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Baltimore MAP

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DR

Baltimore

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Advertising.
the zoning
Baltimore

Wm. B. Child

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Reisterstown Rd.

Attorney

1:00 PM
7/15/68
3242

No. 142
September Term, 1970

69-13-8

JOHN D. WRIGHT et al

1

LILLIAN V. McCUBBIN et al.

Hammond, C. J.
Barnes
McWilliams
Singley
Smith
Digges,

Opinion by Hammond, C. J.

Filed: December 8, 1970

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On the question of change - no claim of original error is made - the applicants produced evidence, which is not challenged, that contiguous land to the north and to the south and to the rear of the land here involved had been rezoned for hundreds, if not more than a thousand, apartments, and that many had been built and were being built. One of these rezonings involved land on Straw Hat Road

lived in. One of these persons was

2.

Essentially, if not entirely, the changes relied on to support the requested rezoning for a commercial service area were identifications of adjacent or surrounding residential uses. The cases have held that this of itself is not enough. County Commissioners v. Fairwinds, 230 Md. 569; Helle v. Pierpont, 253 Md. 558; Miller v. Abrahams, 257 Md. 126; Chapman v. Montgomery County Council, Md., A.2d (1970) [No. 56, September Term, 1970, decided November 18, 1970].

Hardisty v. Durnby, Md., A.2d (1970) [No. 97, September Term, 1970, decided November 18, 1970]; Cabin John Limited Partnership v. Montgomery County Council, Md., A.2d (1970) [No. 71, September Term, 1970, decided November 18, 1970]; Harley v. Aluisti, Md., 269 A.2d 575 (1970) [No. 38, September Term, 1970, decided October 16, 1970]. Even if there had been some significant evidence of substantial change in the character of the neighborhood it is established that change which would support a rezoning does not compel it absent probative evidence that no reasonable use can be made of the property in its current zoning classification. Furnace Branch Land Co. v. Board of County Commissioners of Anne Arundel County, 238 Md. 536; Skiljack Cove Marina v. County Commissioners, 252 Md. 440, 453; Cabin John Limited Partnership v. Montgomery County Council, *supra*.

There was no such evidence here and no other showing of arbitrary or

Appealed 11/6/69

RE: PETITION FOR RECLASSIFICATION :
from R-10 zone to B.R. zone
Northeast Side of Reisterstown Road :
222 feet Southeast of Enchanted
Hills Road :
4th District

IN THE
CIRCUIT COURT
FOR
BALTIMORE COUNTY
AT LAW

Docket No. 8
No. 501
No. 4347

ANSWER TO ORDER OF APPEAL TO
CIRCUIT COURT FOR BALTIMORE COUNTY
AND CERTIFIED COPIES OF PROCEEDINGS
BEFORE THE ZONING COMMISSIONER AND
BOARD OF APPEALS OF BALTIMORE COUNTY

Mr. Clerk:

Please file to:

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

LILLIAN V. MCDONNIN : IN THE
E. EARLY CHILDS, ET AL, :
Petitioners : CIRCUIT COURT
MARMAX CORP., INC., :
Contract Purchaser, : Appellants : FOR
vs. : BALTIMORE COUNTY
JOHN A. SLOWIK :
WALTER A. REITER, JR. : AT LAW
JOHN A. MILLER : File No. 4347
COUNTY BOARD OF APPEALS : Docket Misc. 8
OF BALTIMORE COUNTY, : Folio 501
Appellees : -----

January 29, 1970

Before: HONORABLE JOHN GRASON TURNBULL, Judge

* * *

APPEARANCES:

A. Gordon Boone, Jr., Esquire,
on behalf of the Appellants.
A. Frederick Taylor, Esquire,
on behalf of the Protestants.

Reported by:
Paul G. Griffin
Official Court Reporter
In the Circuit Court for Baltimore County

(Counsel made argument to the Court.)

THE COURT: Well, gentlemen, without citing cases, let me say first, even though Mr. Taylor on behalf of the Protestants did not intervene within thirty days as required by Rule B-9, and has not in fact filed a petition to intervene or a demurrer or answer to the Applicants' petition in this Court, yet I consider, under the Gomerlinger case and the other cases, as I held personally in the Gomerlinger case, that it was a discretionary matter with the Court as to whether or not the failure to intervene within a stated time put the would-be intervenors out of court, in the absence of a showing by the opposite party that such party was prejudiced or damaged in some way by the failure of the would-be intervenors sooner to act. There is no suggestion made that any prejudice has resulted to the Applicants by reason of the failure of the Protestants formally to intervene. And I therefore hold that Mr. Taylor's appearance here this morning acts as an informal petition for leave to intervene on behalf of his clients, and I will treat the matter as if a petition had been filed and permission to intervene had

been granted, and I will further treat the matter as if a formal answer had been filed by the Protestants traversing the allegations of the petition of appeal filed by the original applicants in this case. So that that should dispose of the preliminary matter.

There was ample testimony of change in the neighborhood by way of changes from R.10 to apartment zoning after the adoption of the map, and there was also a change from residential to commercial, not fronting on Reisterstown Road, but within and surrounded by an apartment zoned area which lies, as I recall the testimony, immediately to the northerly boundary of the subject property, and runs easterly from the Reisterstown Road on which it bounds, that is to say, the apartment area bounds, and runs easterly from the Reisterstown Road. So that the only commercial reclassification in the immediate area is that one which is completely surrounded by apartment classification. The result of the reclassification which have been granted since the adoption of the map would appear to make the property involved in this application almost an island of R.10 surrounded by R.A., and not being adjacent to a commercial

zone, but within a short distance thereof, all of the intervening land between the commercial zone and the subject property being zoned for apartments, which zoning fronts on the Reisterstown Road. From the record, I do not see how the Board could possibly find that this property must for all time remain zoned R.10. From the testimony it is inescapable that sooner or later this property must get out of the R.10 classification, and if this is not done it will in effect amount to a confiscation of a portion at least of the value of the property.

The sole question, it seems to me, which was before the Board was not -- and I mean before the Board under the testimony which the Board heard -- was not whether or not a reclassification was appropriate for the instant property, but whether or not a reclassification for commercial uses was appropriate for the instant property. That there exists a serious traffic problem by reason of the location of the school and the activities, as testified to by Mr. Harman, and the gentleman who is associated with the Department of Education, Mr. Romel, their testimony clearly shows that there is a traffic problem there. The

only question, it seems to me, that remains to be determined -- because I find that if under this testimony the application had been for apartments and had been denied by the Board, I find that that would have been an unreasonable, arbitrary and capricious decision because of the confiscatory nature of it. So that I find that the Board, if it denied a change in classification, would have acted in an arbitrary, capricious, unreasonable and illegal manner.

The question that then arises is whether or not this particular tract is appropriate for rezoning for commercial uses. And the only issue, it seems to me, is the effect such a rezoning would have upon the admitted traffic problem which exists at and near this location. In that respect, accepting the testimony of the Protestants produced of Mr. Romel, Mr. Harman, and Mr. Wright, the president of the P.T.A., accepting their testimony as being literally and strictly correct, yet, on the premise that a reclassification of this property is appropriate and a denial thereof would be a violation of the Applicants' rights, acting on that premise, and accepting the testimony of the Protestants as to traffic conditions and as to the

various uses to which the school is put, it seems to me that you must fall back, in making a determination, upon the testimony of the only expert witness who testified in re traffic, and that is Dr. Worthington Bwell.

Now, peculiarly enough, Mr. Boone in his comments referred to precisely the portion of Dr. Bwell's testimony about which I made a note when I read the transcript, page 24, lines 10 to 21, and page 25, lines 12 to 19, were my notes, and I quote: "I don't want to paint a completely rosy picture; however, in my opinion, the development of a shopping area, small as this would be, in front of the school, would perhaps be one of the few things that would not be in conflict with the school operation. The shopping activities would, in the morning, not start until the children were in school; the emergence of the children in the afternoon, between three and four, would not coincide, by any means, with the maximum traffic on the road, nor the maximum activity in a shopping center. That is one of the low points during a typical week day. It is reasonably higher on Saturdays." Now, in that connection you also must consider the testimony relative

to the non-school uses to which the property, the school property is put. And, according to that testimony, there are various athletic events and non-compulsory school activities, activities by adults after school hours, and that kind of thing. But it is quite apparent from that testimony that the volume either of pedestrian traffic or of vehicular traffic occasioned by those after school activities does not in any way approximate the volume of the pedestrian and vehicular traffic occasioned during the period immediately before classes and the period immediately after classes. Now, continuing to quote Dr. Bwell, this is page 25, line 12: "I think that in the morning, if this area were rezoned to a shopping center, small as this is, 31,000 square feet, would have no conflict with the pedestrian traffic occasioned by the school. In the afternoon, the school traffic comes out of the school during the low point in traffic on Reisterstown Road, and also during the low point in shopping center activity. As compared to this, if we were to have a small industrial plant, or let us say apartments on this same site, we would have a conflict in the afternoon with the major activity of

the traffic on the road, and we would have a conflict in the morning with the school children." And then he volunteers the opinion "that it is conceivable that the crossing location should be changed in the afternoon." But Dr. Bwell cited the State Roads Commission's figures on traffic flow on the Reisterstown Road, and used that, in addition to his own organization's observations, as a basis upon which to form his professional opinion. He has, to my knowledge, and to the knowledge of the Court of Appeals, qualified many times as an expert on traffic, and has been permitted many times to give his opinion as to the effect upon traffic of a proposed rezoning, or reclassification in zoning.

If my first impression is wrong, to wit, that a change in classification of this particular property is inevitable, and if application were made for apartments, under the testimony in this case it would be arbitrary, and so forth, for the Board to deny it, except on the basis of traffic; and if indeed the change of this classification from R.10 to commercial would create less traffic, as Dr. Bwell states his opinion to be that it would create

1 less traffic than an apartment development on the property,
2 then it would seem best for the neighborhood, and an
3 arbitrary act by the Board to deny the reclassification
4 requested.

5 In connection with Dr. Bwell's testimony,
6 attention is invited -- and the Board did not comment on
7 this particular thing, but I think I should -- a letter
8 from the Baltimore County Police Department addressed to
9 Martin & Taylor, attorneys at law, headed "Dear Mr. Martin,"
10 and they report the accidents which occurred at or near
11 the intersection of Reisterstown and Enchanted Hills Road,
12 which is a little bit north of this property, and which
13 is the entrance to the apartment property which I have
14 mentioned; for the calendar year of 1968 they were as
15 follows: "February 2nd, 1968, location, Enchanted Hills,
16 600 feet east of Reisterstown" -- which obviously means
17 Reisterstown Road. The reclassification here could have
18 no possible effect upon an accident which happened there.
19 "February 20, '68, Reisterstown and Enchanted Hills.
20 March 20, 1968, Reisterstown and Enchanted Hills. May 7,
21 1968, Enchanted Hills, 300 feet east of Reisterstown Road.

1 May 19, 1968, Reisterstown and Enchanted Hills. June 7,
2 1968, Reisterstown, 600 feet south of Enchanted Hills."
3 Now, that's the only one, the accident on June 7, 1968,
4 Reisterstown Road, 600 feet south of Enchanted Hills,
5 which is anywhere near the frontage of this particular
6 subject property. The other two accidents are "July 24,
7 '68, Enchanted Hills, 100 feet east of Reisterstown Road;
8 and December 7, '68, Enchanted Hills, 100 feet east of
9 Reisterstown Road. Summary. At the intersection" --
10 that is to say, the intersection of Reisterstown and
11 Enchanted Hills -- "three. Reisterstown Road south of
12 Enchanted Hills, one. Reisterstown north of Enchanted
13 Hills, zero. Enchanted Hills east of Reisterstown, four."
14 So that out of eight accidents which happened in that
15 vicinity during the calendar year 1968 only one of them
16 was anywhere near the subject property; and that, in my
17 opinion, substantiates Dr. Bwell's findings.
18 I see no particular point to be gained in further
19 belaboring this matter. I would anticipate, as the late
20 Judge Berry used to say, that in zoning cases in Baltimore
21 County the Circuit Court is simply a whistle stop on the

1 way to the Court of Appeals. But I do feel, and I find
2 that under the evidence in this case the failure to grant
3 the reclassification requested was an arbitrary, capricious,
4 unreasonable and illegal act under the testimony adduced
5 in this case, and I will sign an order reversing the Board,
6 and granting the reclassification requested.

7 Prepare the order, Mr. Poome, submit it to
8 Mr. Taylor for approval as to form, and having done so,
9 present it to me and I will sign it.

10 Thank you, gentlemen.

RE: PETITION FOR RECLASSIFICATION : IN THE
from R-10 zone to B.R. zone : CIRCUIT COURT
Northeast Side of Reisterstown Road :
222 feet Southeast of Enchanted :
Hills Road :
4th District :
Lillian V. McCubbin : BALTIMORE COUNTY
E. Early Childs, et al :
Petitioners : AT LAW
Marmax Corporation, Inc. : MISC. DOCKET NO. 3
Contract Purchaser : Appellants : Folio No. 501
Zoning File No. 69-13-R : File No. 4347

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come John A. Slawik, Walter A. Keiter, Jr. and John A. Miller,
constituting the County Board of Appeals of Baltimore County, and in answer to the Order
for Appeal directed against them in this case, herewith return the record of proceedings
had in the above entitled matter, consisting of the following certified copies or original
papers on file in the office of the Zoning Department of Baltimore County:

ZONING ENTRIES FROM DOCKET OF ZONING COMMISSIONER OF BALTIMORE COUNTY

No. 69-13-R
May 15, 1968 Petition of Lillian V. McCubbin, E. Early Childs, et al (Marmax
Corp., Inc., contract purchaser) for reclassification from R-10 zone
to B.R. zone, on property located on the northeast side of Reisterstown
Road 222 feet southeast of Enchanted Hills Road, 4th District - filed
" " Order of Zoning Commissioner directing advertisement and posting of
property - date of hearing set for July 15, 1968 at 1:00 p.m.
June 27 Certificate of Posting of property - filed
" " Certificate of Publication in newspaper - filed
July 15 At 1:00 p.m. hearing held on petition by Deputy Zoning Commissioner -
case held sub curia
Oct. 9 Order of Deputy Zoning Commissioner denying reclassification
" 31 Order of Appeal to County Board of Appeals from Order of Deputy
Zoning Commissioner
Feb. 19, 1969 Hearing on appeal before County Board of Appeals - case held sub curia
Oct. 29 Order of County Board of Appeals denying reclassification

#69-13-R - McCubbin

- 2 -

Nov. 5, 1968 Order for Appeal filed in the Circuit Court by A. Gordon Boone, Jr., Esq.
" " Petition to accompany Order for Appeal filed in Circuit Court
" 7 Certificate of Notice sent to all interested parties
Dec. 5 Transcript of Testimony filed - 1 volume
Petitioners' Exhibit No. 1 - Subject property - Reisterstown Road,
looking south
" " " 1B Subject property
" " " 1C Looking north on Reisterstown Rd. and
subject property
" " " 1D Rear of subject property from Enchanted
Hills Road
" " " 1E Subject property
" " " 1F Apartments directly north of subject prop.
" " " 2 - Plot of subject property, 4/28/68
" " " 3 - Zoning Map, Pikesville, 12/18/57
" " " 4 - Baltimore, 4th Dist. - Photogrammetric
" " " 5 - Pikesville, Map 2-C
Protestants' Exhibit "A" - Letter, Balto. Co. Police 2/10/69,
John B. Leln
" " "B" - Md. State Police, 2/11/69, Clement
Miller
" " "C" - State Roads Comm., Jonswold, 2/10/69
" " "D" - 1 thru 13 - Photos, by Herman, Principal
" " "E" - Movie film, 2/7/69, in presence of
Herman (1:25-2:30 p.m.)
" " "F" - Photos (1 thru 8) Herman, supervision
2/14/69
" " "G" - List of protestants present, and addresses
" " "H" - Chart, by Mr. Wright; subject property,
etc.

8 Record of proceedings filed in Circuit Court for Baltimore County
Record of proceedings pursuant to which said Order was entered and said Board

#69-13-R - McCubbin

- 3 -

acted are permanent records of the Zoning Department of Baltimore County, as are also
the use district maps, and your respondents respectively suggest that it would be incon-
venient and inappropriate to file the same in this proceeding, but your respondents will
produce any and all such rules and regulations, together with the zoning use district
maps at the hearing on this petition, or whenever directed to do so by this Court.

"respectfully submitted,

Muriel E. Buddemeier
County Board of Appeals of Baltimore County

LILLIAN V. McCUBBIN
E. EARLY CHILDS, et al
PETITIONERS
MARMAX CORP., INC.
CONTRACT PURCHASER
Appellants
VS.
JOHN A. SLAWIK
WALTER A. KEITER, JR.
JOHN A. MILLER
County Board of Appeals
of Baltimore County
County Office Building
Towson, Maryland 21204
Appellees

ORDER FOR APPEAL

Mr. Clerk:

Please enter an Appeal from the Order passed by the County Board
of Appeals for Baltimore County on October 29, 1969 denying the Petition
for reclassification from R-10 zone to B.R. zone, Northeast side of
Reisterstown Road, 222 feet Southeast of Enchanted Hills Road in the 4th
Election District of Baltimore County.

A. Gordon Boone, Jr.
11 West Pennsylvania Avenue
Towson, Maryland 21204
835-9693
Attorney for Appellants

I HEREBY CERTIFY that a copy of this Order for Appeal was
delivered to Muriel E. Buddemeier, Secretary of the County Board of
Appeals for Baltimore County this 1st day of November, 1969.

A. Gordon Boone, Jr.

I, Edith P. Reinhardt, Secretary of the County Board
of Appeals for Baltimore County, do hereby acknowledge receipt of a
copy of the foregoing Order for Appeal for and on behalf of the
County Board of Appeals for Baltimore County.

Edith P. Reinhardt
Secretary
County Board of Appeals
for Baltimore County

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
from R-10 zone to B.R. zone : COUNTY BOARD OF APPEALS
Northwest Side of Reisterstown Road : OF
222 feet Southeast of Enchanted Hills Road : BALTIMORE COUNTY
4th District :
Lillian V. McCubbin, :
E. Early Childs, et al :
Petitioners : No. 69-13-R
Marmax Corp., Inc. :
Contract Purchaser :

OPINION

This case comes before the Board on an appeal by the Petitioners from an Order of the Deputy Zoning Commissioner denying a requested reclassification from R-10 to B.R. zone. The subject of this petition consists of a total of 3.60 acres situated on the northeast side of Reisterstown Road directly opposite the Owings Mills Elementary School, in the 4th Election District. Same is approximately 222 feet southeast of Enchanted Hills Road, which is the entrance to a large developing garden-type apartment project. The site is now improved by three older cottage-type residences in separate ownership. If this petition were granted, the contract purchaser of these parcels proposes to develop a small community shopping center consisting of one major food store and two or three other small service type stores.

The Petitioners sought to establish both error in the original map and substantial change in the area to warrant the reclassification. Mr. Frederick P. Klaus, a well-known realtor and appraiser, testified on behalf of the Petitioners, and cited numerous changes in the area. The testimony of this witness seemed very comprehensive and thorough, and was carefully considered by this Board. It was with particular attention that the Board noted that Mr. Klaus cited no changes of a character that would lead this Board toward granting a reclassification of this subject property to commercial use. Not one of the changes cited by Mr. Klaus was of a commercial nature except that an undeveloped B.L. area is located within the property immediately contiguous to the subject property.

The Protestants in this case were numerous. Existing traffic conditions at this site and their direct relationship with the Owings Mills Elementary School were the major factors in the opposition's case. The transportation officer in the County school

McCubbin - No. 69-13-R

- 2 -

system, the principal of the Elementary School, and the president of the P.T.A. all testified in opposition to this reclassification. Each emphasized traffic accident reports and their effect upon the school. It seems that the traffic conditions at this site are somewhat hazardous and certainly would not be aided by a commercial development immediately across Reisterstown Road.

Dr. Walter Worthington Ewell, a noted traffic engineer, testified for the Petitioners, and seemingly at least, testified that the traffic at this location was "not a very picture". He further stated that he was not overly impressed with this location for a shopping center, but could think of worse commercial uses for a location opposite an elementary school with many students walking to school and crossing Reisterstown Road at this exact point. This Board agrees with Dr. Ewell on this point; that is to say, it too is not impressed with this site as a commercial location.

Without going into further detail, nor reciting the testimony and evidence further, it is the judgment of this Board that the Petitioners have shown neither original error nor such substantial change in the character of the neighborhood to justify the requested reclassification.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 29th day of October, 1969, by the County Board of Appeals ORDERED, that the reclassification petitioned for be and the same is hereby DENIED.

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

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

John A. Slowik, Acting Chairman

Walter A. Reiter, Jr.

John A. Miller

A. GORDON BOONE, JR.

ATTORNEY AT LAW
11 WEST PENNSYLVANIA AVE.
TOWSON, MARYLAND 21204

October 30, 1968

Edward B. Hardesty, Esquire
Deputy Zoning Commissioner
County Office Building
Towson, Maryland 21204

RE: Petition for Reclassification
NE/4 of Reisterstown Road, 222'
SE of Enchanted Hills Road -
4th District
Lillian V. McCubbin, et al -
Petitioners
NO. 69-13-R

Dear Mr. Hardesty:

Please enter an Appeal to the Baltimore County Board of Appeals in the above captioned matter from your Order of October 9, 1968, denying the reclassification.

Enclosed is a check in the amount of \$70.00 to cover the cost of filing this appeal.

Sincerely,

A. Gordon Boone, Jr.
Attorney for petitioners

APB:Riab

CU

Mr. Fred Taylor
Chesapeake Avenue
Towson, Maryland 21204

RE: PETITION FOR RECLASSIFICATION : BEFORE THE
NE/4 of Reisterstown Road, 222' SE of : DEPUTY ZONING
Enchanted Hills Road - 4th District : COMMISSIONER
Lillian V. McCubbin, et al - Petitioner :
NO. 69-13-R :
OF
BALTIMORE COUNTY

The Petitioner seeks a Reclassification of his property, consisting of 3.60 acres, from a R-10 zone to a BR zone. Plans call for the construction of a small shopping center.

Without reviewing the evidence in detail, the Deputy Zoning Commissioner feels that the Petitioner has failed to show either error in the original zoning or such substantial changes in the character of the neighborhood justifying the rezoning sought.

For the foregoing reasons, it is ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 9 day of October, 1968, that the above Reclassification be and the same is hereby DENIED and that the above described property or area be and the same is hereby continued as and to remain a R-10 zone.

Edward D. Hardesty
DEPUTY ZONING COMMISSIONER

ORDER RECEIVED FOR FILING

DATE 10/31/68

BY R. HARRIS, CLERK

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: July 5, 1968
FROM: George E. Gavrellis, Director of Planning

SUBJECT: Petition #69-13-R. Reclassification from R-10 to B.R. Zone, Northeast side of Reisterstown Road 222' Southeast of Enchanted Hills Road. Lillian V. McCubbin, et al. Petitioners.

v 4th District

HEARING: Monday, July 15, 1968 (1:00 P.M.)

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

1. From a planning viewpoint, the reclassification petitioned for would be spot zoning - in this case, an initial increment which could easily lead to the type of strip-commercial zoning that already plagues so much of Reisterstown Road.
2. Other commercial zoning has been created in the vicinity of the subject property, possibly in response to the increased market resulting from extensive apartment development. The commercial zoning already created affords opportunities for establishing uses of the types shown on the petitioner's plat. We question, tho, any need for further commercial land is so substantial as to override the potential detriment of incremental commercial zoning.
3. If any relief for the owner of the subject property is necessary, it might be provided by reclassification of the property as R.A. with the grant of a special exception for office use.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

JAMES E. DYER
TO: Zoning Supervisor Date: May 17, 1968
ALBERT V. QUIMBY, Chief
FROM: Project Planning Division

SUBJECT: Zoning Advisory Agenda Item #188

In terms of use for the apartments adjoining and nearby, it should be noted that commercial zoning was granted (#66-253R) on a tract within 1200 feet of petitioner's property on May 25, 1966.

AVQ:vh

May 15, 1968

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING COUNTY OFFICE BUILDING TOWSON, MARYLAND 21204

A. Gordon Boone, Jr., Esq.,
11 M. Penna. Avenue
Towson, Md. 21204

SUBJECT: Reclassification from an R-10 zone to a BR zone for Lillian V. McCubbin, located NE/4 Reisterstown Rd., 222' SW of Enchanted Hills Rd. 4th District (Item 188, May 15, 1968)

Dear Sir:

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

BUREAU OF ENGINEERING:
Water - Existing 16" and 8" water in Reisterstown Road sewer - Existing sewer exists within the adjacent Enchanted Hills Apt. site. However, pumps would be required in order to serve this site from that system. Adequacy of existing utilities to be determined by developer or his engineer.

HEALTH DEPARTMENT:
It appears that public sewer can be made available to this site; therefore, the petitioner should inquire with the Bureau of Engineering to determine the best method in which to make the connection. The Dept. of Health cannot approve this type operation for a private sewage disposal system.

STATE ROADS COMMISSION:
The frontage of the site must be curbed with combination curb and gutter. The roadside face of curb is to be 28 ft. from and parallel to the center line of Reisterstown Road. There must be a minimum of 5 ft. from the northeast property line to the p.c. of the radius return into the northeast entrance. The southeast entrance must be located directly opposite the intersecting street on the opposite side of Reisterstown Road. Entrances will be subject to State Roads approval and permit.

BUREAU OF TRAFFIC ENGINEERING:
This office is in complete agreement with the comments by the State Roads Commission.

PROJECT PLANNING DIVISION:
In terms of use for the apartments adjoining and nearby, it should be noted that commercial zoning was granted (#66-253R) on a tract within 1200 feet of petitioner's property on May 25, 1966.

ZONING ADMINISTRATION DIVISION:
The above comments by the State Roads Commission must be complied with prior to the hearing.

If the petition is granted, no occupancy may be made until such time as plans have been submitted and approved and the property inspected for compliance to the approved plan.

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

The following members had no comment to offer:
Bureau of Fire Prevention
Building Engineer
Board of Education
Industrial Development

Very truly yours,

James E. Dyer
JAMES E. DYER, Zoning Supervisor

JED:jg
cc: Carlyle Brown-Bur. of Engr.; William Greenwalt-Health Dept.; John Meyers-State Roads Comm.; C. Richard Moore-Bur. of Traffic Engr.; Albert V. Quimby-Project Planning Division

HAGAN & HOLDEFER

SURVEYORS AND CIVIL ENGINEERS

4300 ELKWOOD AVENUE / BALTIMORE, MD. 21214 (202) 426-2144
139 PULPIT STREET / CAMDEN, MD. 21613 (410) 391-2700
115 E. MAIN STREET / WESTMINSTER, MD. 21157 (301) 847-7700
12 S. WASHINGTON STREET / EASTON, MD. 21601 (301) 847-7715

April 13 1968

DESCRIPTION OF 10817 - 10825 REISTERSTOWN ROAD

TO BE RECLASSIFIED FROM R-10 TO B.R.

BEGINNING for the same at a point on the northeast side of Reisterstown Road, (U.S. Route 140) 66 feet wide, said point being distant 222 feet, more or less, measured southeasterly along said northeast side of Reisterstown Road from its intersection with the center line of Enchanted Hills Road, thence leaving said place of beginning and running and binding on said northeast side of Reisterstown Road, South 37 degrees 45 minutes East 330 feet, more or less, thence leaving said Reisterstown Road and running North 55 degrees 45 minutes East 472 feet, thence running Northwesterly 75 feet, thence running North 37 degrees 45 minutes West 255 feet, thence running South 55 degrees 45 minutes West 475 feet to the place of beginning.

Containing 3.60 acres of land, more or less.

Subject to a right-of-way, 30 feet wide, along the 5th or last line of the above described land.

Note: This description has been prepared for zoning purposes only and is not intended to be used for conveyance.



ALAN EMMES, P.E., L.S.
CARROLL HARRIS, L.S.
GEORGE W. HOLDEFER, P.E.
CAMDEN: JESSE W. HUNLEY
WESTMINSTER: JESSE W. HUNLEY
BALTIMORE: JESSE W. HUNLEY



01-22-71

ORIGINAL

OFFICE OF
THE **COMMUNITY TIMES**

RANDALLSTOWN, MD. 21133 July 2, 1968

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

was inserted in THE COMMUNITY TIMES, a weekly newspaper; published
in Baltimore County, Maryland, once a week for One ~~times~~
week before the 2nd day of July, 1968 that is to say, the same
was inserted in the issue of June 27, 1968.

STROMBERG PUBLICATIONS, Inc.

By: Rich Morgan

PETITION FOR
RECLASSIFICATION
IN DISTRICT
ZONING: From R-10 to R-1
LOCATION: Parcel 1000 sq. ft.
ADJACENT: Parcel 1000 sq. ft.
DATE: 5/15/68, 11/15/68, 11/15/68
11/15/68, 11/15/68, 11/15/68
COUNTY: Baltimore, Md.
CITY: Baltimore, Md.
BY ORDER OF
JOHN W. ROSE
Zoning Commissioner of
Baltimore County
June 27, 1968

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

A. Gordon Boone, Jr., Esq.,
111 W. Chesapeake Avenue
Towson, Md. 21204
County Office Building,
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this

15th day of July, 1968.

JOHN G. ROSE,
Zoning CommissionerPetitioner Lillian V. McCubbinPetitioner's Attorney A. Gordon Boone, Jr., Esq.Reviewed James S. Nelson
Chairman of
Advisory CommitteeTELEPHONE
823-3000
EXT. 387

INVOICE
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE
Division of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 65653

DATE 12/9/69

To: A. Gordon Boone, Jr., Esq.,
111 W. Chesapeake Avenue
Towson, Md. 21204

QUANTITY	REMITTANCE	TOTAL AMOUNT
1	Cost of certified documents - Case 44-13-2 Lillian V. McCubbin, et al 100/2 Baltimore Road 222 SE of Enchanted Hills Road 4th Sublot	\$7.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND

MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 4th Date of Posting 11-9-68
Posted for: Appeal
Petitioner: L.V. McCubbin
Location of property: NEB Reisterstown Rd - 222 SE of Enchanted Hills Rd.
Location of Sign: ① 10817 Reisterstown Rd. ② 10819 Reisterstown Rd
③ 10825 Reisterstown Rd
Remarks:
Posted by: [Signature] Date of return: 11-14-68

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Towson, Maryland

District 4th Date of Posting 6-27-68
Posted for: Reclassification
Petitioner: L.V. McCubbin
Location of property: NEB of Reisterstown Rd - 222 SE of
Enchanted Hills Rd
Location of Sign: ① 10817 Reisterstown Rd. ② 10819 Reisterstown Rd
③ 10825 Reisterstown Rd
Remarks:
Posted by: [Signature] Date of return: 7-1-68

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCEDivision of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 56376

DATE 11/1/68

To: A. Gordon Boone, Jr., Esq.,
11 West Pennsylvania Avenue
Towson, Md. 21204

Office of Planning and Zoning
119 Court Office Building
Towson, Md. 21204

QUANTITY	REMITTANCE	TOTAL AMOUNT
1	Cost of appeal - Lillian V. McCubbin, petitioner No. 69-13-R	\$70.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCEDivision of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 54387

DATE May 24, 1968

To: Joseph F. Martin
1007 North Calvert Street
Baltimore, Md. 21201

Building Dept. of Balto. Co.

QUANTITY	REMITTANCE	TOTAL AMOUNT
1	Petition for Reclassification for Lillian V. McCubbin, et al 69-13-R	\$0.00

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND
MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCEDivision of Collection and Receipts
COURT HOUSE
TOWSON, MARYLAND 21204

No. 54471

DATE July 15, 1968

To: Joseph F. Martin, Jr.
6110 Alameda Court
Baltimore, Md. 21210

Zoning Dept. of Baltimore County

QUANTITY	REMITTANCE	TOTAL AMOUNT
1	Advertising and posting of property for Lillian V. McCubbin, et al 69-13-R	\$6.35

IMPORTANT: MAKE CHECKS PAYABLE TO BALTIMORE COUNTY, MARYLAND

MAIL TO DIVISION OF COLLECTION & RECEIPTS, COURT HOUSE, TOWSON, MARYLAND 21204

PETITION FOR RECLASSIFICATION
IN DISTRICT

ZONING: From R-10 to R-1
LOCATION: Parcel 1000 sq. ft.
ADJACENT: Parcel 1000 sq. ft.
DATE: 5/15/68, 11/15/68, 11/15/68
COUNTY: Baltimore, Md.
CITY: Baltimore, Md.
BY ORDER OF
JOHN W. ROSE
Zoning Commissioner of
Baltimore County
June 27, 1968

CERTIFICATE OF PUBLICATION

TOWSON, MD. JUN 27 1968

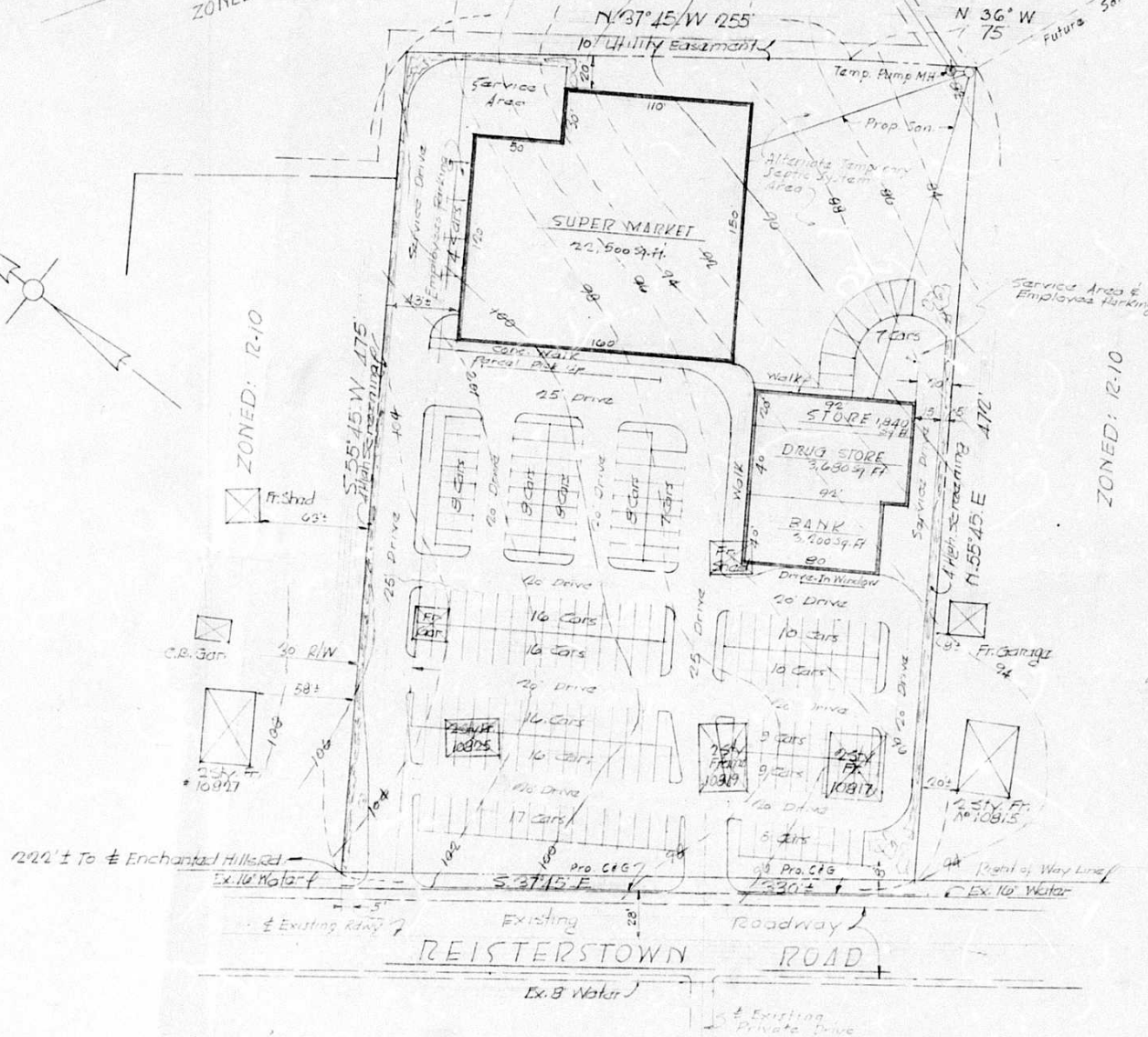
THIS IS TO CERTIFY, that the annexed advertisement was
published in THE JEFFERSONIAN, a weekly newspaper printed
and published in Towson, Baltimore County, Md., once in each
of 1 time successive weeks before the 27th
day of July, 1968, the first publication
appearing on the 27th day of July,
1968.

THE JEFFERSONIAN

[Signature]
Manager.

Cost of Advertisement, \$.....

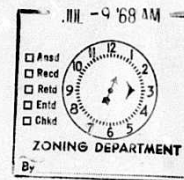
SEC. 1 "ENCHANTED HILLS APTS."
 RRG 29/1/92
 ZONED: R. A.



NOTES:

Election District No. 4 Balto Co, Md.
 Area of Property 3.00 ±
 Existing Use Residential
 Existing Zoning R-10
 Pro. Use Shopping Center
 Pro. Zoning B.R.
 Area of Pro. Bldgs 31,220 sq. ft.
 No. of Parking Spaces Required 31,220 ÷ 200 = 157
 No. of Parking Spaces Proposed 177

The Contours Shown Hereon are on an Assumed Datum.



REVISED PLANS
 OFFICE COPY

Revised 5/18/68

EVANS, HAGAN & HOLDEFER
 SURVEYORS AND CIVIL ENGINEERS
 4200 ELSRODE AVENUE / BALTIMORE, MD. 21214
 (301) 426-2144
 DATE: April 4, 1968 SCALE: 1"=50'

Draw # 2411

825-4377 (LW:)

