7--The decision and order of the County Board of Appeals may affirm or reverse in whole, or in part, any decision or order of the Zoning Commissioner, or may modify the Order appealed from and direct the issuance of a permit for such modified use as it may deem proper, subject, however, to zoning regulations and restrictions."

It is a matter of no consequence to the Petitioner as to how procedurally it is released from the iron bounds of P-10 so long as an appropriate procedure is found. We suggest any of the following procedures:

- A modification to RL with residential usage.
- A modification to RA with a special exception and variance.
- The granting of the present petition.

4. TRAFFIC.

Assuming that the Board is convinced that it is not to the best advantage of Baltimore County or the surrounding neighborhood or the Petitioner that the land be continued R-10, the remaining problem for the Board is obviously a traffic situation. After the original case, in which the Petitioner's request for rezoning was denied entirely because of traffic congestion, traffic on Bloomsbury Road has become worse, the road has become

overburdened to the point where it is a menace. Testimony of the PTA, neighborhood associations and many other witnesses, including even Petitioner's traffic expert, amply demonstrate this situation. The road is a hazard for school children who must traverse it. All these factors have been called to the attention of the County authorities time and again, but the County having done all the necessary engineering and even appropriating money more than half a dozen years ago, has chosen to use the money elsewhere. The question is a simple one. Must Petitioner and others who may be in the same position as Petitioner lose the use of their land for an indefinite period of time until the County's conscience is shocked by some possible tragic accident to a school child or children which belatedly will cause the County to implement its planning of many years for the widening of the road? We contend that it is an indefensible position for the County to assess a land owner, collect taxes over a lengthy period of time, and not utilize some of this cash for the modernization of the facilities bordering the land. We contend from a practical point of view that if this zoning is granted and if the County authorities are apprised of the fact that the rezoning will generate more traffic that this coupled with the many protests which have been heard in evidence previously made to the County with regard to the condition of Bloomsbury Road will spark the action that is needed to correct this overburdened and dangerous road.

Authorities on this point are difficult to find outside of generalizations. For example, in Muhly vs. County Council, 218 Md. 543, at 547, the Court in discussing the recommendation

for a new road upon which the subject property would border had this to say:

"The Appellants contend that the Council laid too much stress on the proposed new road, which was no more than a 'gleam in the Commissioner's eye'.... But in Nelson vs. Montgomery County we pointed out that the Council had properly considered the widening of Spring Street to be an immediate prospect, and relative to the question of traffic congestion on the main artery. Indeed we held in that case that the Council properly declined a request of the Planning Commission to delay action on the application until it had completed its study of a revised plan for streets and highways, because delay would be unreasonable under the circumstances."

It is believed that it would be quite difficult to find another reported situation of an owner of substantial property being denied the highest and best use of his own land because of an accessory traffic condition when engineering plans had been made to alleviate the situation and still be faced with the same traffic problem eight years later when he again attempted to rezone. This inertia on the part of those responsible for the widening of roads and the correcting of traffic situations might exist for countless years in the future. Obviously and as was said by an American statesman, "The best way to judge the future is by what has happened in the past." Certainly there is nothing in the past history of the road planners which indicates that they without sufficient pressure will get around to widening Bloomsbury Road in the foreseeable future.

In the past dozen years courts have courageously pioneered new judicial concepts to fit changing needs. Despite the meagerness of existing precedents we believe that this Board should courageously in this case pioneer the philosophy that the land

must be put to its best use even if the then traffic situations are inadequate with the expectations; that the County road planning authorities must then necessarily correct inadequacies.

W. Hamilton Whiteford
W. Hamilton Whiteford
Attorney for Petitioner

IN THE MATTER OF
THE PETITION OF
FRANKLIN CONSTRUCTION CO.
COUNTY BOARD OF APPEALS
FOR BALTIMORE COUNTY
Case No. 65-142-R

PROTESTANTS' MEMORANDUM

The property which is the subject of this hearing is located on Bloomsbury Avenue between Rolling Road and Frederick Road in Catonsville at the heart of a residential area. Adjacent to the property is the General German Orphan Home all of its land being zoned as R-10. The subject property is located approximately two (2) blocks from the Catonsville Junior High School to the north and the Catonsville Senior High School to the south. All of these institutions are of the type which are usually located, because of necessity, in residential zones to serve the residents of the area.

The Petitioner has requested reclassification of approximately seven (7) acres of land located in the heart of this residential district from R-10 zone to B-L zone. He bases his reclassification on the following:

ERROR IN ORIGINAL ZONING AND/OR
CHANGE OF CONDITIONS IN THE NEIGHBORHOOD

As far as error in original zoning is concerned, the Maryland Courts have consistently stated their position as they did in MacDonald v. Board of County Commissioners of Prince George's County, 210 A. 2d 325, 238 Md. 549.

"We have repeatedly held that there is a strong presumption of the correctness of original zoning, and that to sustain a piecemeal change therefrom, there must be strong evidence of mistake in the original zoning or else of a substantial change in conditions."

They refer to the cases of Greenblatt v. Tony Schloss Properties Corp., 235 Md. 9, 13, 200 A. 2d 70 (1964); Shadynook

Imp. Assn. v. Holley, 232 Md. 205, 192 A. 2d 502 (1963).

The evidence presented by the Petitioner does not prove any error in original zoning. The only person who stated that there was error in original zoning was Mr. Jack Chertkof, President of Franklin Construction Company, testifying in his own behalf. After cross-examination, it was revealed that Mr. Chertkof had never developed any residential property, and therefore his experience with residential property was limited and could not be considered as expert testimony. The only other expert called by the Petitioner was Dr. David H. Wilson, an architect, who could not qualify as a competent land planner and developer, and was unable to state an opinion as to R-10 usage, but could only comment upon the plans developed by Mr. Chertkof.

The Protestants, however, produced the testimony of Mr. George E. Garvelis who had testified some eight (8) years before that this property was properly zoned for residential uses, and he felt that there was nothing now which would in any way change his mind and that the property in accordance with Planning Department's report was suitable for R-10 development and could so be used. Mr. Charles Steinbock, who qualified as an expert, testified to his familiarity with the particular property involved and the general neighborhood. He testified that the property was eminently suited for R-10 development and that there was a critical need for R-10 land in this area. The area itself is residential in nature and has been for many years prior to the adoption of the Land Use Map. No change in the area has occurred to make the land other than residential. The Protestants also produced the testimony of Mr. Ralph Karlisch, a realtor with nine years of experience in the area in question, who stated that there was a dire need for residential development in the area, and that in his opinion this piece of land could be readily developed as residential property.

The Petitioner refers to a service building located on the Spring Grove Hospital property which is quite a distance to the rear of the subject property. The service building has been referred to by the Petitioner as a steam plant. Although this service building is clearly visible in some aerial photographs presented by the Protestants, from the ground level all that can be seen from any point on Bloomsbury Avenue is the top of a smokestack. The current operations at Spring Grove Hospital are identical at the present time with their past operations which were practiced before the Land Use Map was adopted in April of 1960. A number of residents who live on Holmes Avenue and Hilltop Road, which are extremely close to the service building, testified that they purchased their homes about ten (10) to fifteen (15) years ago, and that the conditions were the same then as they are at the present time. They felt that the operations at Spring Grove Hospital have not in any way hampered the enjoyment or use of their land or homes. Further testimony revealed that during this ten (10) to fifteen (15) year period no homes in the immediate area of Spring Grove Hospital have been vacant or unsold for a long period of time. One resident testified that, during his residence of eleven (11) years in the neighborhood, to his knowledge only three (3) homes in the area had changed hands during that time.

The General German Orphan Home, which is adjacent to the subject property, is zoned R-10 and exhibits a well-landscaped piece of property having visible only buildings which are of a residential nature. Among the residential buildings there is a very attractive individual home built about five (5) years ago for the Superintendent of the General German Orphan Home. This home was built in such a way as to coincide with the residential

character of the neighborhood.

The past record of the neighborhood, and the testimony presented, reveals that there has been no change in this neighborhood since the adoption of the Land Use Map in April of 1960, further it was revealed that the neighborhood has remained substantially the same over a period of many years prior to the adoption of the Land Use Map. Spring Grove Hospital located in the general area of the subject property is operating now in the same manner as it has for the past fifteen (15) to twenty (20) years. The General German Orphan Home has been located in this area for approximately forty (40) years, and it too has continued to operate in the same manner as in the past. The Petitioner refers to the location of the new University of Maryland Campus as a change in the neighborhood. The location of the University of Maryland Campus, however, is too far removed from the immediate area to be considered a change in the area. The Petitioner rests his case heavily upon the fact that Mr. Ernest J. Heese has built some garden-type apartments directly across the street from the subject property. The testimony produced during the hearing developed that there had been a number of apartments in a large residential home located on the site, and that Mr. Heese had had the area zoned R. A. for the construction of garden-type apartments. This merely amounted to an expansion of the nonconforming use that had existed for some time in the area but was not a change in the area.

The Petitioner is proposing to build a complex of many office buildings, inside garages and retail stores. Since there is not at the present time any office building or retail establishment existing in the immediate area, such a complex would be spot zoning in its worse possible form.

The Petitioner also bases his reclassification on
TRAFFIC

- 2 -

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- 4 -

It was brought out continually throughout the hearing by expert testimony, that traffic conditions on Bloomsbury Avenue at the present time are rapidly reaching a state of maximum capacity. Any further development of land along Bloomsbury Avenue, such as suggested by the Petitioner, would result in a condition that would be highly injurious to the health, safety and welfare of the community. It was also revealed that there are no plans in the foreseeable future for the expansion or widening of Bloomsbury Avenue.

The Petitioner seems to be suggesting that the present overcrowded facilities be further overcrowded by the erection of the complex of buildings which are being proposed. He is suggesting that if these highway facilities are sufficiently overcrowded, the County will be required to expand the facilities to meet the needs of the Petitioner. Very little regard has been given, by the Petitioner, for the public safety of the school children who daily use Bloomsbury Avenue as the main artery to and from Catonsville Junior and Senior High School. The law seems to be clearly defined as laid down in the case of Furnace Branch Land Company v. Board of County Commissioners of Anne Arundel County, 194 A. 2d 640, 232 Md. 536. In the Furnace Branch Land Company case the Petitioner was able to show change in the neighborhood, which has not been shown in this case, but was unable to get the rezoning he desired because of inadequate sewage facilities in the area. The Court said:

"Change in conditions may justify the amendment of the existing zoning ordinance to reclassify a particular property, but it does not necessarily compel it. Even as in original zoning, rezoning must be in the general public interest for the promotion of the health, safety and welfare of the community, as well as in the individual interest of the land owner." Code (1957), Art. 68B, Sec. 21.

The Court of Appeals confirming the ruling of the lower Court in the Furnace Branch case denied the proposed rezoning. The Court

commenting on the inadequate sewage facilities stated:

"...that inadequate facilities for the disposal of sewage had been a long continued, dangerous and increasing problem which the government of Anne Arundel County had not been able to solve or catch up with, or that the sought reclassification, if granted, would compound the difficulties and the dangers."

Based upon the above the Court of Appeals felt that there was sufficient evidence to deny the proposed rezoning of the area on the bases that it was detrimental to the general health, safety and welfare of the community. Mr. Eugene J. Clifford, County Traffic Engineer, testified that the proposed use would generate Six Hundred (600) additional cars an hour on Bloomsbury Avenue in peak traffic periods. This would so overburden Bloomsbury Avenue as to make it a true danger to the general health, safety and welfare of Baltimore County. We respectfully submit that upon this basis alone the Petition of Franklin Construction Co. should be denied.

NEED FOR THE PROPOSED USE

It was developed through the Protestants' expert witnesses that there were available a number of unused buildings and some vacant land in the Catonsville business section which were suitable for office and retail use; however, due to lack of demand, these facilities were not being rented or leased. The Petitioner, himself, testified that he owned two and one-half (2½) acres of land at the intersection of Frederick Road and Beaumont Avenue which was vacant at that time. The Petitioner protests bitterly that by not granting the rezoning it is tantamount to legal confiscation, yet the Petitioner has never attempted to develop this land for R-10 use--though there is a severe scarcity of R-10 land in this area. Further, Mr. Howard H. Walsh, Pres-

ident of the Board of Directors of General German Orphan Home, testified that within the last few months Mr. Chertkof had been in contact with the General German Orphan Home offering to buy more of this R-10 land which adjoins the Petitioner's tract of land. If he were sincere in his plea that he cannot use the land, certainly he would not be attempting to buy more.

By the relief requested in the Petitioner's Brief, the Petitioner has attempted to modify, change, enlarge and even to abandon portions of his original request for rezoning after the zoning hearing and after conclusion of the testimony before the County Board of Appeals.

There is a procedure established which protects the community, the County and the Petitioner by requiring the innovation of any zoning before the Zoning Commissioner and the right of the Board to review his decision, but certainly it was never the intent, implied or expressed, that the County Board of Appeals had complete freedom to rezone land, by granting to petitioners classifications which were not petitioned for, and plans for which the Baltimore County Planning Department never had an opportunity to review and the general public never had an opportunity to defend themselves against. Certainly if the Petitioner has a change of heart as to how he now wishes to use the land, he must initiate a new proceeding in due course before the Zoning Commissioner.

The Protestants, therefore, respectfully request that the Petitioner has not met the burden of proof in any one of the requests.

That there has been no change in the area since the adoption of the Land Use Map in April of 1960.

That there is no error in original zoning as decided by this Board previously merited and substantiated by expert testimony at the time of this hearing.

That granting of this Petition would create a severe hazard and danger to the general health, safety and welfare of the community.

And for these reasons, we respectfully request that the Petition of Franklin Construction Co. for reclassification from R-10 zone to B-L zone be denied.

Respectfully submitted,

Richard D. Payne
Richard D. Payne
MacDaniel and Payne
20 W. Pennsylvania Avenue
Baltimore, Maryland 21204
VA 8-8600
Attorneys for Protestants

I HEREBY CERTIFY, that on this 11th day of November, 1964, a copy of the foregoing Protestants' Memorandum was mailed to W. Hamilton Whiteford, Esq., Counsel for Petitioner, Sun Life Building, Baltimore, Maryland, 21201; John P. Zebelen, Jr., Esq., Counsel for Protestants, 826 Frederick Road, Catonsville, Maryland, 21228; and John H. Hessey IV, Esq., Counsel for Protestants, 1311 Fidelity Building, Baltimore, Maryland, 21201.

Richard D. Payne
Attorney for Protestants

- 5 -

- 6 -

- 7 -

- 8 -

HESSEY & HESSEY
ATTORNEYS AT LAW
FIDELITY BUILDING
BALTIMORE, MARYLAND 21201

August 17, 1965

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

Re: Petition 65-342-R - East side Bloomsbury Avenue
Franklin Construction Corp., Petitioner
Request for reclassification from R-10 to R-1

Gentlemen:

An appeal, I understand, has been filed in the above matter. I represent Vestridge Apartments, Inc., owner of the property directly across the street from the above land. This company intends to protest this zoning reclassification.

Would you kindly enter my appearance and advise with respect to hearing date.

Very truly yours,

John H. Hessey, Jr.
John H. Hessey, Jr.

JDH:EL

P. T. LEMMON
ATTORNEY AT LAW
111 WEST CHESAPEAKE AVENUE
BALTIMORE, MARYLAND 21204

TELEPHONE 344-4400

12 December 1965

Mr. JOHN H. HESSEY, Secretary
County Office Building
Towson, Maryland 21204

Re: Petition 65-342-R - East side Bloomsbury Avenue
Franklin Construction Corp., Petitioner
Request for reclassification from R-10 to R-1

Dear Mr. HESSEY:

You are respectfully requested to enter my appearance and advise with respect to hearing date in the above matter. I represent Vestridge Apartments, Inc., owner of the property directly across the street from the above land. This company intends to protest this zoning reclassification.

Very truly yours,

Very truly yours,

P. T. Lemmon
P. T. Lemmon, Attorney

ONE OFFICE
DUE WHITEFORD TAYLOR & PRESTON

TELEPHONE 344-4400

111 WEST CHESAPEAKE AVENUE
BALTIMORE, MARYLAND 21204

SUN LIFE BUILDING
CHARLES CENTER
BALTIMORE, MARYLAND 21201

September 14, 1966

Zoning Commissioner of Baltimore County
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204

Re: No. 65-342-R
Franklin Construction Co.
Case File: C-4582

Dear Sir:

Please enter my appearance as counsel for Petitioner, Franklin Construction Co., in the above matter.

Very truly yours,

W. HAMILTON WHITEFORD

WHL:DMC

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: May 20, 1965

FROM: George E. Gonnella, Director of Planning

SUBJECT: Petition No. 65-342-R, R-10 to R-1 Zone Northeast side of Bloomsbury Avenue and Spring Grove Lane, being the property of Franklin Construction Corp.

1st District

HEARING: Wednesday, June 2, 1965 (11:00 A.M.)

The planning staff of the Office of Planning and Zoning has reviewed the subject petition and offers the following comments:

1. Property adjacent to the subject parcel generally is zoned R-10 or is unzoned public land. The surrounding area is developed residentially or with institutional uses. From a planning viewpoint, the reclassification requested would result in the creation of a spot zone.
2. Accessibility to the subject parcel is extremely poor. Bloomsbury Avenue, which is the primary road serving the property, has only a thirty foot right-of-way, with a twenty-two-foot-wide pavement. There are no east-west cross connections. Thus, the site is inadequately served for any Business Local uses at all, much less for uses of the scale shown on the petitioner's plot. The latter is a good example of the grossly out-of-proportion land-use potentials which this property would have were the reclassification to be granted. The development shown on the plot would be appropriate in a town center, perhaps near an existing interchange, or possibly integrated with a large industrial park by the stretch of the imagination could it be considered appropriate at the subject location.
3. It is our considered opinion that the First District Comprehensive Zoning Map was correct as adopted, and that there have been no changes in the area of the subject property that would justify any change in the present zoning.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. James A. Gyer - Chairman Date: March 22, 1965

FROM: Mr. Charles E. Morris, Jr. - Fire Bureau - Plans Review

SUBJECT: Property Owner - Franklin Construction Corporation
2/3 Bloomsbury Avenue and N of Spring Grove Lane
District 1st Section 2 - A - 54 3 and 4 F
Present Zoning R-10
Proposed Zoning R-1
No. Acres: 7.3

James A. Gyer, Esq.
Malvin A. Sykes, Esq.
605 Hunnery Building
Baltimore 2, Md.

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
COUNTY OFFICE BUILDING
TOWSON 1, MARYLAND

April 7, 1965

SUBJECT:

The Zoning Advisory Committee has reviewed the subject petition and makes the following comments:

The following comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties are made aware of plans or problems that may have a bearing on this case. The Director and/or Deputy Director of the Office of Planning and Zoning will submit recommendations on the appropriateness of the requested zoning 10 days before the Zoning Commission's hearing.

TRAFFIC ENGINEERING: This office is presently studying the traffic situation in the area and will submit detailed comments at a later date.

OFFICE OF PLANNING AND ZONING: The petitioner's development plan indicates that a total of 645 parking spaces would be required for the offices and retail stores proposed. It is the opinion of this office that 645 additional vehicles would tend to over-load Bloomsbury Avenue, which is presently improved with 22 feet of paving on a 30 foot right of way.

The plan also indicates that 208 of the 645 parking spaces will be indoors, however, the plan does not indicate how this parking will function, i.e., interior parking arrangements, ingress and egress, etc., therefore, this office is unable to comment as to the feasibility or adequacy of the proposed indoor parking.

FIRE BUREAU: See attached comments.

BUREAU OF ENGINEERING: Utilities: Water-Existing 8" in Bloomsbury Avenue, existing 6" in Spring Grove Lane. Adequacy of water to be determined by the Developer or Engineer.

Sanitary: Existing 8" in Bloomsbury Avenue, adequacy of sewer to be determined by the Developer or Engineer.
Road: Bloomsbury Avenue to be a minimum 40' curb & gutter paving on 50 foot right of way.

Very truly yours,

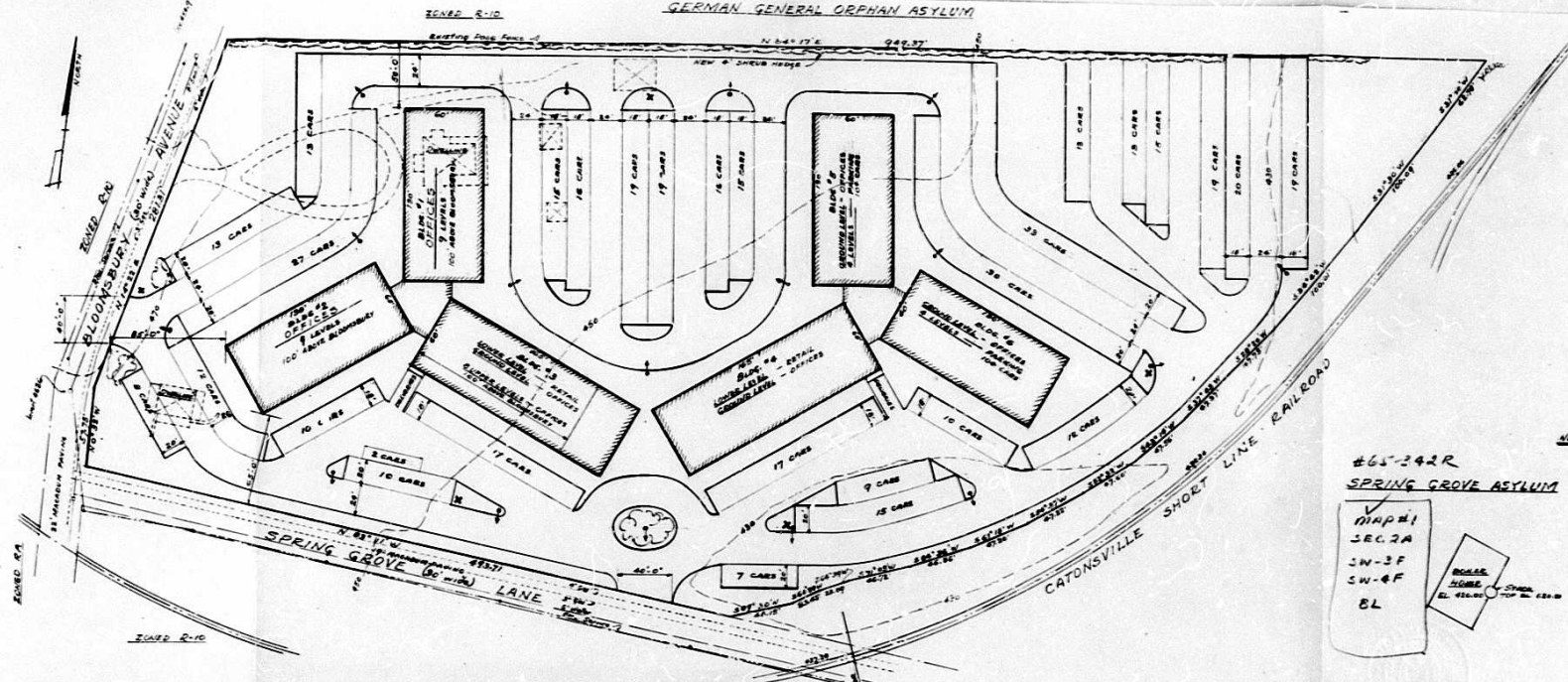
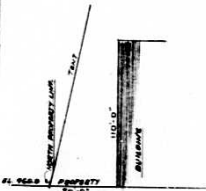
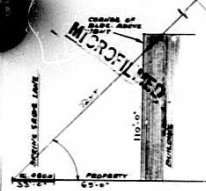
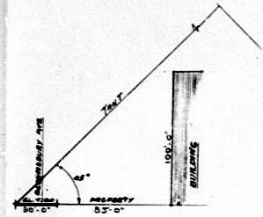
James E. Gyer
James E. Gyer
Chief of Permit and
Petition Processing

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND		INVOICE No. 28595 DATE 3/24/65
TO: Cash	BY: [Signature]	DATE: 3/24/65
REPORT TO ACCOUNT NO. 65-342	QUANTITY 1.00	AMOUNT \$0.00
Description for Collection and Receipts: Franklin Construction Co. Petitioner		AMOUNT \$0.00
MICROFILMED		AMOUNT \$0.00
3-24 1320 • 28595 TIP- 1000		AMOUNT \$0.00
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.		

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND		INVOICE No. 41076 DATE 3/24/65
TO: W. Hamilton Whiteford, Esq. Sun Life Building Charles Center Baltimore, Maryland 21201	BY: [Signature]	DATE: 3/24/65
REPORT TO ACCOUNT NO. 65-342	QUANTITY 1.00	AMOUNT \$0.00
Description for Collection and Receipts: Franklin Construction Co. Petitioner		AMOUNT \$0.00
MICROFILMED		AMOUNT \$0.00
3-24 1320 • 41076 TIP- 1000		AMOUNT \$0.00
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.		

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND		INVOICE No. 30652 DATE 4/24/65
TO: James A. Gyer, Esq. Malvin A. Sykes, Esq. 605 Hunnery Building Baltimore, Md. 21204	BY: [Signature]	DATE: 4/24/65
REPORT TO ACCOUNT NO. 65-342	QUANTITY 1.00	AMOUNT \$0.00
Description for Collection and Receipts: Franklin Construction Co. Petitioner		AMOUNT \$0.00
MICROFILMED		AMOUNT \$0.00
4-24 1320 • 30652 TIP- 1650		AMOUNT \$0.00
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.		

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Division of Collection and Receipts COURT HOUSE TOWSON 4, MARYLAND		INVOICE No. 30669 DATE 4/24/65
TO: James A. Gyer, Esq. Malvin A. Sykes, Esq. 605 Hunnery Building Baltimore, Maryland 21204	BY: [Signature]	DATE: 4/24/65
REPORT TO ACCOUNT NO. 65-342	QUANTITY 1.00	AMOUNT \$0.00
Description for Collection and Receipts: Franklin Construction Co. Petitioner		AMOUNT \$0.00
MICROFILMED		AMOUNT \$0.00
4-24 1320 • 30669 TIP- 1650		AMOUNT \$0.00
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.		



PARKING REQUIRED

BUILDING	LEVEL	SPACES
BUILDING #1	GROUND LEVEL - 12	52
BUILDING #1	UPPER LEVEL - 12	250
BUILDING #3	1. LOWER LEVEL - 250	50
BUILDING #3	2. GROUND LEVEL - 250	33
BUILDING #3	3. UPPER LEVEL - 250	125
BUILDING #4	1. LOWER LEVEL - 250	50
BUILDING #4	2. GROUND LEVEL - 250	33
BUILDING #6	1. GROUND LEVEL - 250	52
TOTAL PARKING REQUIRED - 652		

PARKING PROVIDED

BUILDING	LEVEL	SPACES
BUILDING #5	4 LEVELS - PARKING - 104	104
BUILDING #6	LEVELS - PARKING - 104	104
SURFACE PARKING - 442		
TOTAL PARKING PROVIDED - 650		

- NOTES**
1. 20'-0" PARKING SPACES ON MAIN ROADS 18'-0" WIDE. BALANCE ALL SPACES - 8'-6" WIDE.
 2. ALL EXISTING DRIVEWAYS, DRIVEWAYS & ROADS (SHOWING NOTED) TO BE RECONSTRUCTED TO BE 20'-0" WIDE.
 3. ALL NEW ROADS TO BE 20'-0" WIDE.
 4. 2. INVERTED RISE HYDRANTS.
 5. 2. INVERTED RISE HYDRANTS.

#65-242R
 SPRING GROVE ASYLUM
 MAP #1
 SEC. 2A
 SW-3F
 SW-4F
 BL

EXISTING ZONING — R-10
PROPOSED ZONING — B.L.
FIRST ELECTION DISTRICT
GROSS AREA — 7.85 ACRES
NET AREA — 7.32 ACRES
SCALE: 1" = 50'-0"
DATE: SEPT. 14, 1969