

72-83-R MAP 23 N.W. 1/4 4/1/73 4/1/73 4/1/73 **PETITION FOR ZONING RE-CLASSIFICATION AND/OR SPECIAL EXCEPTION**

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

I, or we, MAJOR REALTY, legal owner, of the property, situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an DR-16 zone to an RM with CWS District zone; for the following reasons:

Error in zoning - SEE ATTACHED MEMORANDUM

See attached description

and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for use and combination for a grocery store, automotive service station

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above reclassification and/or Special Exception advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

MAJOR REALTY
By: John E. Rainey
Legal Owner

Address: 1800 N. Charles Street
Baltimore, Maryland 21201

Petitioner's Attorney
James D. DiNenna
1603 York Road, Baltimore, MD 21201

Address: 17th

ORDERED By The Zoning Commissioner of Baltimore County, this 17th day of August, 1972, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commission of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 27th day of September, 1972, at 10:00 o'clock A.M.

Eric DiNenna
Zoning Commissioner of Baltimore County.

(over)

April 8, 1975

Mr. Leon J. Crane
1800 North Charles Street
Baltimore, Maryland 21201

RE: Extension of Original Petition for Special Exception
SW corner of Security Boulevard and Ingleside Avenue - 1st Election District
Major Realty - Petitioner
NO. 72-83-RX (Item No. 34)

Dear Mr. Crane:

As per your request, I have extended the Special Exception for an Automotive Service Station Use in combination with a grocery store for a period of three (3) years, beginning March 27, 1975, and ending March 27, 1978. A copy of the Extension Order is attached for your reference.

Very truly yours,

S. ERIC DI NENNA
Zoning Commissioner

ED/arl

Attachment

ZONING CASE #72-83-RX
CULOTTA CONSTRUCTION CO., INC. : IN THE CIRCUIT COURT
c/a WESTCLIFFE APARTMENTS, etc. :
VS : FOR BALTIMORE COUNTY
COUNTY BOARD OF APPEALS OF :
BALTIMORE COUNTY : MISC. 5025
MAJOR REALTY :
: : : :
: : : :
MEMORANDUM OPINION

The character of the subject property makes this a somewhat unusual zoning case. It consists of 0.8 acres and is the small tip of a triangular area bounded on one side by Security Boulevard, on one side by Ingleside Avenue, and on the third side by public land owned by the State running from Ingleside Avenue to a ramp leading from I-70, an interstate highway, into the south bound lane of Security Boulevard. The property is more fully described in the Opinion of the County Board of Appeals, and photographs offered in evidence and designated as Protestants Exhibits A-2 and A-4 show clearly how the subject property is situated. The principles of law applicable to a zoning appeal are so clear and well established that citation of authority is unnecessary. The action of the Board of Appeals in reclassifying the property from D.R. 16 to B.M. and granting a special exception can only be upheld if there is a finding of change in the character of the area, or error by the County Council in placing the subject property in the D.R. 16 category when it adopted a comprehensive zoning map in 1971.

Secondly, the Court may not substitute its judgment for that of an administrative agency. The Board of Appeals found error in the comprehensive plan with reference to the subject property. Was there sufficient evidence to justify this finding?

The Court has reviewed the transcript and believes that the testimony of the witnesses, and the analysis of the testimony by the Board of Appeals makes the matter fairly debatable. The Board was convinced that the County Council was in error when it zoned this property D.R. 16. It concluded that "it is inconceivable to believe that the County Council intended this unique 0.8 acre tract be developed with apartments". This Court agrees. It should be noted that the Deputy Zoning Commissioner had initially denied the reclassification granted by the Board. He concluded that the petitioners had not met the burden of showing error, but there are no statements made in support of his conclusion, and his opinion makes it clear that his action was predicated on a finding that serious traffic problems would result if the property was put to any commercial use. One thing is crystal clear to this Court. Whatever use is made of the property there will be serious traffic problems. Because of its location any routes of ingress and egress will have to be extremely close to the intersection of two busy highways. The question as to what use may be made of the property in conformity with zoning decisions may well be rendered moot if governmental authorities, exercising control over the highways, deny to the owner the right of access to the adjacent roads. Hazardous traffic problems will exist whether the property is used

-2-

for apartments under D.R. 16 classification, or is used for a service station. There was opinion evidence that service stations serve traffic but do not generate additional traffic to the extent that apartment use does. This proposition seems reasonable and, at the least, it is fairly debatable. The proposition is supported by the testimony of the witness Flanagan, called on behalf of the protestants. Where traffic problems exist, whatever the use of the property may be, their existence should not be a factor relied on to deny reclassification.

The Board further found that the proposed use would not adversely affect the value of the neighborhood residences, or be detrimental to the general welfare of the community. The opinion evidence of the witness Heinmuller supports this conclusion, as does the testimony of Mr. Willemain.

Believing the action of the Board to be both legally and factually sound its Order will be AFFIRMED.

October 19, 1973

John E. Rainey
JOHN E. RAINEY, JR.
JUDGE

REGISTERED RETURN
RECEIPT REQUESTED

1800 North Charles Street
Baltimore, Maryland 21201
727-7030

March 14, 1975

Eric DiNenna, Zoning Commissioner
Baltimore County
Towson, Maryland 21204

Re: Decision of Board of Zoning Appeals
Dated 3/27/73, Your File No. 72-83-RX
Security Boulevard and Ingleside Avenue

Dear Sir:

You will note that the rezoning of the subject property at Ingleside Avenue and Security Boulevard was granted on March 27, 1973, together with a Special Exception for a combination service station with a grocery store. Under the regulations affecting Rezoning with a Special Exception, it is my understanding that we must request an extension before the expiration of two years from the date of the granting of said Rezoning and Special Exception.

The property remains unimproved. At this time we are preparing plans in order to implement the zoning granted and will endeavor to proceed with these plans as speedily as possible.

In view of the above, we herewith request that the Rezoning obtained, together with the Special Exception, be extended for a further period of three (3) years; that is from March 27, 1975, to March 27, 1978.

We would appreciate your acknowledging receipt of this letter.

Very truly yours,

Leon A. Crane
Leon A. Crane, Individually and for
Major Realty, Inc., et al

cc: C. Victor McFarland

P.S. - an appeal was taken to the Circuit Court of Baltimore County on April 25, 1973; on November 28, 1973, Judge Rainey upheld our zoning.

NOTE: Our Special Exception does not appear on the current zoning map. We would appreciate having this information put on the new zoning map. It's omission may have been caused through an oversight.



LAW OFFICES
TREAT AND McFARLAND
832 FREDERICK AVENUE
CATONSVILLE, MARYLAND 21228

June 1, 1972

J. WILLIAM TREAT, JR.
C. VICTOR MCFARLAND

TELEPHONE
744-0281

J. WILLIAM TREAT, JR.
C. VICTOR MCFARLAND

LAW OFFICES
TREAT AND McFARLAND
832 FREDERICK AVENUE
CATONSVILLE, MARYLAND 21228

January 31, 1972

Mr. S. Eric DiNenna
Zoning Commissioner
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Petition for Reclassification, Redistricting and Special Exception S/W Corner of Security Boulevard and Ingleside Avenue - 1st District
Major Realty - Petitioner
No. 72-83-RX (Item No. 34)

Dear Mr. Commissioner:

Please enter an appeal to the Board of Appeals for Baltimore County on behalf of my clients, Major Realty, Incorporated, for an adverse decision of James E. Dyer, Deputy Zoning Commissioner, dated January 10, 1972.

Enclosed is a check in the amount of \$75.00 representing advance appeal costs payable to Baltimore County, Maryland.

C. Victor McFarland
Attorney for Applicant,
Major Realty, Incorporated

yw
cc: Major Realty, Inc.
Bernard Willemain

Mr. John A. Slowik, Chairman
County Board of Appeals
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Major Realty
File No. 72-83-RX

Dear Mr. Slowik:

Pursuant to your request please be advised that Major Realty was Planning Board issue No. 600 and Baltimore County Council No. 778.

If you need additional information, please advise me.

With kind regards, I am

Very truly yours,

C. Victor McFarland
C. Victor McFarland

CVMCF:yw
cc: Bernard J. Willemain
Leon A. Crane, Esquire
James S. Ansell, Esquire

Rec'd 6-1-72
9:45 AM
ok 8/6/72

RE: PETITION FOR RECLASSIFICATION : IN THE
from D.R. 16 to B.M. zone; : CIRCUIT COURT
UNDISTRICTED TO C.N.S. DISTRICT; :
SPECIAL EXCEPTION FOR Automotive :
Service Station Use in Combination :
with a Grocery Store :
SW corner of Security Boulevard :
and Ingleside Avenue :
1st District, N.W. Sector :
AT LAW
Major Realty : Misc. Docket No. 9
Petitioner :
Zoning File No. 72-83-RX : Folio No. 290
Culotta Construction Co., Inc., : File No. 5025
t/a Westcliffe Apartments :
Clarence D. Smith :
Protestants-Appellants :

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, &c.

Muriel E. Buddemeier

RE: PETITION FOR RECLASSIFICATION, REDISTRICTING AND SPECIAL EXCEPTION : BEFORE THE
SW corner of Security Boulevard and Ingleside Avenue : DEPUTY ZONING
1st District, Major Realty - : COMMISSIONER
Petitioners :
NO. 72-83-RX (Item No. 34) : OF
BALTIMORE COUNTY

This is a Petition for Reclassification from a D.R. 16 Zone to a B.M. Zone, Redistricting from Undistricted to a C.N.S. District, and a Special Exception for an Automotive Service Station use in combination for a Grocery Store.

The above requests are being made for a .8 acre parcel of land located at the southwest corner of Security Boulevard and Ingleside Avenue in the First Election District of Baltimore County.

The property is owned by Major Realty, Incorporated. One of the principals of this corporation, Mr. Leon Crain, testified that the corporation had owned the property for fifteen (15) years. He further stated that the .8 of an acre represented residue from the original tract of sixty (60) to seventy (70) acres. Part of the acreage was developed by him, part sold for development, and part sold under condemnation proceedings to the State of Maryland for the I-70N Highway. Mr. Crain described himself as a builder of homes for the past twenty-five (25) years and indicated that he had built several hundred homes in this area. He has not tried to sell the residue land because he would like to develop it himself.

A land planner, testifying on behalf of Mr. Crain, stated that the Baltimore County Council had erred in placing D.R. 16 zoning on the .8 of an acre parcel for the following reasons:

1. To zone the subject parcel D.R. 16 is confiscatory in that it does not permit the highest and best, or most logical use of the property.

RE: PETITION FOR RECLASSIFICATION : IN THE
from D.R. 16 to B.M. zone; : CIRCUIT COURT
UNDISTRICTED TO C.N.S. DISTRICT; :
SPECIAL EXCEPTION FOR Automotive :
Service Station Use in Combination :
with a Grocery Store :
SW corner of Security Boulevard :
and Ingleside Avenue :
1st District, N.W. Sector :
AT LAW
Major Realty : Misc. Docket No. 9
Petitioner :
Zoning File No. 72-83-RX : Folio No. 290
Culotta Construction Co., Inc., : File No. 5025
t/a Westcliffe Apartments :
Clarence D. Smith :
Protestants-Appellants :

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come John A. Slowik, W. Giles Parker and Walter A. Balter, Jr., 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. 72-83-RX
May 21, 1971 Comments of Baltimore County Zoning Advisory Committee - filed
Aug. 17 Petition of Major Realty for reclassification from D.R. 16 zone to B.M. zone; Undistricted to C.N.S. District; and Special Exception for automotive service station use in combination with a grocery store, on property located on the southwest corner of S. curly Boulevard and Ingleside Avenue, 1st District, N.W. Sector - filed
Sept. 9 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for September 27, 1971 at 10:00 a.m.
Sept. 9 Certificate of Publication of property - filed
Sept. 24 Certificate of Posting of property - filed
Sept. 27 At 10 a.m. hearing held on petition by Deputy Zoning Commissioner - case held sub curia
Jan. 10, 1972 Order of Deputy Zoning Commissioner denying reclassification, redistricting and special exception

2. There is no question that the use of the property should be oriented to the automobile. A service station use would be proper.
3. There have been changes in the area in recent years that should have justified commercial zoning on the subject parcel.
4. A service station use would not be detrimental to the health, safety or general welfare of the community, nor would a service station create congestion in the surrounding roads or streets.

Several area residents, representing improvement associations, gave testimony in opposition to the requested zoning. Their objections were based on spot zoning, and traffic conditions at the intersection of Security Boulevard and Ingleside Avenue.

Testimony indicated that no commercial zoning existed in the area north of I-70N and west of Security Boulevard. The only commercial zoning in the immediate area is located on the west side of Security Boulevard at the Baltimore City Line. Residents also felt that doctor's offices are needed in the area, and would generate less traffic than the proposed use. The .8 of an acre parcel was described as being located at an intersection that carries a tremendous volume of traffic. A witness described back-ups of two (2) to three (3) blocks and many accidents occurring at this intersection.

Zoning Advisory comments by the Department of Traffic Engineering described the entrance on Security Boulevard as being hazardous. This point of ingress and egress, must by necessity of the size and location of the site, be located in an acceleration lane. Drivers using the free right turn lane from Ingleside Avenue to merge with north bound traffic on Security Boulevard are placed in the predicament of keeping an eye on the exit in front of them, while trying to merge with traffic approaching from the rear.

Commercial uses on this property could only increase the above described hazard. Business uses would generate a larger number of vehicles at peak traffic hours than an apartment building, or other uses

72-83-RX - Major Realty

Feb. 1, 1972 Order of Appeal to County Board of Appeals from Order of Deputy Zoning Commissioner
May 11 Hearing on appeal before County Board of Appeals
Oct. 18 Continued hearing on appeal before County Board of Appeals - case held sub curia
Mar. 27, 1973 Order of County Board of Appeals granting Petition
Apr. 23 Order of Appeal filed in Circuit Court for Baltimore County by James S. Ansell, Esq., attorney for Protestants-Appellants
" " Petition to accompany Order of Appeal filed in Circuit Court for Baltimore County
" 25 Certificate of Notice sent to all interested parties
June 13 Transcript of testimony filed - 2 volumes
Petitioner's Exhibit No. 1 - Western area zoning map (2-8), 3/24/71
" " 2 - Map of subject property - Purdom & Joschko, 4/8/71
" " 3 - Map by Carl Heinemuller, Jr., roads map, with circle
" " 4 - Photos, 4/28/72, by Carl Heinemuller, Jr. (6 pictures on 3 sheets - "A" thru "F")
" " 5 - Map, 2/13/62, Purdom & Joschko
" " 6 - Traffic chart by Congill
" " 7 - P.M. Traffic chart by Congill
" " 8 - A.M. " " " "

Protestants' Exhibit A1 thru A4 - Color photos of subject property, in frames

" 14 Record of proceedings filed in the Circuit Court for Baltimore County
Record of proceedings pursuant to which said Order was entered and said Board 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 inconvenient 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

permitted as Special Exceptions under the present zoning classification. The use in combination grocery store that is required to qualify the site for a C.N.S. District, can only add to the problems of developing this site for retail uses. The burden of proof is upon the Petitioners to show error and this burden has not been met.

For the foregoing reasons, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County, this 10th day of January, 1972, that the above Reclassification, Redistricting, and Special Exception 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 D.R. 16 Zone.

James S. Ansell
Deputy Zoning Commissioner of
Baltimore County

RE: EXTENSION OF ORIGINAL PETITION : BEFORE THE
FOR SPECIAL EXCEPTION : ZONING COMMISSIONER
SW corner of Security Boulevard and :
Ingleside Avenue - 1st Election District :
Major Realty - Petitioner : FOR
NO. 72-83-RX (Item No. 34) : BALTIMORE COUNTY

EXTENSION ORDER

IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 10th day of April, 1975, that the Special Exception for an Automotive Service Station Use in combination with a grocery store be and the same is hereby extended, in accordance with Section 502.3 of the Baltimore County Zoning Regulations, for a period of three (3) years, beginning March 27, 1975, and ending March 27, 1978.

John A. Slowik
Zoning Commissioner of
Baltimore County

ORDER RECEIVED FOR FILING
DATE 5/11/75
BY John A. Slowik
Zoning Commissioner

*To: Mr. Edward D. Hunsbary, Deputy Commissioner
Attn: Mr. Myers DATE: 5/11/75

FROM: Planning Division
Fire Prevention Bureau

SUBJECT: Property Owners
Major Realty

Location: W/S Security Blvd., 1000' No. of I-70-N

Item #34
Fire hydrants for the proposed site are required and shall be in accordance with Baltimore County Standards. The hydrants shall be located at intervals of 300 feet along an approved road.
The owner shall be required to comply with all applicable requirements of the 101 Life Safety Code, 1967 edition, and the Fire Prevention Code when construction plans are submitted for approval.

John A. Slowik
Fire Prevention Bureau

APR 22 1975

RE: PETITION FOR RECLASSIFICATION : BEFORE
from D.R. 16 to B.M. zone, : COUNTY BOARD OF APPEALS
UNDISTRICTED TO C.N.S. DISTRICT : OF
SPECIAL EXCEPTION for Automotive :
Service Station Use in Combination :
with a grocery store : BALTIMORE COUNTY
SW corner of Security Boulevard and :
Ingleside Avenue :
1st District, NW Sector :
Major Realty :
Petitioner : No. 72-83-RX

OPINION

This case comes before the Board on an appeal by the Petitioner from an Order of the Deputy Zoning Commissioner dated January 10, 1972 denying the subject petition. The Petitioner requests a reclassification in zoning from D.R. 16 (Density Residential, 16 units per acre) to B.M. (Business Major) zoning; from Undistricted to a C.N.S. (Commercial Neighborhood Shopping District), and for a Special Exception for an Automotive Service Station use in combination with a grocery store. Basically, the Petitioner seeks zoning in order to construct and operate an automotive service station. However, to become eligible for such, he must obtain the other parts of the petition as a prerequisite according to regulations promulgated by Baltimore County Council Bill No. 40 enacted May 8, 1967, with specific compliance with Sections 259.28, 405 and 502.1 of the Baltimore County Zoning Regulations.

The subject property is located on the southwest corner of Security Boulevard and Ingleside Avenue, in the First Election District of Baltimore County, Maryland. It contains 0.8 acres (34,848 square feet) of vacant land, which by virtue of prior public takings for road development has resulted in its severance and isolation from a larger sixty to seventy acre tract.

It is the Petitioner's contention that the site and his development plans satisfy all the requirements of the Zoning Regulations, (see plat and notes Petitioner's Exhibit No. 2), and that the County Council erred by putting the subject property in D.R. 16 zoning when they adopted the comprehensive zoning map for the area on March 24, 1971 (Zoning map 2-8 Western Area, Petitioner's Exhibit No. 1). Error is the legal basis

Major Realty - No. 72-83-RX

2.

on which he may seek a zoning reclassification, and the burden is on the Petitioner to demonstrate that such is the case in this instance.

In pursuing his appeal, the Petitioner produced several expert witnesses who testified at length on his behalf. The witnesses were Mr. Carl Heinmuller, realtor, appraiser and consultant; Mr. Bernard J. Willemain, City planner and consultant, and Mr. William Corgill, traffic consultant. Their testimony revealed that the subject is the apex of an isolated triangle of land formed by the intersecting of three roads, namely, Ingleside Avenue on the north, Security Boulevard on the east, and I-70N on the south. The only other properties within the triangle are a 2.7 acre tract along the south side of Ingleside Avenue containing forty apartment units known as Westcliffe Apartments, and another tract owned by the Maryland State Highway Administration, which bounds on the subject and extends southerly to highway I-70N. This last mentioned tract is utilized for the I-70N off-ramp right of way. The subject, having been described as within a triangle of roads along with two other tracts, is actually an island to itself, since one of the tracts, the off-ramp along its south border, is public land. Ingleside Avenue, bordering on the north, and Security Boulevard bordering on the south, complete the encirclement with public road property. The subject has 200 feet along the south side of Ingleside Avenue, 135 feet across the curve at the corner of Ingleside Avenue and Security Boulevard, 158 feet along the west side of Security Boulevard, a 15 foot offset at the back and 365 feet across the back boundary line. (See plat, Petitioner's Exhibit No. 2). Ingleside Avenue at this location runs in an east-west direction and the intersecting Security Boulevard runs in a north-south direction. The subject property is the southwest corner of this intersection. The northwest corner is vacant land, which as required by regulation is reserved as open space land in the development of a D.R. 16 apartment zone. The southeast and northeast corners are predominantly in the flood plain of a stream known as Dead Run. Said corners are owned by Baltimore County and by the State Highway Administration. Of the four corners, only the subject site has any development potential. East of the stream, along Franklinton Road, are several commercial establishments. South-west of the subject, separated by public land, are the Westcliffe Apartments, same being

Major Realty - No. 72-83-RX

3.

seventy feet higher than the subject land. Mr. Heinmuller testified that Security Boulevard and Dead Run effectively separate the subject tract from residences to the east, and that the residences cannot be seen from the subject site. In his opinion, from studies which he had made, the proposed service station would not adversely affect the value of the neighborhood residences or be detrimental to the general welfare of the community. He and Mr. Willemain stated that the subject is totally isolated from other D.R. 16 zoning and from any other residential uses by roads, ramps, wooded parcel, flood plain and a full flowing stream. Mr. Heinmuller explained that one of the two service stations that had been closed within a one mile radius of the subject was appraised by him in 1963 for the owner and because of a changed road pattern it was converted to another use as a carry out restaurant. The other station that had been closed was sold to Knott Industries. A restriction in the sale prohibited its reuse as a service station. He further testified that the subject site is within one quarter mile east of the huge Federal Social Security Complex, on the same side of Security Boulevard, and there are no intervening service stations on that side of the street to serve the Social Security employees driving home. While he did not make a formal "needs" study, he refuted a prima facie presumption of "no need" by stating in effect that the loss of several service stations to changing road patterns and the close proximity of the Social Security Complex with their high employment truly demonstrated a probability of a reasonable public need for the proposed service station.

Mr. Willemain corroborated Mr. Heinmuller's testimony. He also testified as to the availability of public utilities, although utilities were not contested since counsel stipulated they were satisfactory. He further testified that during the course of his employment as Deputy Director of Planning for Baltimore County he set up the public roads pattern for the area in 1948. He demonstrated by testimony that he has a detailed and comprehensive knowledge of the subject area extending over the past twenty five years. He has been intimately involved with the area's planning, development, road patterns and zoning. He is of the opinion that it was error in comprehensive rezoning to classify the subject in D.R. 16, because such zoning was confiscatory; that the land use for the

Major Realty - No. 72-83-RX

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subject is dominated by the intricate roads system, the I-70N overhead ramp, and that no other use than auto service use is proper for the site. He emphasized that the site, in his opinion, is ideal for service station use. He went on to say that such error in zoning was compounded because the proposed zoning map that was presented at the public hearings and evidenced to the members of the County Council was itself in error inasmuch as it indicated a portion of land was zoned D.R. 16 on the east side of Ingleside Avenue when, in fact, it was unzoned public land. Also, about ten acres of land which comprises the I-70N off-ramp loop was shown on the map as D.R. 10.5, when it actually was unzoned public land. Therefore, the members of the County Council had misleading information pertaining to the subject area when they deliberated and decided on the zoning map.

Mr. Corgill testified that he had made traffic counts at Security Boulevard and Ingleside Avenue, and that he had reinforced his studies by analyzing applicable traffic data compiled by the State Highway Administration. (See traffic charts, Petitioner's Exhibit Nos. 6, 7 and 8). He summarized his testimony by stating that there is excellent sight distance along the streets in all directions from the subject; that the intersection is extremely well designed and properly phased with traffic light signals and turns; that most often there is excessive green time on the signal lights, indicating adequate movement of traffic, and that the proposed station would not create a traffic hazard. He also made another point that had been acknowledged earlier in testimony given by Mr. Michael Flanigan, Associate Traffic Engineer for Baltimore County, and later by Mr. Norman Geber, Chief, Land Use Planner for Baltimore County; which point has been repeatedly established in testimony before this Board in numerous service station cases; that service stations are not generators of traffic, per se, but rather they service the existing traffic. The objection regarding traffic narrowed down to the fact that there would be an increase in turning movements in and out of the site. Such objection, it was acknowledged, would also be true if the site were developed for apartments or for

Major Realty - No. 72-83-RX

5.

office use in the existing D.R. 16 zone. Petitioner's witnesses also testified that the proposal satisfies the provisions of Section 502.1 of the Zoning Regulations, which is required before a special exception may be granted.

Mr. Geber, who was summoned to testify by the Protestants, recalled that there were several prior unsuccessful attempts to reclassify the subject to B.L. in 1962 and in 1966, but that the petition then encompassed a larger tract. The subject was then a part thereof. This larger tract was not yet severed by the now existing road. Also, Bill No. 40 had not then come into existence establishing districts and regulating automotive service stations. One of Mr. Geber's functions is to make zoning recommendations to the Planning Board, which in turn make recommendations to the County Council for its consideration in applying zoning classifications on new comprehensive zoning maps. Mr. Geber's thinking was that the subject property should be zoned D.R. 16 but be granted a special exception for office use. He considered the subject site as being located in a residential area, and that Woodlawn could provide adequate neighborhood services without additional zoning in the community. Responding to cross examination, he said his primary objection to granting a reclassification was the potential traffic effect.

Mr. Flanigan, also summoned by the Protestants, stated there were no existing traffic capacity problems on the local streets. He was concerned, as was Mr. Geber, with the possibility of ingress and egress problems to the site. He went on to say that his department would object to providing ingress to the site from Security Boulevard, but that the site plan could be redesigned to eliminate such ingress.

Two area residents and one of the owners of the nearby Westcliffe apartment development, testified in protest to the granting of the petition. They were Mrs. Barbara Worthington, Mrs. Nancy Masters and Mr. Clarence E. Smith. Mrs. Worthington and Mrs. Masters live two blocks distant and out of view of the site; Mr. Smith lives in Towson. Mrs. Worthington objects to a grocery store on the subject site as being unnecessary and because pedestrian customers would be subject to traffic hazards. Mrs.

Major Realty - No. 72-83-RX

6.

Masters stated that there was no need for a service station. She listed five stations within a mile radius of the subject that had been converted to other uses and/or razed, and one station located at Route 40 that is closed. She acknowledged, on cross examination, that relocating the roads put some of the service stations out of business. Mr. Smith testified it was his opinion that the proposed service station would cause traffic backup, create glaring lighting and depreciate the value of his apartments. The Protestants generally responded that they would not object to an office building or a medical center on the subject site.

The Board has carefully weighed the testimony and evidence presented to it in this hearing, some of which is briefly recited above. Greatest weight is given to the documented testimony of the three expert witnesses who testified on behalf of the Petitioner. All are highly qualified in their respective disciplines, and the Board relies heavily on their testimony. They have convinced the Board that the subject D.R. 16 zoning placed on the zoning map was and is "error". The County Council may have acted differently had they been properly informed of surrounding zoning and of the complete isolation of the subject tract. Certainly it is inconceivable to believe that the County Council intended this unique 0.8 acre tract be developed with apartments. It is our opinion that Petitioner's testimony demonstrates that there is a reasonable public need for the proposed service station. Furthermore, all of the tests required by the Baltimore County Zoning Regulations as conditions precedent to granting the Petition has been satisfied, particularly as to Sections 259.28, 405 and 502.1. The Board has taken judicial notice of the comments of the Zoning Advisory Board, dated May 21, 1971, which are in the Zoning Commissioner's file, and finds only routine development compliance requirements of the various Baltimore County departments noted therein.

Therefore, for the reasons set forth above and from all the testimony and evidence presented, the Board grants the Petition as requested, and hereby reclassifies the subject 0.8 acres from D.R. 16 to B.M. zone, Undistricted to C.N.S. District, and Special Exception for an Automotive Service Station use in combination with a grocery store.

Major Realty - No. 72-83-RX

7.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 27th day of March, 1973, by the County Board of Appeals ORDERED, that the reclassification from D.R. 16 to B.M. zone petitioned for be and the same is hereby GRANTED; and it is

FURTHER ORDERED, that the petition for Undistricted to C.N.S. District be and the same is hereby GRANTED; and it is

FURTHER ORDERED, that the Special Exception for Automotive Service Station Use in combination with a grocery store petitioned for be and the same is hereby GRANTED; all subject to the approval of the site plan by the State Roads Commission, the Bureau of Public Services and the Office of Planning and Zoning.

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, Chairman

W. Giles Parker

Walter A. Reiter, Jr.

BALTIMORE COUNTY BOARD OF APPEALS

ZONING ADVISORY COMMITTEE MEETING
OF APRIL 27, 1973 (5:00 PM)

Petitioner: Major Realty

Location:

District: 1

Present Zoning: D.R. 16

Proposed Zoning: B.M. zone & C.N.S.

No. of Acres: 0.8

Comments: NO "NEED" FOR SERVICE STATION

1

January 10, 1972

C. Victor McFarland, Esquire
922 Frederick Avenue
Catonsville, Maryland 21228

RE: Petition for Reclassification,
Redistricting and Special Exception
SW corner of Security Boulevard
and Ingleside Avenue - 1st District
Major Realty - Petitioners
NO. 72-33-BX (Item No. 34)

Dear Mr. McFarland:

I have this date passed my Order in the above captioned matter
in accordance with the attached.

Very truly yours,

James E. Dyer
JAMES E. DYER
Deputy Zoning Commissioner

JED:mc

Enclosure

cc: James S. Ansell, Esquire
6603 York Road
Baltimore, Maryland 21212

Mrs. Barbara P. Worthington
Franklin Community Association, Inc.
5117 Franklin Road
Baltimore, Maryland 21207

Page 2
C. Victor McFarland, Esquire

Mr. Wallace Oppel
5504 Dogwood Road
Baltimore, Maryland 21207

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Edward Hardesty
ATTN: Oliver L. Myers
FROM: Ellsworth N. Dyer, P.E.
Date: May 10, 1971

SUBJECT: Item #34 (April - October Cycle 1971)
Property Owner: Major Realty
Location: W/S Security Blvd., 1000' N. of I-70-N
Present Zoning: D.R. 16
Proposed Zoning: Reclass. to B.L. and undistricted to C.N.S.
District: 102 Sector: Northwestern
No. Acres: 0.80

The following comments are furnished in regard to the plat submitted
to this office for review by the Zoning Advisory Committee in connection
with the subject item.

Highways:

Fully improved, entrances for any use subject to approval of the
Department of Traffic Engineering and the standards of the Department of
Public Works.

Storm Drains:

Public storm drains are available to benefit this property.

Onsite drainage facilities serving only areas within the site do not
require construction under a County contract. Such facilities are considered
private and therefore must conform to the County Plumbing and Building Codes.

The Petitioner must provide necessary drainage facilities (temporary
or permanent) to prevent creating any nuisances or damages to adjacent
properties, especially by the concentration of surface waters. Correction
of any problem which may result, due to improper grading or improper
installation of drainage facilities, would be the full responsibility of
the Petitioner.

Sediment Control:

Development of this property through stripping, grading and stabilization
could result in a sediment pollution problem, damaging private and public
holdings below this property, and sediment control is required by State law.
A grading permit is, therefore, necessary for all grading, including the
stripping of top soil.

Grading studies and sediment control drawings will be necessary to be
reviewed and approved prior to the issuance of any grading and building
permits.

Item #34 (April - October Cycle 1971)
Property Owner: Major Realty
Page 2
May 10, 1971

Water:

Public water facilities are available to benefit this property.

A fee simple right-of-way is required through this site for maintenance
of the public water main.

Service within the site from the public system must be in accordance
with the Baltimore County Building, Plumbing and Fire Prevention Codes. The
service connection to the meter shall be in accordance with the standards
of the Baltimore County Department of Public Works.

Sanitary Sewer:

Public sanitary sewer facilities are available to benefit this property.

A right-of-way is required through this property for maintenance of
the public sanitary sewer.

The Petitioner is entirely responsible for the construction of his
onsite private sanitary sewerage, which must conform with the Baltimore County
Plumbing Code.

Ellsworth N. Dyer
ELLSWORTH N. DYER, P.E.
Chief, Bureau of Engineering

END:EAM:CKH:ss

cc: File (3)
S. Beltrami
J. Leon
J. Warfield

Attachment

Key Sheet: K-SW
Topic: RW 1 E
Tax Map: 95

BALTIMORE COUNTY ZONING ADVISORY COMMITTEE

May 21, 1971

COUNTY OFFICE BLDG.
111 N. Charles Ave.
TOWSON, MARYLAND 21204

OLIVER L. MYERS
Chairman

MEMBERS:

BUREAU OF
ENGINEERING

DEPARTMENT OF
TRAFFIC ENGINEERING

STATE BOARD OF
COMMISSIONERS

BUREAU OF
FIRE PREVENTION

HEALTH DEPARTMENT
PROJECT PLANNING

BUILDING DEPARTMENT
BOARD OF EDUCATION

ZONING ADMINISTRATION
INDUSTRIAL
DEVELOPMENT

Mr. George E. Gavrellis
Director
Office of Planning and Zoning
301 Jefferson Building
Towson, Md. 21204

RE: Item 34 (April - October 1971)
Property Owner: Major Realty
Location: W/S Security Blvd.,
1000' N. of I-70-N
Present Zoning: D.R. 16
Proposed Zoning: Reclass. to B.L.
and undistricted
to C.N.S.
District: 1st Sector: Northwestern
No. Acres: 0.80

Dear Mr. Gavrellis:

The Zoning Advisory Committee has reviewed the plans submitted
with the above referenced petition and has made an on site field inspection
of the property. The following comments are a result of this
review and inspection.

The subject property is a vacant tract of land which is located
by three roads, Ingleside Avenue on the north, Interstate 70-N on the
south, and Security Boulevard on the east. The properties to the north,
and on the north side of Ingleside Avenue are improved with an apartment
project; the property to the east and on the east side of Security
Boulevard is a catering establishment. The properties to the south and
on the south side of Interstate 70-N are group homes and commercial
operations and apartment projects. All roads in the area are curbed
and guttered and have recently been realigned.

BUREAU OF ENGINEERING:

The following comments are furnished in regard to the plat
submitted to this office for review by the Zoning Advisory Committee
in connection with the subject item.

Highways:

Fully improved, entrances for any use subject to approval of
the Department of Traffic Engineering and the standards of the Department
of Public Works.

Mr. George E. Gavrellis
Item 34

Storm Drains:

Public storm drains are available to benefit this property.

Onsite drainage facilities serving only areas within the site
do not require construction under a County contract. Such facilities
are considered private and therefore must conform to the County Plumbing
and Building Codes.

The Petitioner must provide necessary drainage facilities
(temporary or permanent) to prevent creating any nuisances or damages
to adjacent properties, especially by the concentration of surface
waters. Correction of any problem which may result, due to improper
grading or improper installation of drainage facilities, would be the
full responsibility of the Petitioner.

Sediment Control:

Development of this property through stripping, grading and
stabilization could result in a sediment pollution problem, damaging
private and public holdings below this property, and sediment control
is required by State law. A grading permit is, therefore, necessary
for all grading, including the stripping of top soil.

Grading studies and sediment control drawings will be necessary
to be reviewed and approved prior to the issuance of any grading and
building permits.

Water:

Public water facilities are available to benefit this property.

A fee simple right-of-way is required through this site for
maintenance of the public water main.

Service within the site from the public system must be in
accordance with the Baltimore County Building, Plumbing and Fire
Prevention Codes. The service connection to the meter shall be in
accordance with the standards of the Baltimore County Department of
Public Works.

Sanitary Sewer:

Public sanitary sewer facilities are available to benefit this
property.

A right-of-way is required through this property for maintenance
of the public sanitary sewer.

Mr. George E. Gavrellis
Item 34

The Petitioner is entirely responsible for the construction
of his onsite private sanitary sewerage, which must conform with the
Baltimore County Plumbing Code.

DEPARTMENT OF TRAFFIC ENGINEERING:

The subject petition is requesting a change from D.R. 16 to
B.L. of .8 acres. Since the site is small, the trip density is relatively
low. However, with the proposed entrance to Security Boulevard in the
acceleration lane and drivers looking north along Security Boulevard
rather than south when in the free right turn lane, an accident potential
will exist.

HEALTH DEPARTMENT:

Public water and sewer are available to this site.

Air Pollution Comments: The building or buildings on this
site may be subject to regulation 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.

FIRE DEPARTMENT:

Fire hydrants for the proposed site are required and shall
be in accordance with Baltimore County Standards. The hydrants shall
be located at intervals of 300 feet along an approved road.

The owner shall be required to comply with all applicable
requirements of the 101 Life Safety Code, 1967 edition, and the Fire
Prevention Code when construction plans are submitted for approval.

ZONING ADMINISTRATION DIVISION:

If the property is to be developed per the Petitioner's
site plan, all requirements of the Baltimore County Zoning regula-
tions will be met.

Very truly yours,
Oliver L. Myers
OLIVER L. MYERS
Chairman

OLN:rw

cc: Major Realty
Mr. Jacob L. Friedman
1800 N. Charles Street
Baltimore, Md. 21201
Edward D. Hardesty, Zoning Commissioner

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF TRAFFIC ENGINEERING
JEFFERSON BUILDING
TOWSON, MARYLAND 21204
INTER-OFFICE CORRESPONDENCE

TO: Edward D. Hardesty
ATTN: Oliver L. Myers
FROM: C. Richard Moore

SUBJECT: Item 34 - Cycle Zoning
Property Owner: Major Realty
Security Blvd. N. of I-70-N
Reclassification to B.L. undistricted to C.N.S.

The subject petition is requesting a change from DR 16 to BL
of .8 acres. Since the site is small, the trip density is relatively low.
However, with the proposed entrance to Security Boulevard in the accel-
eration lane and drivers looking north along Security Boulevard rather than
south when in the free right turn lane, an accident potential will exist.

C. Richard Moore
C. Richard Moore
Assistant Traffic Engineering

CRM:rw

[illegible]

ORIGINAL
7-2-68

OFFICE OF

 THE CATONSVILLE **TIMES**

CATONSVILLE, MD. 21228 September 13 - 19 71

THIS IS TO CERTIFY, that the annexed advertisement of
The Zoning Commissioner of Baltimore County
was inserted in THE CATONSVILLE TIMES, a weekly newspaper pub-
lished in Baltimore County, Maryland, once a week for one
~~complete~~ week before the 13 day of Sept. 19 71 that is to sa-
- same was inserted in the issue of September 13, 1971.

STROMBERG PUBLICATIONS, Inc.

By Ruth Morgan

[illegible]

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 2, 1971.

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 one week successive weeks before the 7th day of September, 1971, the said publication appearing on the 9th day of September, 1971.

THE JEFFERSONIAN
L. Frank Struthers
 Manager
 Cost of Advertisement, \$.....

TELEPHONE 494-2413		INVOICE		No. 84972	
BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE				Sept. 24, 1971	
Revenue Division COURT HOUSE TOWSON, MARYLAND 21204				DATE	
To:				BILLED	
State Company 1800 N. Charles St. Baltimore, Md. 21201		Zoning Dept. of Baltimore County			
EXPEND TO ACCOUNT NO. 01-468		RETURN THIS PORTION WITH YOUR REMITTANCE		BALANCE DUE	
QUANTITY		DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS		COPY	
Advertising and posting of property for Major Realty 191-87-1				137-75	
4					

TELEPHONE 484-5413	INVOICE BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Revenue Division COURTHOUSE TOWSON, MARYLAND 21204	N ^o 78652 DATE April 20, 1977
TO: State Company 1700 E. Charles Street Baltimore, Md. 21201	BILLED TO: Zoning Dept. of Baltimore County	
DEBIT TO ACCOUNT NO. 01-622		TOTAL AMOUNT \$50.00
QUANTITY	RETURN THIS PORTION WITH YOUR REMITTANCE DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	COST
	Position for Reclassification, Restricting and Special Exception for Major Realty	\$0.00

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCIAL REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 1539

DATE 2/14/72 ACCOUNT 01-662

AMOUNT 5.00

DISTRIBUTION	
WHITE - CASHIER	PINK - AGENT
N. 72-83-PX-#1 additional for posting property of Maior, Realty. for appeal hearing C. Victor MacFarlane, Esq.	

5.00 Cte

BALTIMORE COUNTY, MARYLAND
 OFFICE OF FINANCE - REVENUE DIVISION
 MISCELLANEOUS CASH RECEIPT

No. 1522

DATE Feb. 1, 1972 ACCOUNT 01-662
 AMOUNT 75.00

DISTRIBUTION		
WHITE - CASHIER	PINK - AGENT	YELLOW - CUSTOMER
#72-83-RX - Appeal fee \$70.00 1 sign 5.00 S/W Sec. Security Blvd. Minglewide Ave. Major Realty, Fellsboro - C. Victor McFar and, Eq.		

PETITION MAPPING PROGRESS SHEET									
FUNCTION	Wall Map		Original		Duplicate		Tracing		200 Sheet
	date	by	date	by	date	by	date	by	date
Descriptions checked and outline plotted on map									
Petition number added to outline									
Denied									
Granted by ZC, BA, CC, CA									
Reviewed by: <u>RFM</u>					Revised Plans: Change in outline or description <u>Yes</u> — No				
Previous case: _____					Map # <u>W-2B</u>				

TELEPHONE 494-2413	INVOICE BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE Revenue Division COURT HOUSE TOWSON, MARYLAND 21204	No. 7403 DATE June 14, 1972
To: James S. Ansell, Esquire 6803 York Road Baltimore, Md. 21212	BILLED BY:	County Board of Appeals: (Zoning)
REPORT TO ACCOUNT NO. 01,712	RETURN THIS PORTION WITH YOUR REMITTANCE	TOTAL AMOUNT \$ 8000
QUANTITY	DETACH ALONG PERFORATION AND KEEP THIS PORTION FOR YOUR RECORDS	COST
Cost of certified documents in Case No. 72-83-RX Major Realty, Inc. SW Corner Security Blvd. and Ingleside Avenue 1st District, NW Sector		\$ 8.00

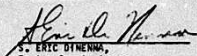
Mr. Jacob L. Friedman
Major Realty
1880 N. Charles St.,
Baltimore, Md. 21201

SPECIAL EXEMPTION
ITEM 34

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING

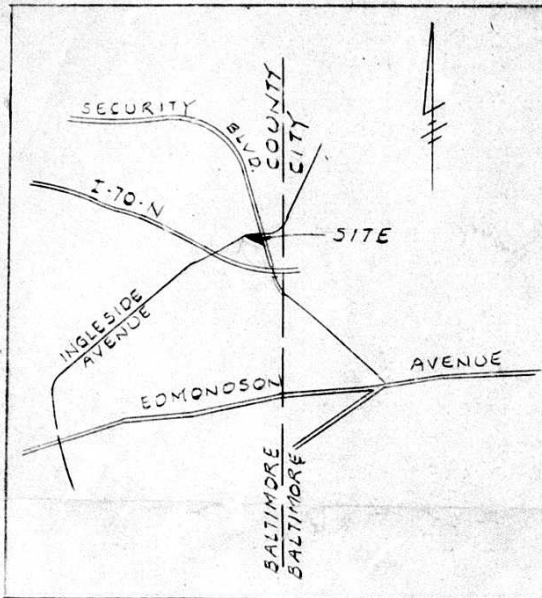
County Office Building
111 N. Chesapeake Avenue
Towson, Maryland 21204

Your Petition has been received and accepted for filing
this 17th day of August 1971


S. ERIC DINEEN,
Zoning Commissioner

Petitioners: Major Realty

Petitioner's Attorney _____ Reviewed by William T. Myers Jr.
Chairman of
Advisory Committee



LOCATION MAP
Scale: 1" = 5000'

ZONING STATUS

Existing Zoning: D.R.16
Proposed Zoning: B.L.
Existing District: Undistricted
Proposed District: C.N.S. - Special Exception
For Station & Food Store

ACCESS POINTS

Number of Driveways: 2
1: SECURITY BOULEVARD
1: INGLESIDE AVENUE

LANDSCAPING

Total Square Feet: 2520
Required 5% of Tract: 1743 Sq. Ft.
Landscaping: consist of Sod, Shrubs,
and Trees.

PARKING

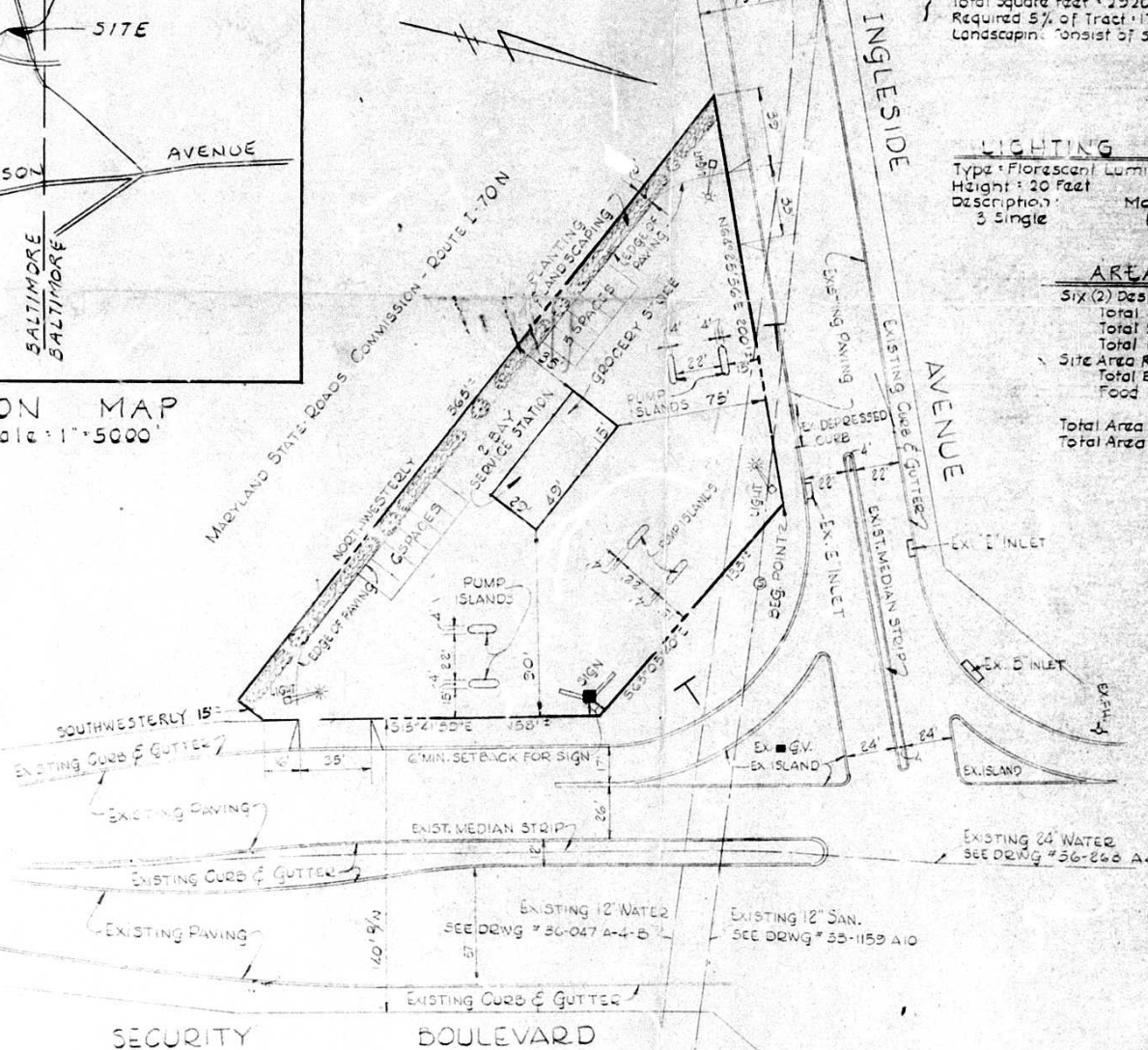
Parking Spaces Required at
three spaces for each bay:
2 x 3' G Spaces:
Food Store: 135
1/200 = 5
Parking Required: 11
Parking Provided: 11

LIGHTING

Type: Fluorescent Luminaries - Existing
Height: 20 Feet
Description:
3 Single Mounted Pole
End Davit

AREA REQUIREMENTS

Six (2) Dispenser Islands
Total Servicing Spaces: 12
Total Servicing Bays: 2
Total Bays and Spaces: 14
Site Area Required:
Total Bays and Spaces: 14 x 1500' = 21,000 Square Feet
Food Store: 435 Sq. Ft. 4 x 435' = 1,740 Square Feet
Total Area Required: 22,740 Square Feet
Total Area of Tract: 34,848 Square Feet



William D. Funder

OWNER: LEON A. CRANE & MAJOR REALTY, INC.
1800 N. CHARLES ST.
BALTIMORE, MARYLAND, 21201

PLAT TO ACCOMPANY PETITION FOR
RECLASSIFICATION FROM D.R.16 TO B.L.
FROM AN UNDISTRICTED DISTRICT TO A
C.N.S. DISTRICT WITH SPECIAL EXCEPTION
FOR SERVICE STATION AND SPECIAL
EXCEPTION FOR USE IN COMBINATION
WITH FOOD STORE.

S.W. CORNER INGLESIDE AVE. & SECURITY BLVD.
ELECTION DISTRICT #1, BALTIMORE COUNTY, MD.
SCALE: 1" = 50'
APRIL 8, 1971



S.M. # 452