

F. Vernon Booser, Esq.,
606 Loyola Federal Bldg.,
Towson, Maryland 21204
Attn: Item 183

February 24, 1969

BUREAU OF TRAFFIC ENGINEERING (Continued)

Based on projected volumes for York Road (considering existing and proposed York Road with its over capacity, it is, therefore, considered undesirable to increase trip density in the York Road corridor.

BUILDING ENGINEERING OFFICE:

Building must conform with all regulations of Baltimore County Building Code.

FIRE DEPARTMENT:

Petitioner shall be required to meet Fire Department regulations pertaining to office buildings when construction plans are submitted for approval.

BOARD OF EDUCATION:

Acquire too small to effect student population.

HEALTH DEPARTMENT:

Public water and sewers are available to the site.

Air Pollution Comments: The building or buildings on this site may be subject to registration and compliance with the Maryland State Health Air Pollution Control Regulations. Additional information may be obtained from the Division of Air Pollution, Baltimore County Department of Health.

STATE ROADS COMMISSION:

An inspection of the site revealed that the existing entrance to the subject property, to the north is located directly on the property line extended as the right of way of York Road.

Due to the close proximity of this existing entrance to the proposed northerly entrance, the proposed entrance must be located a minimum of 10' from the property line; the 10' extending from the property line to the beginning of the depression transition. To so locate the entrance would

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Towson, Maryland 21204
Attn: Item 183

February 26, 1969

STATE ROADS COMMISSION (Continued)

suggest the advanced dog-leg on the interior section of the entrance, therefore, the building must be removed in order to straighten the entrance or the entrance must be eliminated. This office sees no need for two points of access.

The plan must be revised prior to a hearing date being assigned.

ZONING ADMINISTRATION DIVISION:

In view of the comments by the State Roads Commission, this office is withdrawing a hearing date until such time as revised plans are received in compliance with the above comments.

Very truly yours,

Oliver L. Myers
OLIVER L. MYERS, Chairman

OLM:JD

Enc.

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. John G. Rose, Zoning Commissioner Date: March 28, 1969

FROM: George E. Gavett, Director of Planning

SUBJECT: Petition #69-215-RXSPH. Reclassification from R-10 to R.A. Special Exception for Office and Office Building. Special hearing to permit off-street parking in a residential zone. West side of York Road 395.52 feet south of Westbury Road. Eastern Gunite Company, Petitioner.

9th District

HEARING: Wednesday, April 9, 1969 (1:00 P.M.)

The staff of the Office of Planning and Zoning has reviewed the subject petition for reclassification from R-10 to R.A. zoning together with a Special Exception for office use and for parking in a residential zone. It voices its opposition to the proposed reclassification noting that the requested reclassification would establish use potentials for the subject tract which are not consistent with those of the property adjoining it on the western side of York Road. We note that similar requests and, subsequently, a request for commercial reclassification were denied for the property at the corner of York Road - see petition #64-31-R. We do not believe that changes in the manner of land use or in the character of the neighborhood have occurred so as to warrant the requested reclassification.

GEG:mas

INTER-OFFICE CORRESPONDENCE
BUREAU OF TRAFFIC ENGINEERING
Baltimore County, Maryland
Towson, Maryland, 21204

TO: Mr. John G. Rose
Attn: Oliver L. Myers
FROM: C. Richard Moore

SUBJECT: Item 183 - ZAC - February 11, 1969
Property Owner: Eastern Gunite Company
York Road 34 of Westbury Road

Date: March 14, 1969

Review of the revised plan dated March 7, 1969 indicates no change in previous comments.

C. Richard Moore
C. Richard Moore
Engineer II

CRM:mr

F. VERNON BOOSER
ATTORNEY AT LAW
TOWSON, MARYLAND 21204

606 Loyola Federal Bldg.
TOWSON, MARYLAND 21204

April 17, 1969

Mr. John G. Rose
Zoning Commissioner
Baltimore County Office of
Planning and Zoning
County Office Building
Towson, Maryland 21204

Re: Petition for Reclassification
Special Exception - Special Hearing
for Off-street Parking
W/S York Road 395.52 S
Westbury Road, 9th District
Eastern Gunite Co.
Petitioner - No. 69-215-RX-SPH

Dear Mr. Rose:

Enclosed is our check in the amount of \$75.00. Please note our appeal to your Order passed on April 14, 1969 in the above-captioned matter.

Very truly yours,

F. Vernon Booser
F. Vernon Booser

FVB:fbw

cc: Mr. Robert R. Gaugh, President
Devonshire Forest Civic Ass'n, Inc.
140 Dublin Drive
Lutherville, Maryland 21093

Mrs. David Frampton
Orchard Hills Community Ass'n
2 Westbury Road, Lutherville, Md. 21093

Mrs. Arthur J. Pokorny
4 Lynn Court
Baltimore, Maryland 21093

Mr. Philip A. Weaver, President
Eastern Gunite Co., Sale-Cynwyd, Pa. 19004

Mr. Stephen G. Heaver
22 West Road, Towson, Md. 21204



ZONING DESCRIPTION

R-10 to R-A WITH SPECIAL EXCEPTION
FOR OFFICE BUILDING IN AN R-A ZONE

BEGINNING for the same on the westernmost side of York Road (66 feet wide) at a point distant 395.52 feet measured in a southerly direction from the southernmost side of Westbury Road (50 feet wide) said point being at the beginning of the first line of the second parcel of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company thence binding on the westernmost side of said York Road and said first line north 14 degrees 15 minutes west 105.42 feet, thence leaving said road and binding on the second, third and last lines of said deed the following courses and distances south 75 degrees 45 minutes west 250.18 feet, south 14 degrees 15 minutes east 64.72 feet and south 75 degrees 30 minutes east 250.18 feet to the place of beginning.

CONTAINING 0.729 acres of land more or less.

BEING the first parcel of that tract of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company.

January 22, 1969



DAVID W. DALLAS, JR.
CIVIL ENGINEER
1515 OLD HANOVER RD. BALTO., MD.
NO. 5-7422

ZONING DESCRIPTION

USE PERMIT FOR PARKING
IN AN R-10 ZONE

BEGINNING for the same on the southernmost side of Westbury Road (50 feet wide) at a point distant 250.18 feet measured in a westerly direction from the westernmost side of York Road (66 feet wide) said point being at the beginning of the first line of the second parcel of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company thence binding on the southernmost side of said Westbury Road and said first line in a westerly direction by a line curving towards the north with a radius of 212.43 feet for a distance of 64.72 feet to the division line between R-10 and R-A zoning as described in Zoning Description 9-10-10-19, thence running reversely and binding on a part of the fifth line of said Zoning Description south 14 degrees 15 minutes east 250.18 feet to intersect the third line of said deed, thence binding on a part of said third and the fourth line of said deed the following courses and distances south 75 degrees 30 minutes east 72.07 feet and north 14 degrees 15 minutes west 250.18 feet to the place of beginning.

CONTAINING 0.356 acres of land more or less.

BEING part of the second parcel of that tract of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company.

January 24, 1969



DAVID W. DALLAS, JR.
CIVIL ENGINEER
1515 OLD HANOVER RD. BALTO., MD.
NO. 5-7422

ZONING DESCRIPTION

USE PERMIT FOR PARKING
IN AN R-A ZONE

BEGINNING for the same on the southernmost side of Westbury Road (50 feet wide) at a point distant 314.72 feet measured in a westerly direction from the westernmost side of York Road (66 feet wide) said point being at the beginning of the second line of the second parcel of that tract of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company thence leaving said road and binding on said second and part of the third lines of said deed the two following courses and distances south 14 degrees 42 minutes west 204.15 feet and south 75 degrees 30 minutes east 113.77 feet to the division line between R-10 and R-A zoning as described in Zoning Description 9-10-10-19, thence binding on a part of the fifth line of said Zoning Description north 14 degrees 15 minutes west 252.85 feet to the place of beginning.

CONTAINING 0.261 acres of land more or less.

BEING part of the second parcel of that tract of land which by deed dated January 3, 1969 and recorded among the Land Records of Baltimore County in Liber O.T.O. No. 4954 folio 84 etc. was conveyed by Stephen G. Heaver and wife to Eastern Gunite Company.

January 24, 1969



DAVID W. DALLAS, JR.
CIVIL ENGINEER
1515 OLD HANOVER RD. BALTO., MD.
NO. 5-7422

EASTERN UNITE COMPANY

VS

THE COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTYBARRY VAN NORT
DAVID PROFFER, et al

- IN THE CIRCUIT COURT
- FOR BALTIMORE COUNTY
- AT LAW

Minor Docket #
Folio 431-309 (per tel. call 5/25/70)
Case No. 2663-4363 3:10 p.m., J. Maguire
Mo. 69-215-RX
SPH

MEMORANDUM OPINION
AND ORDER OF COURT

This case involves an appeal from the County Board of Appeals of Baltimore County, which by its Order dated October 29, 1969, denied the reclassification of the property in this proceeding from an R-10 to an R-A zone, a special exception to permit the construction of a three-story office building and a permit to allow offstreet parking in a residential zone. The property is situated on the West side of the York Road approximately 395 feet South of Westbury Road in the Ninth Election District of Baltimore County. The Deputy Zoning Commissioner of Baltimore County by an Order dated April 14, 1969, denied the reclassification requested because the Petitioner did not prove error in the map; secondly, previous requests for commercial reclassification were denied for property at the corner of Westbury Road and York Road immediately North of subject property; and, thirdly, insufficient change to warrant reclassification. The County Board of Appeals also denied the reclassification requested because it felt that two previous decisions on property one lot removed from the subject property to the North had been denied and they would be acting in

a highly arbitrary matter to grant the requested reclassification in this case. They felt compelled to follow the previous decisions and to grant this Petition would constitute an unwarranted intrusion of office uses into the existing residential zone. It is to be noted that the Board did not base its opinion on change in character in the neighborhood or error in the map, but only on their two previous decisions as to the almost adjacent property.

The Petitioner in the application for reclassification is Eastern Unite Company, an engineering firm now located in Pennsylvania who specializes in water reconstruction work. They desire to construct a three-story office building and utilize two floors of the building for their company purposes. They intend to engage 50 to 60 employees and possibly rent out the additional floor space of one floor to other persons. The zoning and land uses surrounding the subject property are as follows: Easterly on York Road and across from the subject property the zoning is R-6 and improved with a building known as the Baptist Book Store while the Southern tip of the subject property is opposite R-2 zoning (on the East side of York Road) and which is presently occupied by a large office building. The zoning to the North and South of the subject property along the West side of York Road is R-10 and the lots are improved with single family residences. To the West of the subject property lies the R-5 development known as Ravenshire Forest consisting of homes in the \$25,000 to \$30,000 price range.

The Petitioner's property is divided into three parcels as shown on Petitioner's Exhibit Number One, Parcel A consists of .729 acres, and the request is for a reclassification from R-10

to a R-A zone and a special exemption for the office use; Parcel B consists of .396 acres and the request is for an offstreet parking permit in the R-10 residential zone; Parcel C consists of .234 acres and the request is for an offstreet parking permit in the R-5 residential zone. The proposed parking lot is to be used in conjunction with the office building located to the rear of West of the proposed office building and has ingress and egress from both York Road and Westbury Road.

The Court is cognizant of the general proposition that there is a strong presumption of correctness of original zoning or comprehensive zoning and that to sustain a piecemeal change therefrom, there must be proof of mistake in the map or a substantial change in the character of the neighborhood. See: Tamplin v. Bd. of Zoning Appeals, 205 Md. 429; Neenan v. Board of Zoning Appeals, 209 Md. 420; Rosen v. Board, 224 Md. 121; Johns Corp. v. Board of Zoning, 236 Md. 106; MacDonald v. County Board, 238 Md. 349; and Miller v. Abraham, 238 Md. 263. The Court is also aware that this general rule does not mean however, that zoning, once established, is static and eternal. This was observed in the case of Missouri Realty, Inc. v. Board, 216 Md. 442.

The Court is confronted once again with familiar names in the folklore of zoning; namely, George E. Cavellis, Director of Planning for Baltimore County and Frederick Klaus who testified as an expert in this matter. The testimony of Mr. Cavellis stated that his opinion with regard to R-A zoning on the subject property might be different if the entire area was being studied for purposes of adopting a new map, but he opposes this petition

on an individual basis citing the Mansfield Tract at the corner of York and Westbury Roads on which reclassification has been denied on two previous occasions as previously indicated. Mr. Frederick Klaus cites many changes in zoning since the adoption of the map in November 1955, all of which are North of Seminary Avenue with the exception of the Strathkirk property which was reclassified from R-2 to R-A and granted by the Board of Appeals on December 5, 1957, and the Handel property finally zoned on November 29, 1961, which is that of subject property across York Road. All other reclassifications are North of Seminary Avenue and some distance from the subject property. Incidentally, the Strathkirk property is restricted to the present building and cannot be further developed for office buildings.

Thus, the only reclassification on York Road since the adoption of a map in 1955, South of Seminary Avenue and North of the Beltway, is the Strathkirk on the East and Handel on the West. It seems the application for reclassification is premature in light of the fact that studies are being made by the Planning Department of a new map for the Ninth Election District of Baltimore County.

It is not the province of this Court, moreover, to resolve the various conflicts in the evidence before the Board if there was, in fact, any evidence of a substantial nature supporting and justifying the Board's action. In MacDonald v. Bd. of Zoning, 240 Md. 355 (decided November 10, 1965), the Court in quoting from Judge Hammond's opinion in Board v. Oak Hill Farms,

212 Md. 274 P. 123 stated at pages 371-372 as follows:

"... the courts have exercised restraint so as not to substitute their judgments for that of the agency and not to choose between equally permissible inferences or make independent determinations of fact, because to do so would be encroaching a non-judicial role. Rather, they have attempted to decide whether a reasoning mind could reasonably have reached the result the agency reached upon a fair consideration of the fact picture pointed by the entire record."

"In the case dealing with consideration of the weight of the evidence, the matter seems to have come down to whether, all that was before the agency considered, its action was clearly erroneous, or to use the phrase which has become standard in Maryland zoning cases, not fairly debatable."

See also the following cases: Plumley v. Hall, 241 Md. 224 (decided Feb. 2, 1966); Full v. The Johns Corp., 242 Md. 16 (decided March 15, 1966); Rosalia View Club v. Board, 242 Md. 40 (decided March 22, 1966); Both Willich v. Board, 242 Md. 84 (decided March 29, 1966); Rosen v. Board, 242 Md. 351 (decided April 26, 1966); and Yaral v. Board, 242 Md. 371 (decided April 29, 1966).

This Court is constrained to hold that a reasoning mind could reasonably have reached, upon a fair consideration of the entire record, the same conclusion as that of the Board, and hence its action was not arbitrary or capricious or illegal, but, on the other hand, was fairly debatable. Having determined this, the Court has fulfilled and exhausted its limited judicial function in reviewing a zoning appeal.

For the reasons stated and in conformity with the foregoing opinion, it is this 26th day of May, 1970, by the circuit court for Baltimore County ORDERED that the Order of the County Board

of Appeals of Baltimore County dated October 29, 1969, be and the same is hereby affirmed.

John N. Maguire
JUDGE

TELEPHONE 283-3000 EXT. 387

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

No. 62146
DATE April 14, 1969

TO: Eastern Unite Co.
Bala-Cynwyd, Penna. 19004

Re: Zoning Dept. of Baltimore County

QUANTITY 01-522

RETURN THIS PORTION WITH YOUR REMITTANCE
DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS

Advertising and posting of property
69-215-RX/SPH

TOTAL AMOUNT \$125.00

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

TELEPHONE 283-3000 EXT. 387

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

No. 62101
DATE March 18, 1969

TO: Eastern Unite Company
Bala-Cynwyd, Penna. 19004

Re: Zoning Dept. of Baltimore County

QUANTITY 01-522

RETURN THIS PORTION WITH YOUR REMITTANCE
DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS

Petition for reclassification, Special Exception and Special Hearing
69-215-RX/SPH

TOTAL AMOUNT \$50.00

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

F. Vernon Satter, Esq.
600 Laporte Federal Bldg.
Towson, Maryland 21204

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
County Office Building
131 W. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing this
27th day of March, 1969

John E. Ross
Zoning Commissioner

Petitioner: Eastern Unite Company
Petitioner's Attorney: F. Vernon Satter, Esq. Reviewed by: *Shirley L. Myers*
Chairman of Advisory Committee

2 Signs 69-215-RX

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 9th Date of Posting 5-1-69

Posted for: Approval

Petitioner: Eastern Unite Co.

Location of property: W. York Rd. 375' S. of Westbury Rd.

Location of Sign: On York Rd. On 2nd W. York Rd. 95' of Westbury Rd.

Remarks: *W. York Rd.*

Posted by: *W. York Rd.* Date of return 5-8-69

7-9-70

115 Ruth Morgan

ZONING DATA

- EXISTING ZONING
PARCEL A & B R-10
PARCEL C R-C
- PROPOSED ZONING
PARCEL A R-1A WITH SPECIAL EXCEPTION FOR OFFICE BLDG.
PARCEL B & C USE PERMIT FOR PARKING
- ADVICE TOTAL 1.2423A
PARCEL A 0.725A PARCEL B 0.250A PARCEL C 0.262A
- PARKING REQUIREMENT
AREA OF 3000 0.250 20 FT FLOOR TOTAL 27750 SQ FT
1ST FLOOR 0.250/3000 = 3.33 SPACES
UNPAVED LEVEL 0.250/5000 = 1.65
2ND FLOOR 0.250/5000 = 1.65
- PARKING REQUIRED 98 SPACES
100 SPACES
- ALL UTILITIES AVAILABLE

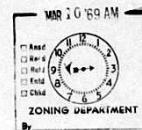
SECTION 4904 USE PERMIT DATA

- THE LAND ADJACENT THE BUSINESS REQUIRED
- ONLY REGISTERED VEHICLES EMPLOYEE OR PASSENGER MAY USE THE PARKING AREA
- NO LOADING, SERVICE, OR ANY USE OTHER THAN PARKING MAY BE PERMITTED
- LOADING SHALL BE REGULATED AS TO LOCATION, DIRECTION, MOUNT OF ILLUMINATION, GLARE, & INTENSITY, AS REQUIRED BY BUILDING REGULATIONS
- SCREENING BY 4' HIGH SCREEN FENCING OR 4' HIGH CONCRETE PLANTING AS REQUIRED
- OVERHEAD CABLES FOR POWER WITHIN 20' CONC. DISTANCE & PROPERLY PLANNED
- PARKING PLANS SHALL BE APPROVED BY OFFICE IF PLANNING
- METHOD OF OPERATION, DESIGN FOR MAINTENANCE & PERMITTED RULES OF USE TO SUPPLEMENT OPERATION OF BUILDING ONLY

WALL DEFLECTED
SHALL BE ADJUSTED
TO PERMIT LIGHT
TO RESIDENTIAL
AREAS

TYPICAL LIGHT STANDARD
NO SCALE

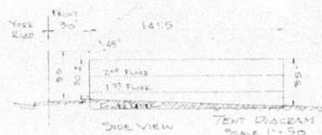
OFFICE COPY
REVISED PLANS



#69-215RX 9PH

OFFICE COPY

MAP
#9
SEC. 3-C
NE-11-A
NE-12-A
NW-11-A
NW-12-A
RA-X



ZONING PLAT EASTERN GUNITE COMPANY

204A CYNWYD PENNSYLVANIA 19004
DEVELOPER: STEPHEN G. HEAVER 22 WEST BIRD BALTO MD 21204
2ND ELECTION DISTRICT
Scale 1"=50'



DAVID W. DALLAS, JR.
CIVIL ENGINEER
1715 BRADDOCK ST. BALTO MD 21202

