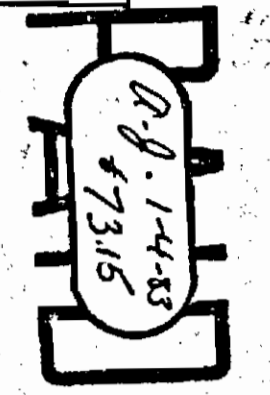


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Docketing
 To John re microfilm
 & map checking

RECEIVED
 COUNTY BOARD OF APPEALS
 MAR 21 1986

11/8/86

C. DENNIS WEBSTER CBA-83-133 and 84-167-X
 604-06 Bosley Avenue 9th District

Re: Office building - CRG

CBA-83-133

Sept. 12, 1983 Application check list of Dennis Webster
 Oct. 27, " Meeting held before the CRG group
 Nov. 15 Letter of approval of plans
 Nov. 23 Letter of appeal to C.B. of A. filed by People's Counsel for Balto. County

No. 84-167-X

Oct. 10, 1983 Petition filed.
 Jan. 10, 1984 Order of Z.C. granting petition
 " 27 Order for appeal to C.B. of A.

Feb. 24 Letter from Robt. Hoffman, requesting that both cases be consolidated for hearing
 Mar. 21 Hearing on appeals, both cases, before the Board
 July 27, Order of the Board affirming the CRG approval
 Aug. 24 Notice of appeal in both cases filed in the Cir. Ct. by People's Counsel for Balto. Cty.
 Aug. 24 Petition for Extension of Time to file transcript
 Aug. 27 Order of the Ct. granting extension of time to Nov. 23, '84
 " " Certificate of Notice sent out
 Nov. 5 Transcript of testimony filed
 Nov. 5 Record of proceedings filed in the Cir. Ct. for Balto. County

Feb. 22, 1985 Certified copies of documents from file #CBA-83-133 filed

Mar. 6 Board AFFIRMED - Judge J. Wm. Hinkel

cc: Zoning, A. January
 Zoning, A. Jablon
 Planning, J. Hoswell
 Law, T. J. Bollinger
 P.W., H. Pistel

Apr. 1 Order for Appeal filed in the Court of Special Appeals
 cc: As above
 Jan. 8, 1986 Board AFFIRMED by CSA - cc: As above
 Feb. 21 Writ of Certiorari filed by People's Counsel
 Apr. 18 Writ of Certiorari DENIED by Court of Appeals

PCF:
 P.M.Z. ✓

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

In the Court of Appeals of Maryland

Petition Docket No. 645
 September Term, 1985
 (No. 361, September Term, 1985
 Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and it is hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert C. Murphy
 Chief Judge

RECEIVED
 COUNTY BOARD OF APPEALS
 MAR 21 1986

April 18, 1986

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant
 v. C. DENNIS WEBSTER, Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
 AT LAW
 Case No. 84-CG-559

NOTICE OF APPEAL

MR. CLERK:

Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of March 6, 1985, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

Phyllis Cole Friedman
 Phyllis Cole Friedman
 People's Counsel for Baltimore County

Peter Max Zimmerman
 Peter Max Zimmerman
 Deputy People's Counsel
 Room 223, Court House
 Towson, Maryland 21204
 494-2188

RECEIVED
 COUNTY BOARD OF APPEALS
 MAR 21 1986

I HEREBY CERTIFY that on this 18th day of April, 1985, a copy of the foregoing Notice of Appeal was mailed to Robert A. DiCicco, Esquire, 405 Central Avenue, Towson, Maryland 21204.

Peter Max Zimmerman
 Peter Max Zimmerman

Baltimore County, Maryland
 PEOPLE'S COUNSEL
 RM. 223, COURT HOUSE
 TOWSON, MARYLAND 21204
 494-2188

84-1706
 Case File 84-167-X

February 21, 1986

PHYLIS COLE FRIEDMAN
 People's Counsel

PETER MAX ZIMMERMAN
 Deputy People's Counsel

RE: People's Counsel for Baltimore County
 v. C. Dennis Webster, Court of Special Appeals No. 361, September Term, 1985

Clerk, Court of Appeals of Maryland
 Courts of Appeal Building
 361 Rowe Boulevard
 Annapolis, Maryland 21401

Mr. Clerk:

Enclosed for filing are an original and seven copies of a Petition for Writ of Certiorari in the above-captioned matter, together with our check for the filing fee of \$30.00.

Very truly yours,
 Peter Max Zimmerman
 Peter Max Zimmerman
 Deputy People's Counsel

Enclosures
 cc: Robert A. DiCicco, Esquire
 Thomas J. Bollinger, Esquire
 CBA
 PMZ:sh

RECEIVED
 COUNTY BOARD OF APPEALS
 MAR 21 1986

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
 Petitioner
 v. C. DENNIS WEBSTER
 Respondent.

IN THE COURT OF APPEALS OF MARYLAND
 September Term, 1985
 Petition No. _____

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS OF MARYLAND

People's Counsel for Baltimore County petitions, pursuant to Maryland Rule 811 and Courts Article §12-201 through 12-203, for this Court to issue a Writ of Certiorari to the Court of Special Appeals of Maryland as follows:

Opinions Below

This case was docketed in the Circuit Court for Baltimore County as People's Counsel for Baltimore County v. C. Dennis Webster, Case No. 84-CG-559, Docket 2, Page 259. It was then decided by the Court of Special Appeals in an Opinion, No. 361, September Term, 1985, January 8, 1986, and attached hereto as Exhibit A. The judgment of the Circuit Court for Baltimore County was dated March 6, 1985. That Court's Memorandum and Order is appended hereto as Exhibit B. The Mandate of the Court of Special Appeals issued February 7, 1986 affirmed the lower Court judgment.

Questions Presented for Review

For the first time the Court has been asked to determine whether the public is to be afforded the same protection in the zoning process by a legislatively adopted master plan as this Court has mandated it

shall have in the subdivision process. The questions presented for review are:

- Whether the decision below that in the zoning process the Baltimore County Master Plan is only "to serve as a guide" erroneously ignores the language in the Baltimore County Charter that requires "zoning maps... consistent with the master plan;" (Sec. 523) because the overlooked language is virtually the same as that in a parallel statute that this Court has held requires consistency with master plan guidelines in the subdivision process.
- Whether the decision below erroneously deprives the citizens of Baltimore County of the protection of a master plan which they invested with legal force by adoption of a Charter provision virtually identical to that held to make master plan consistency mandatory in Board of County Commissioners v. Gaster, 285 Md. 233 (1979).

STATEMENT OF FACTS

C. Dennis Webster owns two adjacent properties in West Towson, west of Bosley Avenue zoned "R-O" by the County Council in the 1980 Comprehensive Map process. R-O zoning permits a conversion of the existing houses on these lots to office use (Class A office buildings) as of right. It also permits by Special Exception, a Class B office building which is either an enlargement of an existing residential structure or a new office building with certain limitations. The R-O classification was first established by Bill 13-80 on February 7, 1980 and first mapped in the 1980 Comprehensive Zoning process. After its adoption, it became the only zoning classification that permitted conversion of residences

to offices in a residential zone. On January 5, 1981, by Council Resolution 2-81, the Towson Town Center Plan ("Towson Plan") was adopted and became a part of the larger Baltimore County Master Plan which had been previously adopted by Council resolution on November 19, 1979. The Towson Plan contains a section entitled, "Infiltration of Non-Residential Uses in West Towson" which states:

"We recommend that no new office buildings should be allowed, but conversion of existing residential structures would continue. Thus, eventually the area of West Towson immediately adjacent to Bosley Road would retain the density, scale and character of a residential area."

Thus, although a residential conversion to offices would be permitted by right and an enlargement of an existing residential structure for office use would be permitted by Special Exception, if the directive of the Towson Plan were mandatory, in West Towson, a new office building could not be granted a Special Exception.

The Baltimore County Master Plan, of which the Towson Plan was a part, was approved pursuant to Charter Provisions adopted by the voters of Baltimore County November 7, 1978. Those provisions state:

"Sec. 523. The master plan and the zoning maps.

(a) Definition and implementation of the master plan. The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution.

(b) Definition and implementation of the zoning maps. The zoning maps shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act. (Bill No. 83, 1978, §3) Emphasis supplied.

these requirements should be denied. The adoption of the Towson Plan by the County Council is a guide to future development of the area and the requirements of the Baltimore County Zoning Regulations regarding the requested petition are the restrictions to this guidance. The Board, therefore, is of the opinion that the "Towson Plan" as written and adopted does not totally restrict Class B office use west of Bosley Avenue but provides guidelines for R-0 use as specifically delineated in the appropriate sections of 203.1, 203.2 and 203.3 BCZR. The finding of the CRG must be presumed correct. The Board has found no testimony or evidence to the contrary sufficient to rebut that presumption and will, therefore, affirm the CRG decision approving the plan as presented.

The Petitioner requested a special exception to permit the erection of a Class B office building as required in §203.3.B.2, pursuant to §502.1 BCZR. There was ample testimony that the razing of these two dilapidated buildings and the erection of the single Class B building, as described, would not be detrimental to the primary uses in the vicinity of the proposed building. There was testimony and evidence produced during this hearing that all of the requirements of §502.1 would be met by this petition. The proposed use will not be detrimental to the health, safety or general welfare of the community, would not tend to create congestion in roads, streets or alleys therein, nor be inconsistent with the purpose of the properties' zoning classification, nor in any way inconsistent with the spirit and intent of the Zoning Regulations. The Board will, therefore, affirm the Order of the Zoning Commissioner, dated January 10, 1984.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 27th day of July, 1984, by the County Board of Appeals, ORDERED that the decision of the County Review Group (CRG) approving the development plan as presented be and the same is hereby AFFIRMED, and

IT IS FURTHER ORDERED that the special exception for a Class B Office Building petitioned for, be and the same is hereby GRANTED, subject to

the following restrictions, and thus affirm the Order of the Zoning Commissioner dated January 10, 1984:

1. Compliance with CRG comments as set forth.
2. A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division of the Office of Planning and Zoning. Special attention shall be given to the height of the proposed shrubbery so that its appearance maintains compatibility with adjacent properties.
3. Compliance with §203.3.C - BCZR.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Leroy B. Saffier
Leroy B. Saffier

Keith S. Franz
Keith S. Franz

IN THE MATTER	:	BEFORE
OF THE APPLICATION OF	:	COUNTY BOARD OF APPEALS
C. DENNIS WEBSTER	:	
FOR A SPECIAL EXCEPTION	:	OF
FOR A CLASS B OFFICE BUILDING	:	BALTIMORE COUNTY
AND DEVELOPMENT PLAN	:	
W/S OF BOSLEY AVE. 165'	:	NO. CBA-83-133
N. OF ALLEGHENY AVENUE	:	and
9th DISTRICT	:	NO. 84-167-X

.....

OPINION

These two cases come before this Board on appeal from a decision of the County Review Group (CRG) approving the proposed development of the property and an approval by the Baltimore County Zoning Commissioner of a special exception for the erection of a Class B Office Building on the site. Since the two issues are totally dependant upon each other for the project to proceed, it was agreed by all parties that both cases should be heard simultaneously and so ruled upon. The subject property is located on the west side of Bosley Avenue 165 feet north of Allegheny Avenue, in the Ninth Election District of Baltimore County.

In this Opinion the Board will first address the decision reached by the CRG. A review of the file in case #CBA-83-133 reveals that the relatively same conditions were presented to the Board of Appeals as were presented to the CRG. Two abutting properties on the west side of Bosley Avenue were purchased by the Petitioner; one, 606 Bosley Avenue, was purchased in May of 1980, and the other, 604 Bosley Avenue, was purchased in March, 1981. The existing residence at 604 Bosley Avenue is in very bad condition structurally and has been unoccupied and unused since 1974. The other, 606 Bosley Avenue, is also in decrepit condition with water in the basement, no plumbing, no central heat and has been unoccupied since the prior owner's death.

C. Dennis Webster, real estate developer, property owner and the petitioner, testified as to the details of his proposed use of the properties and the building to be erected, as well as nearby property uses.

Mr. Fred Walker, Engineer, and Mr. Peter S. Kuchta, Architect, testified as to the proposed building and also nearby property uses. John Guckert, Traffic Engineer, testified as to his traffic studies on the site and he stated that no adverse impact could be expected.

People's Counsel presented as their witness J. Timothy Fagan, Director of the Baltimore County Department of Aging. This agency uses as their headquarters the one-time school building directly to the rear of the subject properties. Mr. Fagan was concerned as to the effect of additional traffic on the alley between his site and the proposed office building.

Errol Markowitz, Baltimore County Fire Department, testified as to the number of calls processed by the Fire Department which is located at Bosley Avenue and York Road. Catherine Asenors, a school crossing guard who is assigned to the intersection of Bosley Avenue and Joppa Road, described traffic conditions at this point. Mary Ginn, a long time resident of the area, questioned the compatibility of the proposed office building with the nearby residences. John Engle and Eugene Cross also testified as to existing traffic conditions and the possible effect this proposed use could have on these conditions.

The Board, at this point, will note that in addition to Mr. Guckert's report obtained through actual traffic counts there was no negative report from Baltimore County's Traffic Engineer as to the proposed use. The Board can see no significant difference in the traffic generated from the proposed use vs. the traffic generated if both old buildings were completely renovated and fully utilized as office space, which could be accomplished merely by permit. A study of the case file indicates careful consideration by the CRG of these points and CRG approval granted. People's Counsel, however, raised the issue as to whether or not any new office building could be permitted west of Bosley Avenue and still be in conformity with the Baltimore County Master Plan, which includes the Towson Plan. The CRG Minutes indicate that this issue was also considered and the decision reached was that the Towson Plan is advisory in nature. Memoranda were submitted by the parties addressing this specific issue. Both parties cite cases supporting their positions. The Board will note that while similarities to this case exist in these citings, so also do discrepancies, which distinguish these citations to this case.

The Board will note that prior to the adoption of the Master Plan the subject site was zoned D.R. 16. The County Council elected not to retain this D.R. 16 zoning but to afford all properties along Bosley Avenue the R-0 classification, indicating they considered office use here as permissible.

"Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate density residential zones.

The statement "some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors can no longer reasonably be restricted solely to uses allowable in moderate density residential zones" would apply to the present petition.

The Baltimore County Master Plan was adopted by Resolution 71-79 in November, 1979. In the Fall of 1980, Bill No. 13-80 was passed which created the R-0 classification, and the properties along Bosley Avenue were afforded this classification. In January, 1981, by Resolution 2-81 the Towson Plan was incorporated into the "Master Plan" and the R-0 classification continued on these properties.

these requirements should be denied. The adoption of the Towson Plan by the County Council is a guide to future development of the area and the requirements of the Baltimore County Zoning Regulations regarding the requested petition are the restrictions to this guidance. The Board, therefore, is of the opinion that the "Towson Plan" as written and adopted does not totally restrict Class B office use west of Bosley Avenue but provides guidelines for R-0 use as specifically delineated in the appropriate sections of 203.1, 203.2 and 203.3 BCZR.

The Petitioner requested a special exception to permit the erection of a Class B office building as required in §203.3.B.2, pursuant to §502.1 BCZR. There was ample testimony that the razing of these two dilapidated buildings and the erection of the single Class B building, as described, would not be detrimental to the primary uses in the vicinity of the proposed building.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 27th day of July, 1984, by the County Board of Appeals, ORDERED that the decision of the County Review Group (CRG) approving the development plan as presented be and the same is hereby AFFIRMED, and

IT IS FURTHER ORDERED that the special exception for a Class B Office Building petitioned for, be and the same is hereby GRANTED, subject to

the following restrictions, and thus affirm the Order of the Zoning Commissioner dated January 10, 1984:

- 1. Compliance with CRG comments as set forth.
2. A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division of the Office of Planning and Zoning. Special attention shall be given to the height of the proposed shrubbery so that its appearance maintains compatibility with adjacent properties.
3. Compliance with §203.3.C - BCZR.

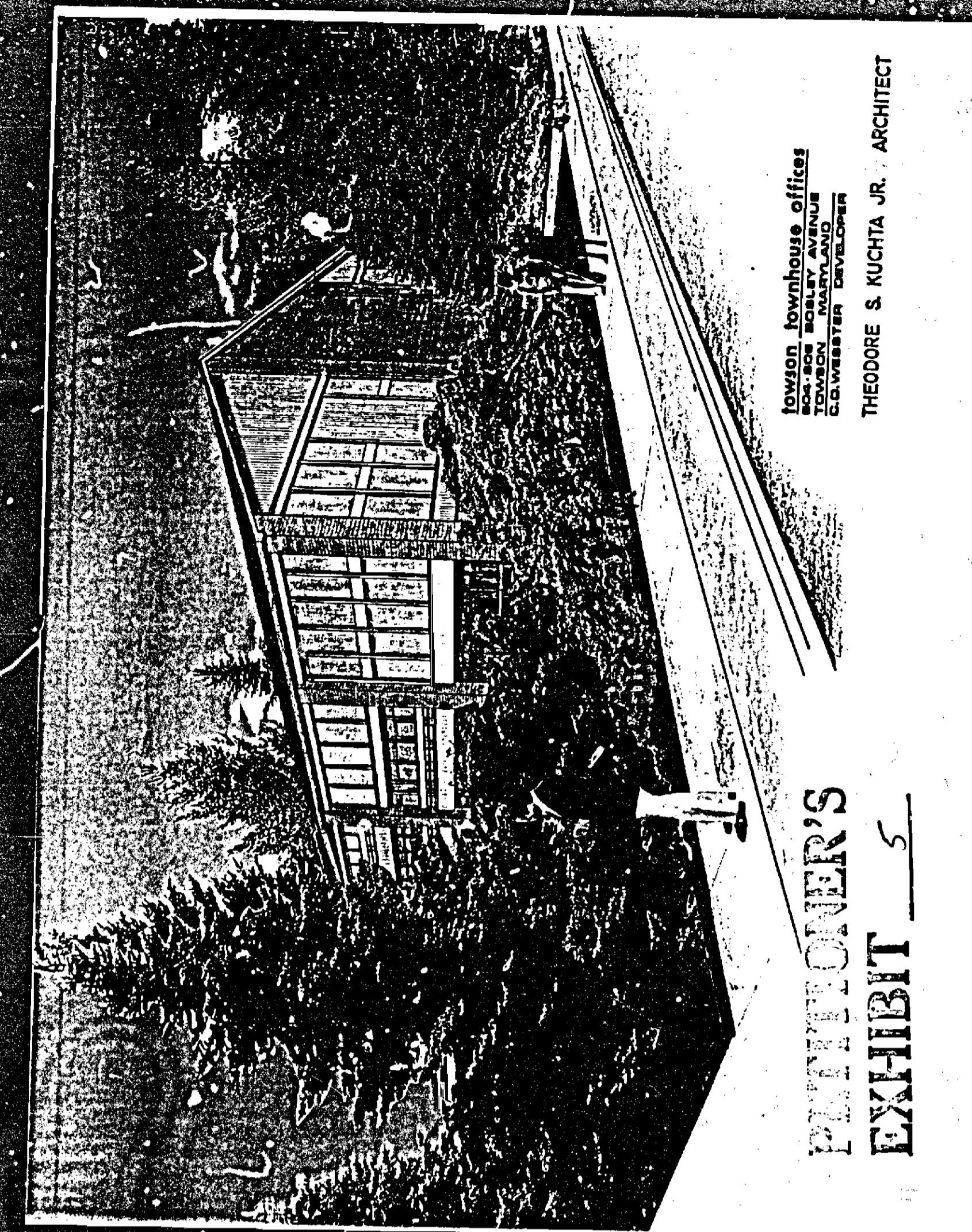
Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

William T. Hackett, Chairman

LeRoy B. Gaffner

Kevin S. Franz



Towson townhouse office building for Bosley Avenue, Baltimore County, Maryland. C. Dennis Webster, Architect

PETITIONER'S EXHIBIT 5

John W. "Wes" Guckert EXHIBIT

John W. Guckert is a recognized expert in the areas of traffic engineering impact analysis, traffic signal design, circulation and access studies and transportation planning. He has designed numerous traffic signal projects including a 10-intersection system in the city of Laurel, Maryland.



Table with 3 columns: Year, Position, Location. Lists various roles such as 'Assistant Regional Traffic Engineer' and 'Planning Board and Board of Appeals' from 1977 to 1983.

4 Phoenix Gate, Parkersville, Maryland 21120, (301) 343-0950

QUALIFICATIONS John W. "Wes" Guckert

PETITIONER'S EXHIBIT 2

Table with 10 columns: Date, Time, Location, etc. Lists various traffic studies and projects from 1977 to 1983.

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Table with 10 columns: Date, Time, Location, etc. Lists various traffic studies and projects from 1977 to 1983.

At the same time as the voters approved Section 523, they approved amended Section 524.1 to require the People's Counsel of Baltimore County "to defend any duly enacted master plan."

ARGUMENT

Review by this Court is desirable and in the public interest because: (A) the decision below has ignored a prior decision of this Court construing language regarding master plan consistency virtually identical to that in the Baltimore County Charter holding such consistency was mandatory; and (B) if the decision below is allowed to stand, the citizens of Baltimore County will be deprived of the protection of a master plan in zoning matters which they invested with legal force by adoption of the Charter provision.

A. THE DECISION BELOW THAT IN THE ZONING PROCESS THE MASTER PLAN IS ONLY A GUIDE ERRONEOUSLY IGNORES A PRIOR DECISION OF THIS COURT.

The court below fails to address whether the language regarding consistency in Section 523(b) of the Charter makes master plan guidelines in Baltimore County mandatory. This failure is erroneous because this Court has already interpreted virtually identical language concerning a master plan in Article 66B53.06-3.08 Annotated Code of Maryland (Ex. C) and found it does create a mandatory requirement. Board of County Commissioners v. Gaster, 285 Md. 233 (1979). Moreover, the similarity between the two ordinances is not simply superficial. Section 523 of the Baltimore County Charter parallels and mirrors Article 66B53.05-3.06, the Maryland Code provision for non-chartered counties as it deals with the purpose, procedure and legal status of a master plan. Language in

both ordinances states the plan shall serve as a "guide"; the approval of the plan shall be by "resolution"; and certain things must be "consistent with the (master) plan." Significantly, despite the description of the master plan as a "guide" in Article 66B53.05(a) and 3.06, the Court of Appeals found it mandatory that development be consistent with the plan. Id at 249 (emphasis on these words added by the Court here and at 242) In other words, the Court focused on the language requiring consistency with the master plan, and held it provided the requisite statutory language to make the guidelines mandatory. Absent persuasive argument to the contrary, the language in the Baltimore County Charter should be similarly interpreted.

B. IF THE DECISION BELOW IS ALLOWED TO STAND, THE MASTER PLAN WILL BE A MERE GUIDE, AND THE CITIZENS OF BALTIMORE COUNTY WILL BE DENIED ITS LEGAL PROTECTION.

The court below, although it ignored Gaster and the Charter language relating to consistency, referred to the Report of the Charter Revision Committee which stated:

"This section number corresponds to an existing number in the Charter, but the text is all new. Because the master plan is a basic document which should serve as a guide to orderly development in the County, the Commission recommends that a broad definition of it be given in the Charter. The Commission recommends that the County Council alter the Master Plan as necessary, then adopt it by resolution. It is not the intent of the Commission that all actions in the County should automatically be required to conform with every detail of the master plan because of this resolution. It would be up to the Council to define any enforcement mechanisms by legislative act. However, the Commission does want the development of a Master Plan to which the Council can and will make a commitment. The Council then can enact a zoning map consistent with the master plan, as provided in subsection 523(b),

and the master plan will provide a reference document Council members can depend upon when they must resist pressures to draw zoning maps to conform with transient political demands."

Important concepts are embodied in this report, one of which is that there would be an enforcement mechanism. People's Counsel submits Bill No. 90-78 which became the Charter amendment to the duties of this office requiring it "defend any duly enacted master plan" became such an enforcement mechanism.

A second concept is that a Master Plan be developed to which the Baltimore County Council can and will make a commitment. Finally, and most importantly, the report conceived of a Master Plan upon which the Council could depend when "they must resist pressures to draw zoning maps to conform with transient political demands."

By holding that "the master plan is merely to serve as a guide to the County Council in its promulgation of the maps and regulations when executing the zoning process," the court below totally rebuffed these important concepts which the Charter Revision Committee envisioned. As a consequence, the Master Plan to which the citizens of Baltimore County have committed the expenditure of so much time and money has been relegated to the impotence of a mere guide.

In this case, the Court has been given the opportunity to consider whether the citizens of a county who mandate master plan consistency in their Charter are to be denied the protection of that Plan. It is of high public importance that the protection afforded by a master plan in the zoning process not be so lightly dismissed.

CONCLUSION

For the foregoing reasons, the writ of certiorari should issue as prayed.

Respectfully submitted,

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 229, Court House
Towson, Maryland 21204
494-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of February, 1986, a copy of the foregoing Petition for Writ of Certiorari was mailed to Robert A. DiCiccio, Esquire, 405 Central Avenue, Towson, Maryland 21204; and Thomas J. Bollinger, Esquire, Assistant County Attorney, Office of Law, Mezzanine, Courthouse, Towson, Maryland 21204.

Phyllis Cole Friedman
Phyllis Cole Friedman

84-167-X and
CBA-83-133

1/8/86
JAN 27 84



REPORTED
IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 361
September Term, 1985

PEOPLE'S COUNSEL
FOR BALTIMORE COUNTY

v.
C. DENNIS WEBSTER

Moylan
Karwacki
Bell, Robert M.,

JJ.

Opinion by Karwacki, J.

Filed: January 8, 1986

This zoning case presents two issues:

- I. Does the Baltimore County Master Plan 1979-1990, as amended on January 5, 1981, prohibit the use of the appellee's property for a new office building permitted within its R-0 zoning classification?
II. Did the County Board of Appeals (the Board) err in affirming the grant of a special exception for the construction of a new office building, without making a specific finding that the new building would be highly compatible with the present or prospective uses of nearby residential property?

Most of the facts are not in dispute. In 1980 and 1981, the appellee purchased two old homes located on the west side of Bosley Avenue south of Joppa Road in Towson, Maryland. The appellee, who is a contractor and real estate developer, proposed to raze the houses, which were in poor structural condition, and build a townhouse office condominium building. The proposed building would contain five twenty foot wide condominium units. Each unit would have 2000 square feet of space distributed on three levels. The height of the building would be 35 feet.

On October 27, 1983, the appellee presented his plan to the County Review Group (the CRG) which under §§ 22-6 to 22-59 of the Baltimore County Code (1978, 1984 Supp.) is empowered

- 1. Sec. 22-57 provides for the composition of the CRG as including the directors of the department of public works and the office of planning and zoning or their designated representatives. Additionally, other county agencies may be represented at meetings of the CRG at the request of the chairman.

to hear comments on such a plan, and issue its approval or disapproval. At the October 27 meeting, the CRG listened to the plan as presented by the appellee's engineer, and considered written comments submitted by various county departments. The CRG approved the plan following that meeting.

The appellee then proceeded with his petition to the Zoning Commissioner for the special exception required for the project under the R-0 classification of § 203 of the Baltimore County Zoning Regulations (1981 ed.) (hereafter "BCZR"). Under this regulation governing the R-0 zone, Class A office buildings are permitted as of right, and Class B office buildings may be permitted by special exception.

At a hearing before the Commissioner, the appellee's engineer again presented the development plan. On January 10, 1984, the Commissioner granted the petition. The Commissioner

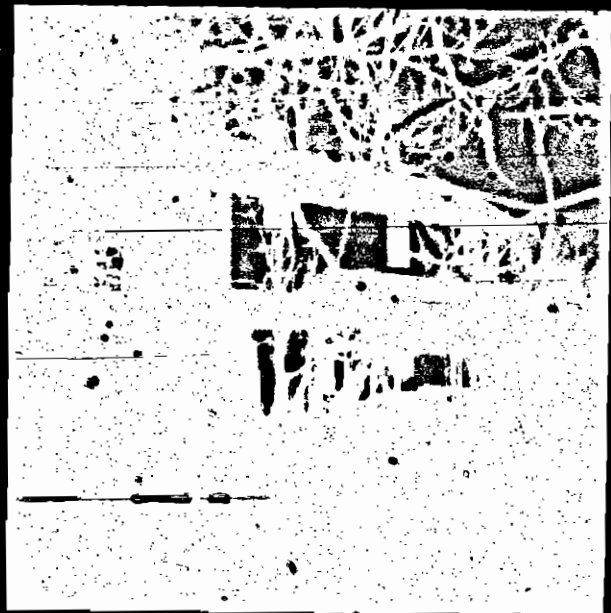
- 2. Office building, Class B: A principal building that was originally constructed as a 1-family or 2-family detached dwelling and that is converted to office use without any external enlargement for the purpose of creating the office space or otherwise accommodating the office use. For the purposes of this definition, enclosure of a porch of a house does not constitute external enlargement. [Bill No. 13-80]
Office building, Class B: A principal building that -
1. Is devoted primarily to office use, clinic or group-medical-center use (including the practice of dentistry), or opticians' or optometrists' establishments;
2. Is not attached to any other building;
3. Is the only building on the lot on which it is situated;
4. Has a floor area ratio of no more than 0.5; and
5. Is no higher than 35 feet. [Bill No. 13-90] Section 101, BCZR

in his written opinion concluded that the appellee had met his burden of proof under § 502 of the BCZR and had "shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest." The Commissioner further observed that the proposed use would not be detrimental to the safety or general welfare of the area, and it would not be inconsistent with either the purposes of the property's zoning classification or the spirit and intent of the zoning regulations.

On July 27, 1984, the Board affirmed both decisions. The Circuit Court for Baltimore County affirmed this action of the Board on March 6, 1985.

Article V, Subdivision 6, of the Baltimore County

- 3. 502.1-Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not: [B.C.Z.R., 1955, with No. 45, 1982.]
a. Be detrimental to the health, safety, or general welfare of the locality involved; [B.C.Z.R., 1955.]
b. Tend to create congestion in roads, streets or alleys therein; [B.C.Z.R., 1955.]
c. Create a potential hazard from fire, panic or other dangers; [B.C.Z.R., 1955.]
d. Tend to overcrowd land and cause undue concentration of population; [B.C.Z.R., 1955.]
e. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences, or improvements; [B.C.Z.P., 1955.]
f. Interfere with adequate light and air; [B.C.Z.R., 1955, No. 45, 1982.]
g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; nor [Bill No. 45, 1982.]
h. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations. [Bill No. 45, 1982.]



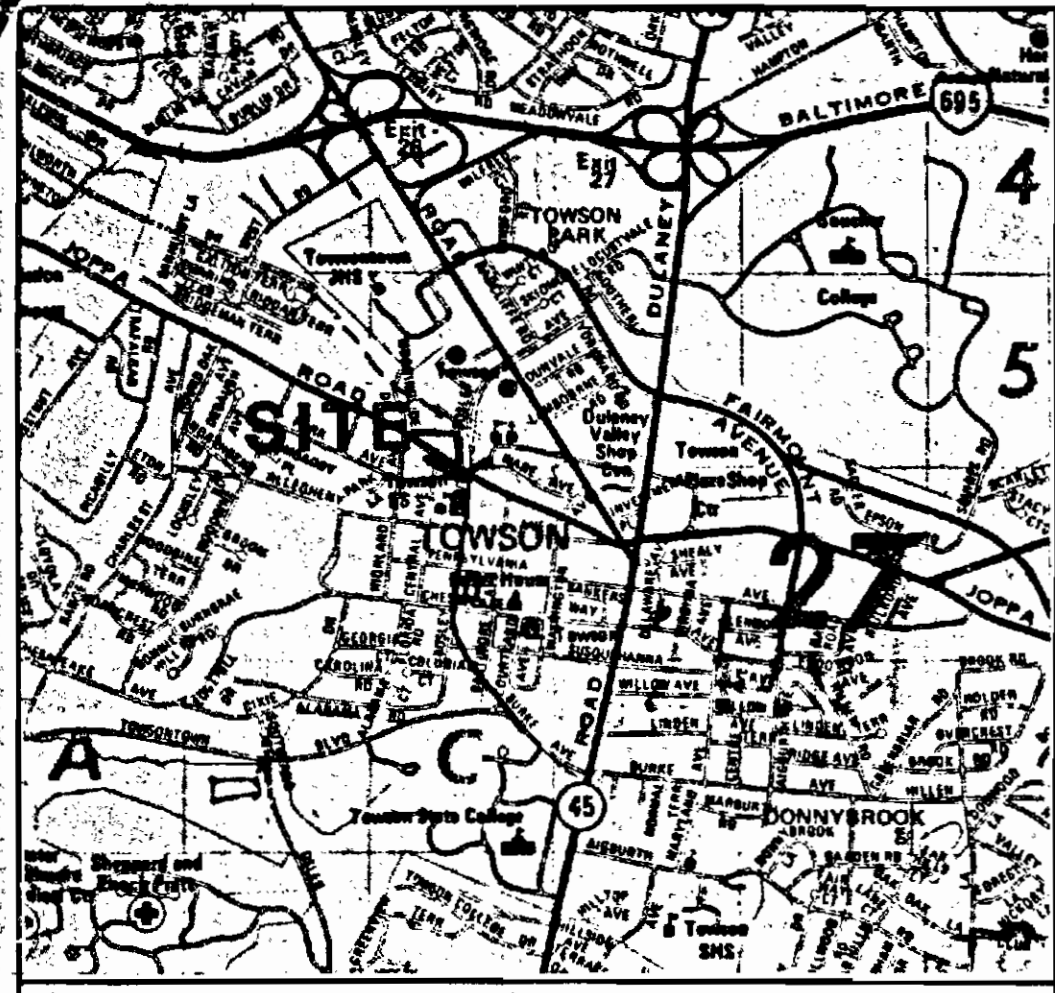
side view 604 ~~East~~

Pets EAL 4

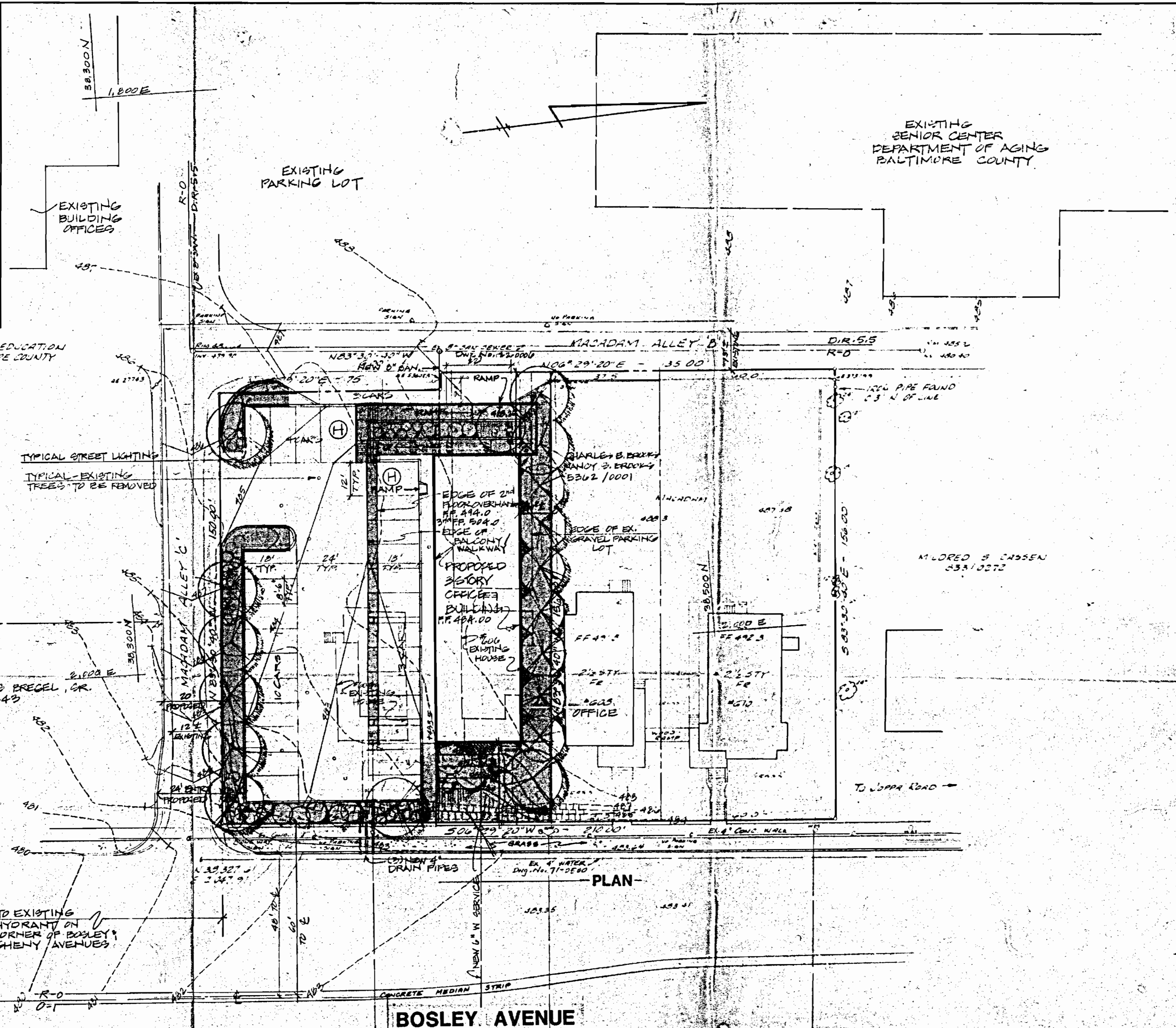


front view 604 ~~East~~

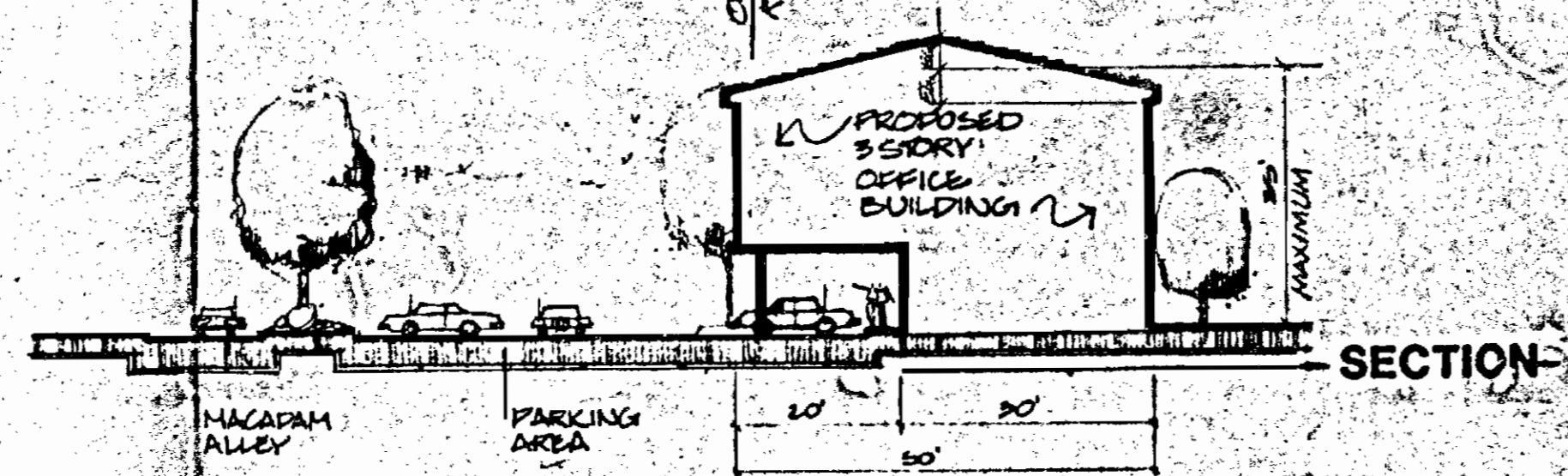
Pets EAL 3



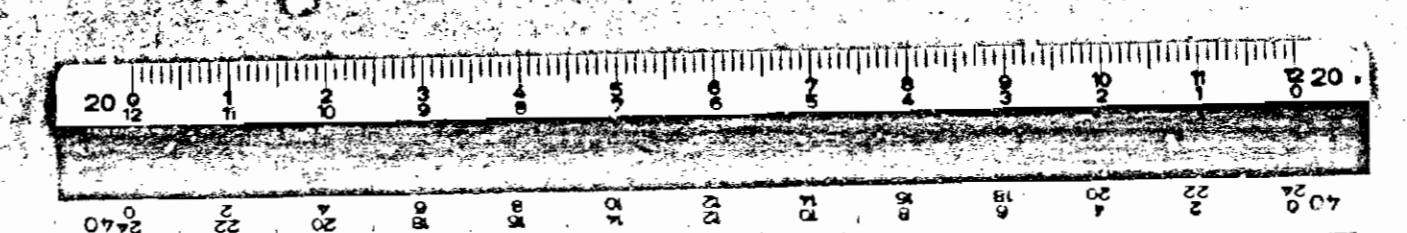
VICINITY MAP
SCALE: 1" = 2,000'



PLAN



SECTION



EXISTING SENIOR CENTER
DEPARTMENT OF AGING
BALTIMORE COUNTY

EXISTING BUILDING OFFICES

EXISTING PARKING LOT

BOARD OF EDUCATION
BALTIMORE COUNTY

EXISTING OFFICE
CALVERT ROAD ERECEL, CR.
B409-0649

200' TO EXISTING FIRE HYDRANT ON NE CORNER OF BOSLEY & ALLEGHENY AVENUES

EAST SIDE OF BOSLEY AVENUE GENERAL OFFICE USES

- General Notes**
- Owner/Applicant: C. Dennis Webster
604 Bosley Avenue
Towson, Maryland 21204
(301) 296-2430
 - Election District 9; Councilmanic District 4; Census Tract 4907.02.
 - Watershed 23; Subwatershed 55.
 - Site Acreage:
Gross = 23,712.50 S.F. +/-
Net = 17,100.00 S.F. +/-
 - Amenity Open Space:
Required = 23,712.50 S.F. +/- x .25 = 5,927.13 S.F. +/-
Proposed = 6,162.50 S.F. +/-
 - Parking:
Required = 1st Floor - 3,000 S.F. @ 1/300 = 10 Spaces
2nd Floor - 4,230 S.F. @ 1/500 = 8.5 Spaces
3rd Floor - 4,230 S.F. @ 1/500 = 8.5 Spaces
Total Required = 27 Spaces
Proposed = 27 Spaces on site + 3 spaces on rear alley
 - There are no proposed or existing well or septic areas on the site.
 - All soils on the site are C18, Glensg - Urban Land complex, 0 to 8 percent slopes, with only slight limitations for structures and moderate limitations for streets and parking lots due to slopes.
 - All existing trees are to be removed.
 - There are no existing streams, bodies of water, springs or flood plains on the site.
 - All existing structures, parking and walkways to be removed. There are no historic buildings on the site.
 - Floor area ratio = 11,500 S.F. - 23,712.50 S.F. +/- = 48.5%
The building will be masonry and glass construction. Principal use is to be general office with hours of operations from 8:00 a.m. - 5:00 p.m. and approximately 30 employees.
 - The property address will be located on the building in accordance with applicable Baltimore County requirements for signage.
 - All outdoor lighting will be 250 watt fixtures on 12 foot poles in locations shown on plan and will conform to applicable Baltimore County standards.
 - Current Ownership:
604 Bosley Avenue - C. Dennis Webster; Deed Reference: Liber 6286 folio 0658; Property No. 09-07-150210.
606 Bosley Avenue - John Wason Turnbull, II; Deed Reference: Liber 6256 folio 712; Property No. 09-07-151780.
 - Estimated Average Daily Trips = 11,500 @ 12.3/1,000 S.F. = 141.45 A.D.T.'s
 - M.T.A. bus route no. 8 serves the area and stops at Bosley and Allegheny Avenues, 200 feet +/- to the south of the site.
 - The new impervious area is less than one-half acre and the site is exempt from stormwater management.
 - There are no wetlands, significant geologic formations, archeological sites, critical areas, endangered species habitats or hazardous materials on the site.

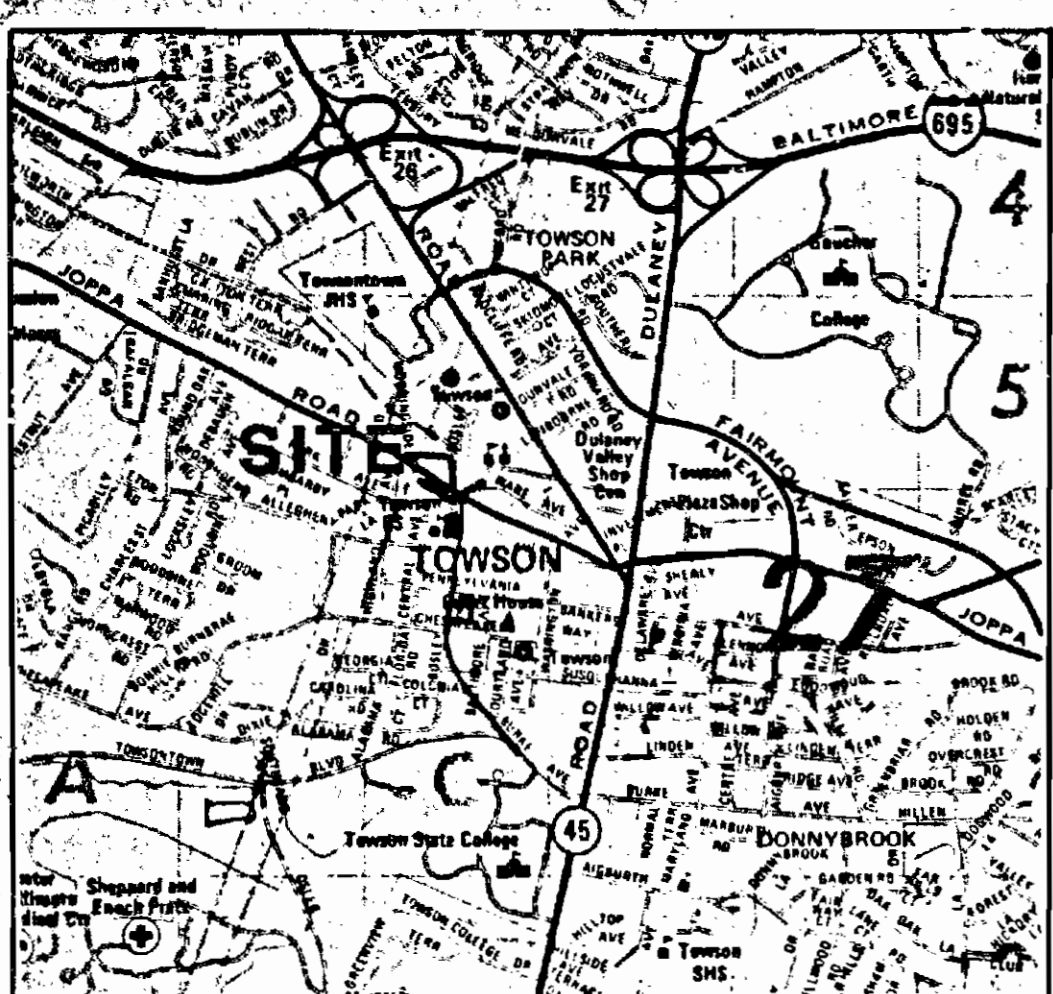
Old Plans

84-167-X

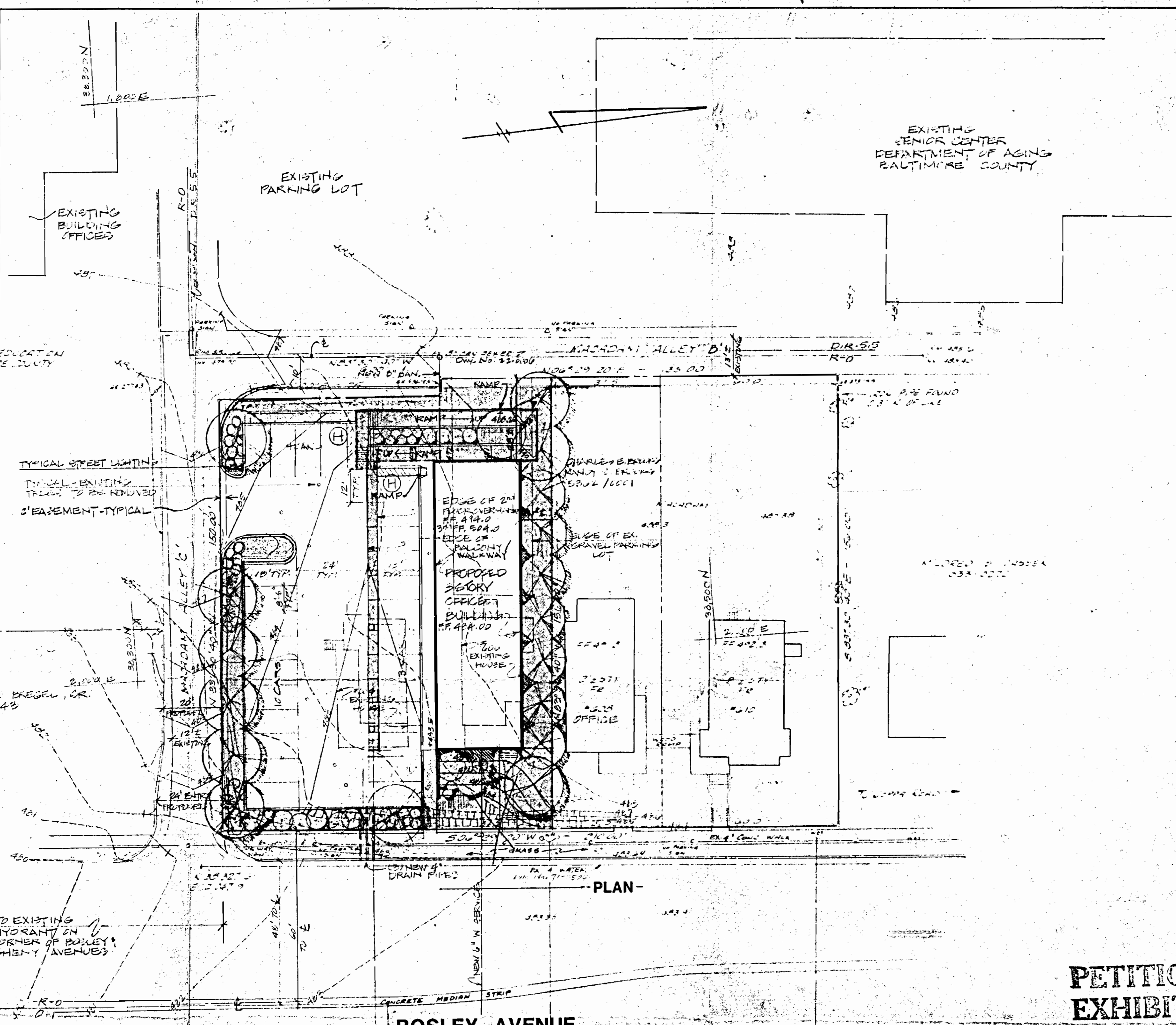
**ZONING PLAT FOR SPECIAL EXCEPTION
604 - 606 BOSLEY AVENUE**

<p>DAFT McCUNE WALKER INC. LAND PLANNING CONSULTANTS LANDSCAPE ARCHITECTS ENGINEERS 630 E JOPPA ROAD TOWSON, MD. 21204 TELEPHONE: (301) 296-3333</p>	<p>DATE: 11.12.09 JOB: 09016 SCALE: 1" = 20' - NORTH</p>	

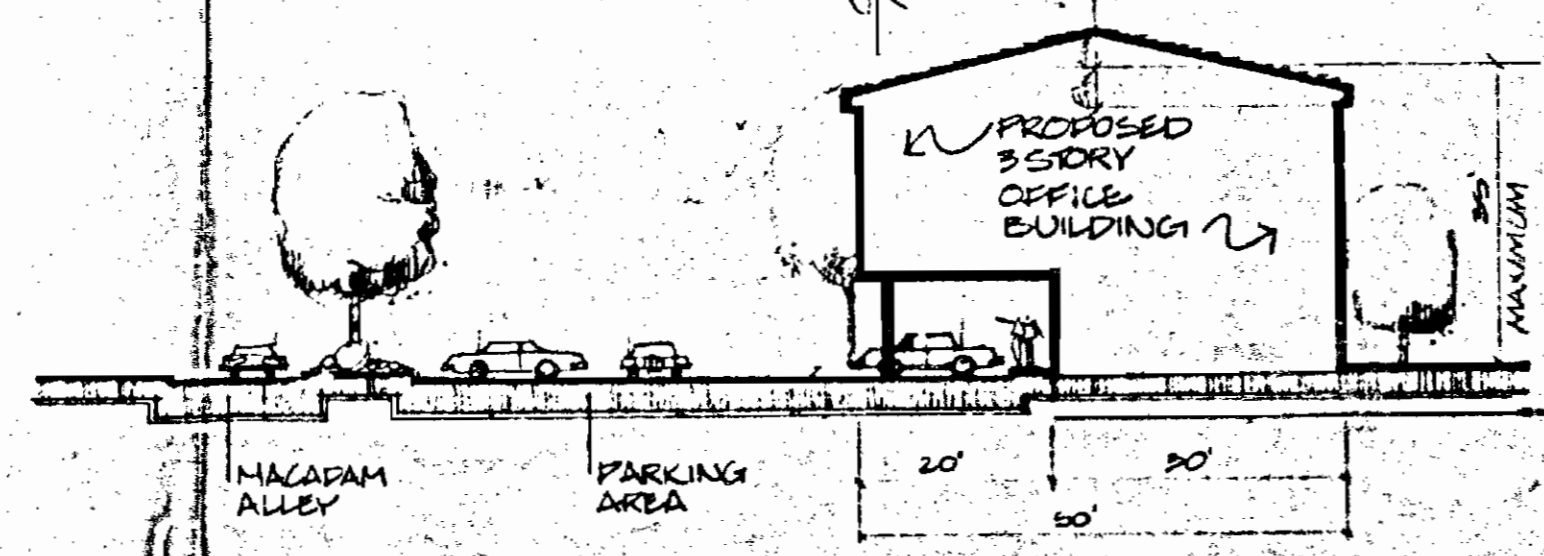




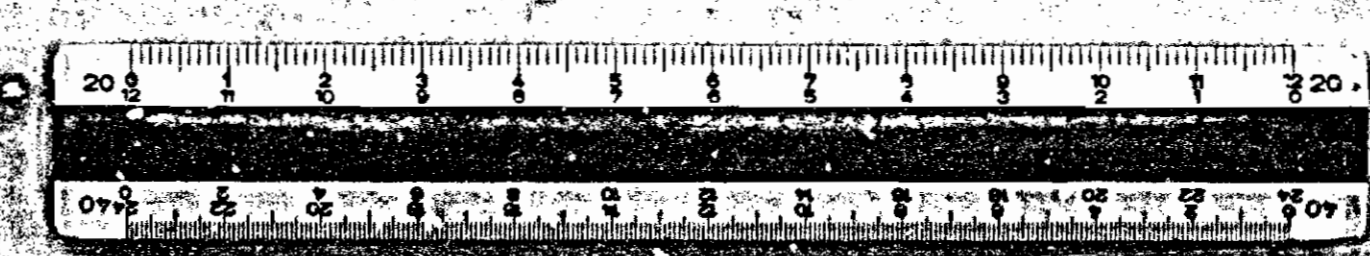
VICINITY MAP
SCALE: 1" = 2,000'



PLAN



SECTION



General Notes

- Owner/Applicant: C. Dennis Webster
608 Bosley Avenue
Towson, Maryland 21204
(301) 296-2430
- Election District 9; Councilmanic District 4; Census Tract 4907.02.
- Watershed 23; Subwatershed 55.
- Site Acreage:
Gross = 23,712.50 S.F. +/-
Net = 17,100.00 S.F. +/-
Amenity Open Space:
Required = 23,712.50 S.F. +/- x .25 = 5,928.13 S.F. +/-
Proposed = 6,612.50 S.F. +/-
Parking:
Required = 1st Floor - 3,000 S.F. @ 1/300 = 10 Spaces
2nd Floor - 4,250 S.F. @ 1/500 = 8.5 Spaces
3rd Floor - 4,250 S.F. @ 1/500 = 8.5 Spaces
Total Required = 27 Spaces
Proposed = 27 Spaces on site
- There are no proposed or existing well or septic areas on the site.
- All soils on the site are C1B, Glenelg - Urban Land complex, 0 to 8 percent slopes, with only slight limitations for structures and moderate limitations for streets and parking lots due to slopes.
- All existing trees are to be removed.
- There are no existing streams, bodies of water, springs or flood plains on the site.
- All existing structures, parking and walkways to be removed. There are no historic buildings on the site.
- Floor area ratio = 11,500 S.F. / 23,712.50 S.F. +/- = .48
The building will be masonry, wood, glass construction. Principal use is to be general office with hours of operations from 8:00 a.m. - 5:00 p.m. and approximately 30 employees.
- The property address will be located on the building in accordance with applicable Baltimore County requirements for signage.
- All outdoor lighting will be 250 watt fixtures on 12 foot poles in locations shown on plan and will conform to applicable Baltimore County standards.
- Current Ownership:
608 Bosley Avenue - C. Dennis Webster, Deed Reference, Liber 6596 folio 435; Property No. 08-07-150219.
606 Bosley Avenue - C. Dennis Webster, Deed Reference, Liber 6596 folio 492; Property No. 08-07-151784.
- Estimated Average Daily Trips = 11,500 @ 12.3/1,000 S.F. = 141.45 A.D.T.'s.
- M.T.A. bus route no. 8 serves the area and stops at Bosley and Allegheny Avenues, 200 feet +/- to the south of the site.
- The new impervious area is less than one-half acre and the site is exempt from stormwater management.
- There are no wetlands, significant geoclogical formations, archeological sites, critical areas, endangered species habitats or hazardous materials on the site.
- Project planned as 3-story office condominium.

PETITIONER'S EXHIBIT

REVISED PLANS
DEC 5 1997

84-167-X



**ZONING PLAT FOR SPECIAL EXCEPTION
- 604 - 606 BOSLEY AVENUE**



DAFT · McCUNE · WALKER INC.
LAND PLANNING CONSULTANTS
LANDSCAPE ARCHITECTS
ENGINEERS
530 E. JOPPA ROAD
TOWSON, MD 21204
TELEPHONE: (301) 296-3333

REV. 12-1-83
REV. 11-2-83
DATE: 12-83
JOB: 03016
SCALE: 1" = 20' - NORTH

apr associates inc
surveyors-engineers

BOUNDARY AND TOPOGRAPHIC SURVEY

504 - 510 BOSLEY AVENUE

A 9TH ELECTION DISTRICT
BALTIMORE COUNTY, MARYLAND

Charter (1978 ed., 1984 Supp.) creates the Office of Planning and Zoning. The office is directed by § 522.1 of that Charter to plan for the development of the county, including the preparation of a master plan, a zoning map, subdivision regulations, and zoning rules and regulations. Section 523(a) of the Charter provides that the master plan shall set forth comprehensive objectives, policies, and standards to serve as a guide for the development of the county and § 523(b) states that the zoning maps are to be consistent with the master plan. Under § 523, the County Council, upon receipt of the master plan and zoning maps, and the rules and regulations, is empowered to accept or modify them and then adopt them by resolution.

Sections 522.1 and 523 of the Charter were adopted by the County Council in 1978, approved by the voters of the county, and became effective December 8, 1978. The Charter Revision Commission which proposed these charter amendments commented on the proposed § 523 in its report filed on March 14, 1978:

This section number corresponds to an existing number in the Charter, but the text is all new. Because the master plan is a basic document which should serve as a guide to orderly development in the County, the Commission recommends that a broad definition of it be given in the Charter. The Commission recommends that the County Council alter the Master Plan as necessary, then adopt it by resolution. It is not the intent of the Commission that all actions in the County should automatically be required to conform with every detail of the master plan because of this resolution. It would

be up to the Council to define any enforcement mechanisms by legislative act. However, the Commission does want the development of a Master Plan to which the Council can and will make a commitment. The Council then can enact a zoning map consistent with the master plan, as provided in subsection 523(b), and the master plan will provide a reference document Council members can depend upon when they must resist pressures to draw zoning maps to conform with transient political demands.

Pursuant to § 522.1, the Office of Planning and Zoning prepared a master plan, the Baltimore County Master Plan 1979-1990, which was accepted by Council resolution on November 19, 1979. The master plan was amended on January 5, 1981 by Council Resolution 2-81 adopting the Towson Town Center Plan (the Towson Plan). The Towson Plan had evolved over a period of years and was the product of studies responding to the need for new land use planning in the Towson area because of its emergence as a highly developed commercial center. Towson Town Center Working Paper 2, prepared by consultants employed by the county, commented on the growing need for office space in Towson and on the fact that most of that space was currently being supplied by

4. That resolution provided in part: [That the Master Plan submitted by the Office of Planning and Zoning and adopted by the Baltimore County Planning Board, including mapped and written proposals, are hereby amended and modified, and as so amended and modified, are hereby adopted and declared to incorporate and be comprised of the following written and mapped components, which will serve as a guide for the development of the County, and which may be subject to such further modifications as deemed advisable by the Baltimore County Council: Resolution No. 71-79.

conversion of residential structures to office use as then permitted by special exception under the DR 16 zoning classification. The consultants noted that under DR 16 permitted use, there were no restrictions in the zoning regulations governing the height or the interior or exterior dimensions of such office buildings. They went on to recommend:

We believe that office districts should be established in areas of the county where office development is desirable. Then DR 16 zones could revert to their original purpose of providing transition zones between densely developed and residential areas. This could be accomplished by limiting the area, height and floor area ratio of office buildings which could be granted special exceptions in DR 16 zones. We recommend that no new office buildings should be allowed, but conversion of existing residential structures would continue. Thus, eventually the area of West Towson immediately adjacent to Bosley Road [sic] would become almost entirely offices, but would retain the density, scale and character of a residential area. In this way it would fulfill its function as a transition zone.

When the Towson Plan was adopted as an amendment to the master plan, this working paper was incorporated therein.

Prior to the amendment of the master plan to incorporate the Towson Plan, the County Council in 1980 responded to the suggestions of the consultants just quoted. It enacted legislation prohibiting construction of new office buildings in DR 16 zones. Council Bill 167-83, Section 1802.1, BCZR. It also established a new zoning classification, R-0, specifically for those residential areas near commercial centers.

Also in a comprehensive rezoning map adopted in 1980 it zoned such areas of the county, including the subject property, as R-0. Prior to this reclassification, the appellee's property had been zoned DR 16. The bill creating the new R-0 classification as § 203 of the BCZR provided:

203.1 - Declaration of Findings. It is found: A. That residential use of certain sites may not be economically feasible in some predominantly moderate-density residential areas that are within or near town centers, are near C.C.C. districts, or lie along commercial motorways; [Bill No. 13-80] B. That neither business zoning nor high-density residential zoning of those sites is appropriate; and [Bill No. 13-80] C. That, with appropriate restrictions, houses converted to offices and, in some cases, small Class B office buildings and similar buildings are suitable, economically feasible uses of such sites. [Bill No. 13-80]

203.2 - Statement of Legislative Policy. The R-0 zoning classification is established pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate-density residential zones. It is intended that buildings and uses in R-0 zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas. [Bill No. 13-80]

The appellant, in opposing the appellee's proposal for the erection of a new office building on the subject property, argues that such development of property west of Bosley Avenue is barred by § 523 of the Charter since it is repugnant to the master plan. The initial answer to this assertion is found in the plain language of this Charter provision. *Smelser v. Criterion Insurance Co.*, 293 Md. 384 (1982). Section 523 provides:

(a) Definition and implementation of the master plan. The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning, the county council shall accept or modify and then adopt it by resolution. (b) Definition and implementation of the zoning maps. The zoning maps shall show the boundaries of the proposed districts, divisions and zones into which the county is to be divided consistent with the master plan. Upon receipt of the zoning map from the office of planning and zoning, the county council shall accept or modify and then adopt it by legislative act. (Bill No. 83, 1978, § 3)

This charter language is not vague or ambiguous and evidences the clearest intent of its framers. That the master plan was to serve as a guide to the County Council in its promulgation of the maps and regulations when executing the zoning process is patent from the resolution of the Council in adopting the

master plan. See fn. 4, supra. This has been the generally accepted role of the master plan in this context. As we noted in *Floyd v. County Council of P.G. Co.*, 55 Md. App. 246, 258-59 (1983):

[I]t is commonly understood, in Maryland and elsewhere, that Master Plans are guides in the zoning process. *Chapman v. Montgomery County Council*, 259 Md. 641, 271 A.2d 156 (1970); *Board of County Comm'rs. for Prince George's County v. Edmonds*, 240 Md. 680, 215 A.2d 209 (1965); see *Montgomery County v. Woodward & Lothrop, Inc.*, 280 Md. 686, 378 A.2d 483, cert. denied, 374 U.S. 1067 (1977) (Master Plan a guide, not a straitjacket); *Kanfer v. Montgomery County Council*, supra (35 Md. App. 715, 733, 373 A.2d 5, cert. denied, 281 Md. 741 (1977)) (plan a "prophecy" as to future development). Master Plan guidelines are mandatory only if an ordinance so provides. Cf. *Coffey v. Md.-Nat'l. Cap. Park & Pl. Comm'n.*, 293 Md. 24, 441 A.2d 1041 (1982) (subdivision case); *Board of County Comm'rs. of Cecil County v. Gaster*, 285 Md. 433, 401 A.2d 666 (1979).

See also *Md.-Nat'l. Cap. Park v. Wash. Bus. Pk.*, 294 Md. 302 (1982).

There is a second and equally compelling reason for rejecting the appellant's proposition that R-0 zoning of the appellee's property is inconsistent with the master plan. When viewed in its historical context, we perceive no inconsistency. Rezoning of the properties abutting the west side of Bosley Avenue, including that of the appellee, was a part of a comprehensive zoning map revision in the county which occurred in 1960 accompanied by the Council's creation of a new zoning classification, R-0. Such action by the Council reflected the studies which were then underway indicating a need for a more

restricted transition zone between the commercially zoned core of Towson and the residential sections which surround it. Towson Town Center Working Paper 2, quoted above, was prepared in that light. It, however, was prepared before the Council created the R-0 zone and adopted the regulations which would govern permitted uses within the new classification. The statement contained within that working paper to the effect that no new office buildings should be allowed in this transition zone was obviously aimed at the permitted use of property in this area for new office building construction under the existing DR 16 classification. That use, then permitted by special exception in DR 16 zones, was unrestricted as to the height or dimensions of such office construction. In enacting § 203 of the BCZR and placing the properties on the west side of Bosley Avenue, as well as other properties throughout the county similarly situated, the Council fully responded to the concerns of the consultants who drafted the Towson Town Center Working Paper 2, later incorporated in the Towson Plan adopted as part of the master plan in 1981.

II.

The second issue presented for our determination need not detain us long. The appellant asserts that the Board failed to find that the appellee's proposed office building "shall be highly compatible with the present or prospective uses of nearby

residential property" as required before the special exception could be granted. BCZR § 203.2. The appellant is wrong.

In its written opinion the Board noted that, "[t]here was testimony and evidence produced during this hearing that all the requirements of § 502.1 (of the BCZR) would be met by this petition." Our review of the record convinces us that there was substantial evidence before the Board to justify such a conclusion. Section 502.1 of the BCZR, supra, requires that before the Board grants a special exception it must appear that the use will not:

g. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations.

The Board's conclusion that this condition to the granting of a special exception under § 203 of the BCZR was met necessarily implied a finding that the proposed use was a compatible one as required by that section.⁵

JUDGMENT AFFIRMED;
COSTS TO BE PAID BY
BALTIMORE COUNTY.

5. In his brief, the appellee challenges for the first time on appeal the appellant's standing to oppose his use of the subject property. His challenge is untimely and therefore not before us. Md. Rule 1085. Moreover, it is meritless. *Baltimore County Charter, Art. V, § 524.1* (1978 ed., 1984 Supp.); *People's Counsel v. Williams*, 45 Md. App. 617 (1980).

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

No. 85189

DATE 8/19/85 ACCOUNT 01712

AMOUNT \$3.50

RECEIVED BY G. Scott Barlight, Esq.

FOR COPIES of documents from File #CBA-83-133, Webster

8219*****3501a, 8208F

VALIDATION OR SIGNATURE OF CASHIER

a. January *4/21/85*

84-167-X

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant

v.

C. DENNIS WEBSTER, Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
AT LAW
Case No. 84-CG-559

NOTICE OF APPEAL

MR. CLERK:

Please note an appeal to the Court of Special Appeals of Maryland from the decision of the Circuit Court for Baltimore County in the above-captioned matter, under date of March 6, 1985, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 21st day of April, 1985, a copy of the foregoing Notice of Appeal was mailed to Robert A. DiCiccio, Esquire, 405 Central Avenue, Towson, Maryland 21204.

Peter Max Zimmerman
Peter Max Zimmerman

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COUNTY BOARD OF APPEALS
MIS APR -2 A 9 29 E

subject property. The CRG approved the proposed development of the property, and on January 10, 1984, the Baltimore County Zoning Commissioner granted a special exception for the erection of a Class B office building on the site. People's Counsel appealed, and on July 27, 1984 the Board affirmed the CRG approval and granted the special exception. On appeal to this court, People's Counsel raises two contentions of error. First, People's Counsel argues that the Baltimore County Master Plan is mandatory and prohibits the building of new office buildings in West Towson. Second, People's Counsel argues that the Board failed to make the required finding of compatibility, and furthermore, the record shows the proposal to be incompatible with the neighborhood. As to Appellant's first contention of error, some legislative background is required. On March 14, 1978 the Commission on Charter Revision issued a report and recommendation for the adoption of the Master Plan ("Plan") by the County Council and implementation of zoning maps consistent with the Plan. This proposal was formulated into section 523, which was approved by the County Council in Bill 83-78 and ratified in the 1978 general election. Section 523 provides:

Section 523. The master plan and zoning map.

(a) Definition & implementation of the master plan. The master plan shall be a composite of mapped and written proposals setting forth comprehensive objectives, policies and standards to serve as a guide for the development of the county. Upon receipt of the master plan from the office of planning and zoning the county council shall accept or modify and then adopt it by resolution.

-2-

Comment

... Because the master plan is a basic document which should serve as a guide to ordinary development in the county, the Commission recommends that a broad definition of it be given in the charter. . . . It is not the intent of the Commission that all actions in the county should automatically be required to conform with every detail of the master plan because of this resolution.

In the Fall of 1980 Bill 13-80 was passed, thereby creating the RO classification. According to the 1980 Comprehensive Map, the properties along Bosley Avenue were afforded this classification. Bill 13-80 which created the RO zone also included section 203 of the Baltimore County Zoning Regulations (BCZR) which permits Class B office buildings as a use permitted by special exception, if such can comply with Section 502.1 of the BCZR.

In January 1981, by Resolution 2-81, the Towson Plan was incorporated into the Plan, and the RO classification continued on the properties along Bosley Avenue. The Towson Town Center Working Paper 2 states, at page 38:

We recommend that no new office buildings should be allowed, but conversion of existing residential structures would continue. Thus, eventually, the area of West Towson immediately adjacent to Bosley Road would become almost entirely offices, but would retain the density, scale and character of a residential area. In this way it would fulfill its function as a transition zone.

People's counsel argues that Appellee's plan to construct a new Office Building on the west side of Bosley Ave-

-3-

CIRCUIT COURT FOR BALTIMORE COUNTY
CIVIL - GENERAL

DOCKET 2 PAGE 259 CASE NO. 84 CG 559 CATEGORY APPEAL

ATTORNEYS
Phyllis Cole Friedman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House (04) 494-2188

John B. Howard
Cook, Howard, Downes & Tracy
P.O. Box 5517
240 Allegheny Ave. (04)
823-4444
Robert A. DiCiccio
405 Central Ave. (04) 825-2000

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN AND DEVELOPMENT PLAN 1/8 OF BOSLEY AVE., 165' N. OF ALLEGHENY AVE., 9th DISTRICT

Zoning Cases No. CBA-83-133 & 84-167-X

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

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COUNTY BOARD OF APPEALS
MIS MAR -1 P 3 4 85

3-6-85 DL + Opine Order sent to Board Appeals.

COSTS

(1) Aug. 24, 1984 - Pltff's Appeal from the decision of County Board of Appeals of Baltimore County, Petition for Appeal & Petition for Extension of Time to file Transcript of Proceedings fd.

(2) Aug. 27, 1984 - Order of Court granting the foregoing Petition for Extension of Time to File Transcript of Proceedings fd. (AWB)

(3) Aug. 27, 1984 - Certificate of Notice fd.

(4) Sept. 17, 1984 - App. of John B. Howard and Cook, Howard, Downes & Tracy as atty for Appellee and Sams Day Answer to Petition of Appeal

(5) Nov. 5, 1984 - Transcript of Record fd.

(6) Nov. 5, 1984 - Notice of Filing of Record fd.

(7) Nov. 14, 1984 - App. of Robert A. DiCiccio as attorney for the Appellee, C. DENNIS WEBSTER, fd.

(8) Jan. 6, 1985 - Appellant's Memorandum fd.

(9) Jan. 16, 1985 - Order to Strike the App. of John B. Howard for the Appellee (C. Dennis Webster) fd.

(10) Feb. 15, 1985 - Appellee, (C. Dennis Webster) Memorandum of Law & Exhibits fd.

Feb. 22, 1985 Hon. J. William Hinkel. Hearing had. Opinion to be filed.

(11) Feb. 22, 1985 - Exhibits fd.

(12) March 6, 1985 - Opinion of Court that the Board's decision is affirmed fd. (JWH)

COSTS

CV CLK 84500.00

CV CLK 70.00

CHECKER FL 270.00

RECORDS ROOM 102 112:50

08/24/84

DOCKET 2 PAGE 259 CASE NO. 84 CG 559

() Return to Judge

() Return to

() Return to Cashier

() Transfer case to (Give to Appeals desk)

() Index

() Appeal to Court of Special Appeals (Give to Appeals desk)

(x) Docket entries (Give to appeals desk)

() Judgment by Default (notify assignment office)

() Assignment Office

() Other (Explain)

2-259-84CG
559

3/6/85
Judge J. Wm. Hinkel

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Appellant

v.

C. DENNIS WEBSTER, Appellee

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
FOR BALTIMORE COUNTY
CASE NO. 84-CG-559
DOCKET 2, PAGE 259

#84-167-X
CBA-83-133

OPINION

On February 22, 1985 this court heard argument on two consolidated appeals on the same properties. People's Counsel for Baltimore County is appealing an Order of the Baltimore County Board of Appeals (hereinafter "Board"), dated July 27, 1984, which affirmed the County Review Group's (hereinafter "CRG") approval of Appellee's development plan, and also granted de novo a special exception for the erection of a Class B office building on the site.

The subject properties front on the west side of Bosley Avenue in Towson, Maryland. 606 Bosley Avenue (hereinafter "606") was purchased by Appellee for \$87,000 in May, 1980. The building on this property is in poor condition. 604 Bosley Avenue (hereinafter "604") was purchased for \$120,000 in March, 1981, is also in very bad condition structurally, and has been unoccupied and unused since 1974. Appellee is a real estate developer and general contractor. Appellee plans a townhouse/office project on the

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COUNTY BOARD OF APPEALS
MIS MAR -1 P 3 4 85

... must be denied, as such is inconsistent with the Plan. The Plan calls for a transition area on the west side of Bosley Avenue in order to buffer the residential area to the west from the more intense development on the east side of Bosley Avenue. According to Section 523, the zoning map must be consistent with the Plan. The RO classification, as provided in the zoning map, allows the conversion of existing residential property to office use, and thus accomplishes the stated goal of the Plan. People's Counsel argues that the consistency requirement makes the Plan more than merely advisory. As long as no special exceptions for Class B office buildings are permitted, there is compliance with the Plan.

Appellee, however, asserts that the Plan is merely advisory. The language of Section 523, as well as the comment accompanying the text, states that the Plan is to serve as a guide for the development of the county. The C.G.R. approved Appellee's development plan and granted the special exception, and the Board affirmed, stating:

The Board is of the opinion that any RO classification that meets the requirements of sections 203.2, 203.2(b) and 502.1 of the BCRZ should be granted a Class B office use, and any petition for a Class B office use which fails on any of the requirements should be denied. The adoption of the Towson Plan by the County Council is a guide to future development of the area and the requirements of the BCRZ regarding the requested petition are therefore, in the opinion of the Board, the restrictions to this guidance. The Board, therefore, is of the opinion that the "Towson Plan" as written and adopted does not totally restrict Class B office use west of Bosley Avenue but provides guidelines for RO use as

-4-

specifically delineated in the appropriate sections of 203.1, 203.2 and 203.3 BCRZ.

The Statute, as well as the accompanying text, states that the Plan is to serve as a guide for the development of the county. The language is not vague or ambiguous. The language of the Statute provides the clearest guide to legislative intent. Smelser v. Criterion Insurance Co., 293 Md. 384 (1982). This court, therefore, affirms the decision of the Board in holding that the Plan is a guide for development in the county. Accordingly, a special exception for a Class B office building is permitted when the requirements of Sections 203 and 205.1 BCRZ are met.

Appellants second contention of error is that the Board failed to make a finding of compatibility with the neighborhood, and this error requires reversal of the Board's decision.

In order to receive a special exception for a Class B office building in a RO zone, the Petitioner must comply with Sections 203 and 502.1 BCRZ.

Section 203.2 Statement of Legislative Policy The RO zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings, and some small Class B office buildings in predominantly residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate density residential zones. It is intended that buildings and uses in RO zones shall be highly compatible with the present or prospective uses of nearby residential property.

Appellant contends that the Board's decision may not

-5-

be upheld because the Board failed to make a finding that Appellee's proposed development of the property would be compatible with the neighborhood. In affirming the CRG, the Board stated:

The Petitioner requested a special exception to permit the erection of a Class B office building as required in section 203.3 B 2 pursuant to section 502.1 BCRZ. There was ample testimony that the razing of these two dilapidated buildings and the erection of the single Class B building, as described, would not be detrimental to the primary uses in the vicinity of the proposed building. There was testimony and evidence produced during this hearing that all of the requirements of section 502.1 would be met by this petition. The proposed use will not be detrimental to the health, safety or general welfare of the community, would not tend to create congestion in roads, streets or alleys therein, nor be inconsistent with the purpose of the properties' zoning classification, nor is in any way inconsistent with the spirit and intent of the Zoning Regulations.

The CRG approved the plan and granted a special exception for the Class B office building. In affirming the CRG the Board stated:

The CRG must be presumed correct. The Board has found no testimony or evidence to the contrary sufficient to rebut that presumption and will, therefore, affirm the CRG decision approving the plan as presented.

The test to be applied by this court in review of the action by the Board was succinctly expressed by the Court of Appeals in Supervisor of Assessments of Montgomery County v. Ely, 272 Md. 77, 84 (1974):

The common denominator for testing judicial review of an act of an administrative agency... has been defined as whether a reasoning mind reasonably could have reached the factual conclusion the agency reached; this need not and must

-6-

not be either judicial fact-finding or a substitution of judicial judgment for agency judgment.

Although the Board did not specifically state that the property is compatible with the neighborhood, it is clear from the language of the opinion, that the Board considered all of the requirements of sections 203 and 502 BCRZ. In reaching its decision, it is implicit that the Board determined that Appellee's plan would be consistent with the neighborhood. This court may not substitute its judgment for that of the administrative agency. Ely, supra. The Board's decision is thereby affirmed.

J. William Hinkel
J. WILLIAM HINKEL
JUDGE

DATED: 3/6/85

- CC: Phyllis Cole Friedman, Esq.
People's Counsel for Baltimore County
Peter Max Zimmerman, Esq.
Deputy People's Counsel for Baltimore County
Room 223, Court House
Towson, Maryland 21204
Attorneys for Appellant
- CC: Robert A. DiCicco, Esq.
405 Central Avenue
Towson, Maryland 21204
Attorney for Appellee
- CC: County Board of Appeals of Baltimore County
Room 200, Court House
Towson, Maryland 21204

-7-

IN THE MATTER OF THE APPLICATION FOR SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVENUE 165' N. OF ALLEGHENY AVENUE 9th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW CG Docket No. 2 Folio No. 259 File No. 84-CG-539

Zoning Case No. 84-167-X and Board Case No. CBA-83-133 People's Counsel for Baltimore County Plaintiff

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and Keith S. Franz, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in these cases, herewith file documents which were inadvertently omitted when the papers were forwarded to the Circuit Court on November 5, 1984.

#CBA-83-133

Certified copies of documents from file #CBA-83-133.

Respectfully submitted

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
February 22, 1985

cc: Phyllis Cole Friedman
Thomas Bollinger and Malcolm Spicer, Jr.
John G. Howard, Esq.
Robert A. DiCicco, Esq.

2/22/85

CASE NO. 2/22/85-CG-539 AT LAW

C. Dennis Webster vs. People's Counsel

RECEIVED FROM THE COUNTY BOARD OF APPEALS CERTIFIED DOCUMENTS, EXHIBITS, AND BOARD'S ANSWER FILED IN THE ABOVE ENTITLED CASE.

Date: 2/22/85

James T. Hackett
Clerk's Office

RECEIVED COUNTY BOARD OF APPEALS
FEB 23 11 11 AM '85

12/27/84
84-167-X

John Adams - 484-2680
Assignment Clerk
Marilyn Harris - 484-2682
Administrative Secretary
Marilyn Harris - 484-2682
Administrative Secretary

Phyllis Cole Friedman, Esq.
Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County

John B. Howard, Esq.
Robert A. DiCicco, Esq.
County Board of Appeals of Baltimore County

Thomas J. Bollinger, Esq.

TO: Phyllis Cole Friedman, Esq.
Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204-0754
November 27, 1984

FROM: William T. Hackett, Esq.
LeRoy B. Spurrier, Esq.
Keith S. Franz, Esq.
County Board of Appeals of Baltimore County
401 Bosley Avenue
Towson, Maryland 21204-0754
November 27, 1984

RE: 84-CG-539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
WES JUST - 84 CG 539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
WES JUST - 84 CG 539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

HEARING DATE: Friday, February 22, 1985, @ 9:30 a.m.
Appeals 1 hour
3000 Courtroom, confirming an agreed calendar date.

ON THE FOLLOWING: 3000 Courtroom, confirming an agreed calendar date.

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to confirm calendars. Claim of not receiving notice will not constitute an excuse for nonattendance. If the above date is not agreeable to any counsel, a request for postponement MUST BE MADE IN WRITING TO THE ASSIGNMENT CLERK WITHIN 15 DAYS OF FILING THIS NOTICE. POSITONMENTS WITHIN 15 DAYS OF FILING THIS NOTICE MUST BE MADE TO THE ATTENTION OF THE ASSIGNMENT CLERK. If the above date is not agreeable to any counsel, a request for postponement MUST BE MADE IN WRITING TO THE ASSIGNMENT CLERK WITHIN 15 DAYS OF FILING THIS NOTICE. POSITONMENTS WITHIN 15 DAYS OF FILING THIS NOTICE MUST BE MADE TO THE ATTENTION OF THE ASSIGNMENT CLERK. If the above date is not agreeable to any counsel, a request for postponement MUST BE MADE IN WRITING TO THE ASSIGNMENT CLERK WITHIN 15 DAYS OF FILING THIS NOTICE. POSITONMENTS WITHIN 15 DAYS OF FILING THIS NOTICE MUST BE MADE TO THE ATTENTION OF THE ASSIGNMENT CLERK.

SETTLEMENT CONFERENCE: All counsel must secure the attendance of all parties and their representatives at a settlement conference, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS PER ORDER OF JUDGE FRANK E. CIDONE. Please direct all inquiries to the attention of John Adams.

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IF SETTLEMENT IS NOT REACHED BY THE HEARING DATE, the Assignment Office must be notified immediately. All settlements must be put on file with the court in order to be enforceable.

RECEIVED COUNTY BOARD OF APPEALS
FEB 23 11 11 AM '85

84-167-X
11/27/84

John Adams - 484-2680
Assignment Clerk
Marilyn Harris - 484-2682
Administrative Secretary
Marilyn Harris - 484-2682
Administrative Secretary

Phyllis Cole Friedman, Esq.
Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County

John B. Howard, Esq.
Robert A. DiCicco, Esq.
County Board of Appeals of Baltimore County

Thomas J. Bollinger, Esq.

TO: Phyllis Cole Friedman, Esq.
Peter Max Zimmerman, Esq.
People's Counsel for Baltimore County
401 Bosley Avenue
Towson, Maryland 21204-0754
November 27, 1984

FROM: William T. Hackett, Esq.
LeRoy B. Spurrier, Esq.
Keith S. Franz, Esq.
County Board of Appeals of Baltimore County
401 Bosley Avenue
Towson, Maryland 21204-0754
November 27, 1984

RE: 84-CG-539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
WES JUST - 84 CG 539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
WES JUST - 84 CG 539 - C. DENNIS WEBSTER VS. COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

HEARING DATE: Tuesday, February 5, 1985, @ 9:30 a.m.
Appeals 1 hour
3000 Courtroom, confirming an agreed calendar date.

UPON RECEIPT OF THIS NOTICE, Counsel shall contact each other immediately to confirm calendars. Claim of not receiving notice will not constitute an excuse for nonattendance. If the above date is not agreeable to any counsel, a request for postponement MUST BE MADE IN WRITING TO THE ASSIGNMENT CLERK WITHIN 15 DAYS OF FILING THIS NOTICE. POSITONMENTS WITHIN 15 DAYS OF FILING THIS NOTICE MUST BE MADE TO THE ATTENTION OF THE ASSIGNMENT CLERK. If the above date is not agreeable to any counsel, a request for postponement MUST BE MADE IN WRITING TO THE ASSIGNMENT CLERK WITHIN 15 DAYS OF FILING THIS NOTICE. POSITONMENTS WITHIN 15 DAYS OF FILING THIS NOTICE MUST BE MADE TO THE ATTENTION OF THE ASSIGNMENT CLERK.

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IF SETTLEMENT IS NOT REACHED BY THE HEARING DATE, the Assignment Office must be notified immediately. All settlements must be put on file with the court in order to be enforceable.

11/16/84

PEOPLES COUNSEL FOR BALTIMORE COUNTY
Appellant

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

v.

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVENUE, 165' NORTH OF ALLEGHENY AVENUE 9TH DISTRICT

Appellee

(Appeal from the County Board of Appeals - Nos. CBA-83-133 and 84-167-X)

2/259/84-CG-559

REQUEST FOR THE ENTRY OF APPEARANCE OF ROBERT A. DICICCO ON BEHALF OF THE APPELLEE

The Appellee, C. Dennis Webster, etc., by Robert A. DiCicco, his attorney, respectfully requests pursuant to Maryland Rule of Procedure 2-131 that the appearance of Robert A. DiCicco, Esquire be entered in the above-captioned case on behalf of the Appellee.

ROBERT A. DICICCO
405 Central Avenue
Towson, Maryland 21204
825-2000
Attorney for the Appellee

RECEIVED
COUNTY BOARD OF APPEALS
NOV 16 1984

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of November, 1984 a copy of the foregoing Request for the Entry of Appearance of Robert A. DiCicco on Behalf of the Appellee was mailed to: Peter Max Zimmerman, Deputy People's Counsel for Baltimore County, Court House, Towson, Maryland 21204, Attorney for the Appellant; Baltimore County Board of Appeals, Court House, Towson, Maryland 21204, Agency subject of appeal; and to John B. Howard, Esquire, Cook, Howard, Downes & Tracey, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21204.

ROBERT A. DICICCO
405 Central Avenue
Towson, Maryland 21204
825-2000
Attorney for the Appellee

RECEIVED
COUNTY BOARD OF APPEALS
NOV 16 1984

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY
Appellant

IN THE CIRCUIT COURT

v.

POP BALTIMORE COUNTY

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVENUE, 165' NORTH OF ALLEGHENY AVENUE 9TH DISTRICT

Appellee

2/259/84-CG-559

(Appeal from the Baltimore County Board of Appeals)

REQUEST FOR HEARING

The Appellee, C. Dennis Webster, etc., by Robert A. DiCicco, his attorney, requests that the above-captioned appeal be set in for hearing.

ROBERT A. DICICCO
405 Central Avenue
Towson, Maryland 21204
825-2000
Attorney for the Appellee

I HEREBY CERTIFY that on this 14th day of November, 1984 a copy of the Request for Hearing was mailed to: Peter Max Zimmerman, Esquire, Deputy People's Counsel for Baltimore County, Court House, Towson, Maryland 21204, Attorney for Appellant; Baltimore County Board of Appeals, Court House, Towson, Maryland 21204; and John B. Howard, Esquire, 210 Allegheny Avenue, P.O. Box 5517, Towson, Maryland 21204.

ROBERT A. DICICCO

11/5/84

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVENUE 165' N. OF ALLEGHENY AVENUE 9TH DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

Zoning Case No. 84-167-X and Board Case No. CBA-83-133

CG Docket No. 2

Folio No. 259

File No. 84-CG-559

People's Counsel for Baltimore County
Plaintiff

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE ZONING COMMISSIONER, THE COUNTY REVIEW GROUP AND THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, LeRoy B. Spurrier and Keith S. Franz, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeals 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 Planning and Zoning, the Department of Public Works and the County Board of Appeals of Baltimore County:

No. CBA-83-133

- Sept. 12, 1983 Application check list of C. Dennis Webster for development of property located on the west side of Bosley Avenue 165 feet north of Allegheny Avenue, 9th District - filed
- " 20 Transmittal of Plans filed by Daft-McCune-Walker, Inc. filed
- " 21 Certification as to delinquent accounts filed
- " 28 Transmittal of Plans filed by Daft-McCune-Walker, Inc. filed
- Oct. 6 Letter from Robert A. Morton to C. Dennis Webster advising that case is scheduled for hearing before the County Review Group at 1:30 p.m. on Thursday, October 27, 1983 in Room 319, County Office Building
- " 25 Comments of County Agencies filed with the CRG
- " 27 Meeting held before the County Review Group (CRG)
- " 27 Minutes of hearing filed
- Nov. 13 Letter of approval of plans by CRG from Robert A. Morton to C. Dennis Webster
- " 23 Letter of Appeal to County Board of Appeals filed by People's Counsel of Baltimore County

C. DENNIS WEBSTER - 2/259/84-CG-559

- No. 84-167-X
- Oct. 10, 1983 Petition of C. Dennis Webster for special exception for a Class B Office Building on property located on the west side of Bosley Avenue 168 feet north of Allegheny Avenue, 9th District - filed
 - " 10 Order of Zoning Commissioner directing advertisement and posting of property - date of hearing set for January 4, 1984 at 11 a.m.
 - Dec. 13 Comments of Director of Planning filed
 - " 19 Certificate of Publication in newspaper - filed
 - " 23 Certificate of Posting of property - filed
 - " 23 Comments of Baltimore County Zoning Plans Advisory Committee - filed
 - Jan. 4, 1984 At 11 a.m., hearing held on petition by Zoning Commissioner - case held sub curia
 - " 10 Order of Zoning Commissioner granting petition with restrictions
 - " 27 Order for Appeal to County Board of Appeals from Order of Zoning Commissioner filed
 - Feb. 24 Letter from Robert A. Hoffman, Esquire, Cook, Howard, Downes and Tracy, Attorney for Petitioner, requesting that case #84-167-X and case #CBA-83-133 be consolidated for hearing
 - Mar. 21 Hearing on appeals (both cases) before County Board of Appeals - cases held sub curia
 - July 27 Order of County Board of Appeals affirming the CRG approval of development plan in case #CBA-83-133 and granting the petition for special exception for a Class B Office Building, subject to restrictions, in case #84-167-X
 - Aug. 24 Notice of Appeal in both cases filed in the Circuit Court for Baltimore County by the People's Counsel for Baltimore County
 - " 24 Petition to Accompany Order for Appeal filed in the Circuit Court for Baltimore County by the People's Counsel for Baltimore County
 - " 24 Petition for Extension of Time to File Transcript of Proceedings filed in the Circuit Court for Baltimore County by People's Counsel
 - " 27 Order of the Court granting extension for the filing of proceedings to November 23, 1984
 - " 27 Certificate of Notice sent to all interested parties
 - Nov. 5 Transcript of Testimony filed
- Petitioner's Exhibit No. 1-A - Photo, Front view of 606 Bosley Ave.
1-B - Photo, Side View of 604 Bosley Ave.
1-C - Photo, Rear view of 608 & 606 Bosley
1-D - Photo, View looking north on Central
1-E - Photo, View looking northwest showing old school
1-F - Photo, View looking southwest at school
1-G - Photo, View looking west to Central Av.
1-H - Photo, View looking east
1-I - Photo, Looking west toward subject property
1-J - Photo, showing school
1-K - Photo, Bosley Bldg. (DR 16, SE)
1-L - Photo, Courts Building

C. DENNIS WEBSTER - 2/259/84-CG-559

- Petitioner's Exhibit No. 2-A - Minutes of County Review Group
 - " 2-B - Towson Town Center Plan (2 pages)
 - " 2-C - Towson Town Center working paper
 - " 2-D - Towson Town Center Final Plan
 - " 3 - Photo and qualifications of Traffic Engineer John W. Guckert
 - " 4 - Street Traffic Studies, Ltd., 3/20/84
 - " 5 - Plat
 - People's Counsel's Exhibit No. 1 - (a to e) Group of photos of subject site
 - " 2 - (a & b) Photos - 3/18/84
 - " 3 - (a & b) Photos - 3/16/84
 - " 4 - Council Resolution 71-79, 11/19/79
 - " 5 - Council Resolution 2-81, 6/5/81
 - " 6 - Copy of Towson Town Center Working Paper 2
 - " 7 - Final Addendum to Towson Town Center Plan, 3/15/75
 - " 8 - (a, b & c) Documents submitted by People's Counsel for Mary Elizabeth Ginn, 3/21/84
 - Nov. 5, 1984 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 Office of Planning and Zoning of Baltimore County, as are also the use district maps, and the Department of Public Works of Baltimore County, 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
- Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
- cc: Phyllis C. Friedman
Thomas Bollinger and Malcolm Spicer, Jr.
John B. Howard, Esq.

People's Counsel for Balto. Co.
In the matter of C. Dennis Webster

County Bd. of Appeals of Balto. Co.

11/5/84

IN THE CIRCUIT COURT

FOR BALTIMORE COUNTY

Docket 2 Folio 259

Case No. 84CG559

NOTICE OF FILING OF RECORD

To: Phyllis Coe Friedman John B. Howard
Peter Max Zimmerman P.O. Box 5517
Room 223 Court House (04) 210 Allegheny Ave. (04)
Edith T. Eisenhart
Co. Bd. of Appeals of Balto. Co.
Mail Stop 2205

In accordance with Maryland Rule of Procedure B12, you are notified that the record in the above entitled case was filed on Nov. 5, 1984

Edith T. Eisenhart
Clark

FILED NOV 5 1984

RECEIVED
COUNTY BOARD OF APPEALS
NOV 5 1984

1/29/84

RE: PETITION FOR SPECIAL EXCEPTION: BEFORE THE ZONING COMMISSIONER
 W/S of Bosley Ave., 165' N of OF BALTIMORE COUNTY
 Allegheny Ave., 9th District
 C. DENNIS WEBSTER, Petitioner: Case No. 84-167-X

NOTICE OF APPEAL

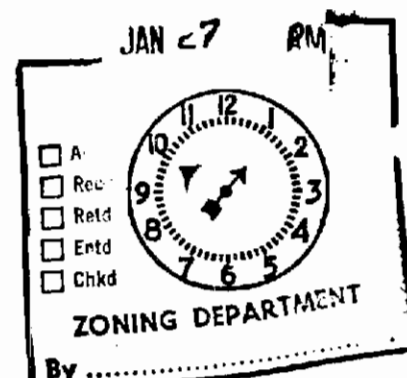
Please note an appeal from your decision in the above captioned matter, under date of January 10, 1984, to the County Board of Appeals and forward all papers in connection therewith to the Board for hearing.

Phyllis Cole Friedman
 Phyllis Cole Friedman
 People's Counsel for Baltimore County

Peter Max Zimmerman
 Peter Max Zimmerman
 Deputy People's Counsel
 Room 223, Court House
 Towson, MD 21204
 494-2188

I HEREBY CERTIFY that on this 27th day of January, 1984, a copy of the foregoing Notice of Appeal was mailed to John B. Howard, Esquire, 210 Allegheny Ave., P.O. Box 5517, Towson, MD 21204; Mrs. Mary Ginn, 606 Horncrest Rd., Towson, MD 21204; and Mr. Richard Parsons, 412 Woodbine Ave., Towson, MD 21204.

Peter Max Zimmerman
 Peter Max Zimmerman



IN RE: PETITION SPECIAL EXCEPTION BEFORE THE
 W/S of Bosley Avenue, 165' N of ZONING COMMISSIONER
 Allegheny Avenue - 9th Election District OF BALTIMORE COUNTY
 C. Dennis Webster, Case No. 84-167-X
 Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner requests a special exception to construct a Class B office building in an R-O Zone, as more fully described on Petitioner's Exhibit 1. The Petitioner appeared and testified and was represented by Counsel. Testifying for the Petitioner were William Frederick Walker, an engineer, and Wes Guckert, a traffic engineer. Mary Ginn, President of the West Towson Neighborhood Association, and Richard Parsons appeared and testified. The subject property is zoned R-O. The Petitioner purchased two adjoining lots, 604 and 606 Bosley Avenue, in 1980 and 1981, which had deteriorating residential buildings on them. The Petitioner, a contractor and real estate developer, concluded that the two buildings could not be rehabilitated and decided to raze them and construct a 2 1/2-story condominium office building which would have five individually owned units, one to be utilized by the Petitioner. The area which is within the Towson Master Plan, is made up of old, school buildings presently being utilized by the County for office space; residential buildings converted to offices; and sporadic residences. There is an alley behind the two properties which provides access to Joppa Road and an alley to the side of one which provides access to Bosley Avenue, as indicated on Petitioner's Exhibit 1. The two buildings have been vandalized and one has had no utilities for many years prior to the Petitioner's purchase.

ORDER RECEIVED FOR FILING
 DATE January 27, 1984
 BY *John B. Howard*

ORDER RECEIVED FOR FILING
 DATE January 27, 1984
 BY *John B. Howard*

Mr. Walker testified that, based on his professional experience and knowledge, the proposed office building would be compatible with the surrounding area and would in no way be detrimental to or adversely affect the health, safety, and general welfare of the community and would otherwise satisfy all of the requirements delineated by Section 502.1 of the Baltimore County Zoning Regulations (BCZR).

Mr. Guckert testified that, based on his professional experience and knowledge and based on his field study of the traffic flow in the alleyways, the proposed use, which would provide 27 parking spaces, would not adversely affect current traffic flow on Joppa Road and Bosley Avenue or create further traffic congestion. See Petitioner's Exhibit 12.

Mrs. Ginn and Mr. Parsons are not necessarily opposed to the building per se, but view the proposal as establishing a precedent for Class B office buildings west of Bosley Avenue, where none presently exist. They also feel that there will be traffic problems on Joppa Road caused by the new building when vehicles attempt to enter the alley there. There is a very short distance between the intersection of Joppa Road and Bosley Avenue and the alley, and they fear that the traffic turning left into the alley will create havoc on the traffic flow on Bosley Avenue in both directions as cars stack up behind those attempting to turn into the alley on Joppa Road.

The plans as presented and the artist's rendering of the new building (Petitioner's Exhibit 5) clearly show that the Petitioner presents a building in tune with and aesthetically in line with the surrounding area.

The Petitioner seeks relief from Section 203.3.B.2., pursuant to Section 502.1 BCZR.

It is clear that the BCZR permit the use requested by the Petitioner in an R-O Zone by special exception. It is equally clear that the proposed use would

not be detrimental to the primary uses in the vicinity of the proposed office building. Therefore, it must be determined whether the conditions as delineated by Section 502.1 are satisfied by the Petitioner.

After reviewing all of the testimony and evidence presented, it appears that the special exception as applied for by the Petitioner should be granted, with certain restrictions as more fully described below.

The Petitioner had the burden of adducing testimony and evidence which would show that the proposed use met the prescribed standards and requirements set forth in Section 502.1. In fact, the Petitioner has shown that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest. The facts and circumstances of the use proposed by the Petitioner does not show that the proposed use at the particular location described by Petitioner's Exhibit 1 would have any adverse impact above and beyond those inherently associated with such a special exception use irrespective of its location within the zone. *Schultz v. Pritts*, 432 A.2d 1319 (1981).

The proposed use will not be detrimental to the health, safety, or general welfare of the locality, nor tend to create congestion in roads, streets, alleys therein, nor be inconsistent with the purposes of the property's zoning classification, nor in any other way inconsistent with the spirit and intent of the zoning regulations.

Pursuant to the advertisement, posting of property, and public hearing held and it appearing that by reason of the requirements of Section 502.1 having been met and the health, safety, and general welfare of the community not being adversely affected, the special exception should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, on the 27th day of January, 1984, that the Petition for Special Exception for a

ORDER RECEIVED FOR FILING
 DATE January 27, 1984
 BY *John B. Howard*

Class B office building in an R-O Zone, in accordance with the site plan introduced and accepted into evidence as Petitioner's Exhibit 1, be and is hereby GRANTED, from and after the date of this Order, subject, however, to the following restrictions:

- The Petitioner may apply for his building permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the application process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- Compliance with the CRG comments as set forth therein.
- A detailed landscaping plan shall be submitted and approved by the Current Planning and Development Division.
- Compliance with Section 203.3.C, BCZR.
- The Zoning Commissioner strongly suggests that the Petitioner submit to the Baltimore County Department of Traffic Engineering a recommendation that a traffic sign be erected at the corner of the alley and Joppa Road stating "right turns in, right turns out" only in order to alleviate present and potential traffic congestion. In no way shall this be treated as restricting the Zoning Commissioner's approval herein of this request for special exception.

Arnold Jablon
 Zoning Commissioner of Baltimore County

ORDER RECEIVED FOR FILING
 DATE January 27, 1984
 BY *John B. Howard*



ARNOLD JABLON
 ZONING COMMISSIONER

January 10, 1984

John B. Howard, Esquire
 210 Allegheny Avenue
 P.O. Box 5517
 Towson, Maryland 21204

IN RE: Petition Special Exception
 W/S of Bosley Avenue, 165' N of
 Allegheny Avenue - 9th Election
 District
 C. Dennis Webster, Petitioner
 Case No. 84-167-X

Dear Mr. Howard:

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

Sincerely,
Arnold Jablon
 ARNOLD JABLON
 Zoning Commissioner

AJ/srl

Attachments

cc: Mrs. Mary Ginn
 606 Horncrest Road
 Towson, Maryland 21204

Mr. Richard Parsons
 412 Woodbine Avenue
 Towson, Maryland 21204

John W. Hessian, III, Esquire
 People's Counsel

PETITION FOR SPECIAL EXCEPTION 84-167-X

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) 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 for a Special Exception under the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for CLASS "B" OFFICE BLDGS.

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

I, or we, agree to pay expenses of above 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.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: _____
 (Type or Print Name)
 Signature _____
 Address _____
 City and State _____

Legal Owner(s):
C. Dennis Webster
 (Type or Print Name)
 Signature _____
 Address _____
 City and State _____

Attorney for Petitioner:
 John Howard, Esquire
 210 Allegheny Avenue, P. O. Box 5517
 Towson, Maryland 21204
 Telephone No. 823-4111

Name, address and phone number of legal owner, contract purchaser or representative to be contacted
 C. Dennis Webster
 608 Bosley Avenue, Towson, Md., 21204
 Phone No. 296-2430

ORDER RECEIVED FOR FILING
 DATE January 27, 1984
 BY *John B. Howard*

ORDERED By the Zoning Commissioner of Baltimore County, this 11th day of October, 1983, 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 Commissioner of Baltimore County in Room 108, County Office Building in Towson, Baltimore County, on the 4th day of January, 1984, at 11:00 o'clock A.M.

Arnold Jablon
 Zoning Commissioner of Baltimore County.

DAFT-McCUNE-WALKER, INC.

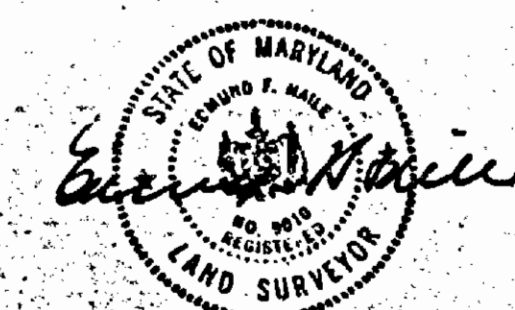
530 East Joppa Road
 Towson, Md. 21204
 Telephone: 301-296-3333
 Land Planning Consultants
 Landscape Architects
 Engineers

Description For Zoning Purpose Only

604 - 606 Bosley Avenue
 Baltimore County, Maryland

BEGINNING at a point on an iron pipe on the West side of Bosley Avenue at the North side of an existing 20 foot alley, said point being 165 feet more or less from the Northwest corner of Allegheny and Bosley Avenues as measured along the West side of Bosley Avenue, thence along the North side of said 20 foot alley North 83 degrees 30 minutes 40 seconds West, 150.60 feet to an iron pipe on the East side of an alley varying in width, thence the following three courses and distances along the East side of said alley North 06 degrees 29 minutes 20 seconds East, 75.00 feet to an iron pipe; North 83 degrees 30 minutes 40 seconds West, 6.00 feet to an iron pipe; North 06 degrees 29 minutes 20 seconds East, 37.50 feet to a point, said pipe being a corner of lands now or formerly of Charles E. Brooks and Nancy S. Brooks as described in a deed recorded among the Land Records of Baltimore County in Liber 5362 Folio 0001; thence along lands now or formerly of Charles E. Brooks and Nancy S. Brooks, South 83 degrees 30 minutes 40 seconds East, 156.00 feet to a point on the West side of Bosley Avenue; thence along the West side of Bosley Avenue South 06 degrees 29 minutes 20 seconds West, 112.50 feet to the point of beginning. Containing 17,100 square feet.

September 22, 1983
 Our File No. 83016



OFFICE COPY

AUG 29 8/27/84

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVENUE 165' N. OF ALLEGHENY AVENUE 9th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Docket No. 2
Folio No. 259
File No. 84-CG-559

Zoning Case No. 84-167-X and Board Case No. CBA-83-133

People's Counsel for Baltimore County
Plaintiff

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2 (d) of the Maryland Rules of Procedure, William T. Hackett, LeRoy B. Spurrier, Keith S. Franz, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Appeal to the representative of every party to the proceeding before it; namely, John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner, and C. Dennis Webster, 608 Bosley Avenue, Towson, MD 21204, Petitioner, and Mrs. Mary Ginn, 606 Horncrest Road, Towson, MD 21204 and Mr. Richard Parsons, 412 Woodbine Avenue, Towson, MD 21204, Protestants, and Phyllis Cole Friedman, Room 223, Courthouse, Towson, MD 21204, People's Counsel for Baltimore County, and Thomas J. Bollinger, Esquire, Office of Law, Courthouse, Towson, MD 21204, Assistant County Attorney for Baltimore County, and Malcolm F. Spicer, Jr., Esquire, Office of Law, Courthouse, Towson, MD 21204, County Attorney for Baltimore County, a copy of which notice is attached hereto and prayed that it may be made a part thereof.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County
Room 200, Courthouse
Towson, MD 21204
494-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to John B. Howard, Esquire, 210 Allegheny Avenue, Towson, MD 21204, Attorney for Petitioner, and C. Dennis Webster, 608 Bosley Avenue, Towson, MD 21204,

C. Dennis Webster v. People's Counsel - 2/259/84-CG-559 2.

Petitioner, and Mrs. Mary Ginn, 606 Horncrest Road, Towson, MD 21204 and Mr. Richard Parsons, 412 Woodbine Avenue, Towson, MD 21204, Protestants, and Phyllis Cole Friedman, Room 223, Courthouse, Towson, MD 21204, People's Counsel for Baltimore County, and Thomas J. Bollinger, Esquire, Office of Law, Courthouse, Towson, MD 21204, Assistant County Attorney for Baltimore County, and Malcolm F. Spicer, Jr., Esquire, Office of Law, Courthouse, Towson, MD 21204, County Attorney for Baltimore County, on this 27th day of August, 1984.

Edith T. Eisenhart
Edith T. Eisenhart, Administrative Secretary
County Board of Appeals of Baltimore County

cc: Arnold Janion
Arlene Janion
James C. Howell
Harry J. Pinski

8/27/84

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVE. 165' N. OF ALLEGHENY AVE., 9th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

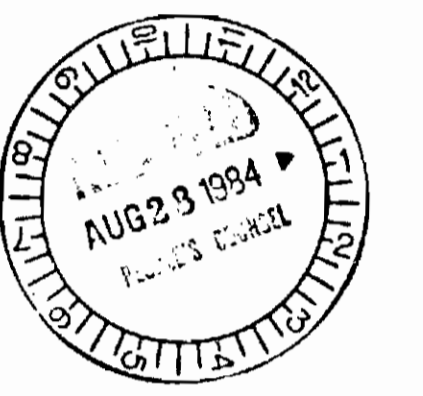
CG Docket No. 2
Folio No. 259
File No. 84-CG-559

Zoning Cases No. CBA-83-133 and No. 84-167-X

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED by the Circuit Court for Baltimore County this 27th day of August, 1984, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until November 23, 1984.

Constance M. Boyd
JUDGE



True Copy Test
ELMER H. KAHN, JR., Clerk
Per *James C. Howell*
Duty Clerk

FILED AUG 27 1984

RECEIVED
COUNTY BOARD OF APPEALS
AUG 28 4 41 C

County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
August 27, 1984

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 223, Courthouse
Towson, MD 21204

Re: Case No. CBA-83-133 and Case No. 84-167-X
C. Dennis Webster

Dear Ms. Friedman:

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encls.

8/24/84

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVE. 165' N. OF ALLEGHENY AVE., 9th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Docket No. 2
Folio No. 259
File No. 84-CG-559

Zoning Cases No. CBA-83-133 and No. 84-167-X

NOTICE OF APPEAL

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of July 27, 1984, in the above-entitled matter.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 24th day of August, 1984, a copy of the foregoing Notice of Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to John B. Howard, Esquire, Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
COUNTY BOARD OF APPEALS
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8/24/84

IN THE MATTER OF THE APPLICATION OF C. DENNIS WEBSTER FOR A SPECIAL EXCEPTION FOR A CLASS B OFFICE BUILDING AND DEVELOPMENT PLAN W/S OF BOSLEY AVE. 165' N. OF ALLEGHENY AVE., 9th DISTRICT

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW

CG Docket No. 2
Folio No. 259
File No. 84-CG-559

Zoning Cases No. CBA-83-133 and No. 84-167-X

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, having heretofore filed a Notice of Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of July 27, 1984, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. That the decision of the County Board of Appeals is illegal, arbitrary, and capricious.
2. That the decision of the County Board of Appeals is unlawful in particular because it violates the provision of the Baltimore County Master Plan which prohibits the construction of new office buildings of the west side of Bosley Avenue.

WHEREFORE, Appellant prays that the Order of the County Board of Appeals under date of July 27, 1984 be reversed.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

RECEIVED
COUNTY BOARD OF APPEALS
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County Board of Appeals of Baltimore County
Room 200 Court House
Towson, Maryland 21204
(301) 494-3180
August 27, 1984

John B. Howard, Esquire
210 Allegheny Avenue
P. O. Box 5517
Towson, MD 21204

Re: Case No. CBA-83-133 and Case No. 84-167-X
C. Dennis Webster

Dear Mr. Howard:

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: C. Dennis Webster
Mrs. Mary Ginn
Mr. Richard Parsons
Thomas J. Bollinger, Esquire
Malcolm F. Spicer, Jr., Esquire

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, MD 21204
494-2188

I HEREBY CERTIFY that on this 24th day of August, 1984, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to John B. Howard, Esquire, Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

8/24/84

IN THE MATTER OF : IN THE CIRCUIT COURT
THE APPLICATION OF : FOR BALTIMORE COUNTY
C. DENNIS WEBSTER : AT LAW
FOR A SPECIAL EXCEPTION : CG Docket No. 2
FOR A CLASS B OFFICE BUILDING : Folio No. 257
AND DEVELOPMENT PLAN : File No. 84-167-X
W/S OF BOSLEY AVE. 165' :
N. OF ALLEGHENY AVE., :
9th DISTRICT :
Zoning Cases No. CBA-83-133 :
and :
No. 84-167-X :

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

People's Counsel for Baltimore County, Appellant herein, petitions this Court, pursuant to Maryland Rule 87(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

Carol Ann Beresh, Court Reporter for the County Board of Appeals at the time of the hearing before said Board in the above-entitled cases, has advised Appellant that because of a backlog of cases, she will need a sixty-day extension of time to prepare the transcript of proceedings.

WHEREFORE, Appellant prays this Honorable Court to extend the time for filing the transcript of proceedings until November 23, 1984, ninety days after the first Petition on Appeal was filed.

Phyllis Cole Friedman
Phyllis Cole Friedman
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

- 2 -

I HEREBY CERTIFY that on this 24th day of August, 1984, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, MD 21204; and a copy mailed to John B. Howard, Esquire, Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204.

Peter Max Zimmerman
Peter Max Zimmerman

IN THE MATTER OF : IN THE CIRCUIT COURT
THE APPLICATION OF : FOR BALTIMORE COUNTY
C. DENNIS WEBSTER : AT LAW
FOR A SPECIAL EXCEPTION : CG Docket No. _____
FOR A CLASS B OFFICE BUILDING : Folio No. _____
AND DEVELOPMENT PLAN : File No. _____
W/S OF BOSLEY AVE. 165' :
N. OF ALLEGHENY AVE., :
9th DISTRICT :
Zoning Cases No. CBA-83-133 :
and :
No. 84-167-X :

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED by the Circuit Court for Baltimore County this _____ day of _____, 1984, that the time for filing in Court the transcript of proceedings before the Board of Appeals is hereby extended until November 23, 1984.

JUDGE

7/27/84

IN THE MATTER OF : BEFORE
THE APPLICATION OF : COUNTY BOARD OF APPEALS
C. DENNIS WEBSTER : OF
FOR A SPECIAL EXCEPTION : BALTIMORE COUNTY
FOR A CLASS B OFFICE BUILDING : NO. CBA-83-133
AND DEVELOPMENT PLAN : and
W/S OF BOSLEY AVE. 165' : NO. 84-167-X
N. OF ALLEGHENY AVENUE :
9th DISTRICT :

OPINION

These two cases come before this Board on appeal from a decision of the County Review Group (CRG) approving the proposed development of the property and an approval by the Baltimore County Zoning Commissioner of a special exception for the erection of a Class B Office Building on the site. Since the two issues are totally dependant upon each other for the project to proceed, it was agreed by all parties that both cases should be heard simultaneously and so ruled upon. The subject property is located on the west side of Bosley Avenue 165 feet north of Allegheny Avenue, in the Ninth Election District of Baltimore County.

In this Opinion the Board will first address the decision reached by the CRG. A review of the file in case #CBA-83-133 reveals that the relatively same conditions were presented to the Board of Appeals as were presented to the CRG. Two abutting properties on the west side of Bosley Avenue were purchased by the Petitioner; one, 606 Bosley Avenue, was purchased in May of 1980, and the other, 604 Bosley Avenue, was purchased in March, 1981. The existing residence at 604 Bosley Avenue is in very bad condition structurally and has been unoccupied and unused since 1974. The other, 606 Bosley Avenue, is also in decrepit condition with water in the basement, no plumbing, no central heat and has been unoccupied since the prior owner's death.

C. Dennis Webster, real estate developer, property owner and the petitioner, testified as to the details of his proposed use of the properties and the building to be erected, as well as nearby property uses.

Mr. Fred Walker, Engineer, and Mr. Peter S. Kuchta, Architect, testified as to the proposed building and also nearby property uses. John Guckert, Traffic Engineer, testified as to his traffic studies on the site and he stated that no adverse impact could be expected.

C. Dennis Webster - #CBA-83-133 & #84-167-X

2.

People's Counsel presented as their witness J. Timothy Fagan, Director of the Baltimore County Department of Aging. This agency uses as their headquarters the one-time school building directly to the rear of the subject properties. Mr. Fagan was concerned as to the effect of additional traffic on the alley between his site and the proposed office building.

Errol Markowitz, Baltimore County Fire Department, testified as to the number of calls processed by the Fire Department which is located at Bosley Avenue and York Road. Catherine Asenors, a school crossing guard who is assigned to the intersection of Bosley Avenue and Joppa Road, described traffic conditions at this point. Mary Ginn, a long time resident of the area, questioned the compatibility of the proposed office building with the nearby residences. John Engle and Eugene Cross also testified as to existing traffic conditions and the possible effect this proposed use could have on these conditions.

The Board, at this point, will note that in addition to Mr. Guckert's report obtained through actual traffic counts there was no negative report from Baltimore County's Traffic Engineer as to the proposed use. The Board can see no significant difference in the traffic generated from the proposed use vs. the traffic generated if both old buildings were completely renovated and fully utilized as office space, which could be accomplished merely by permit. A study of the case file indicates careful consideration by the CRG of these points and CRG approval granted. People's Counsel, however, raised the issue as to whether or not any new office building could be permitted west of Bosley Avenue and still be in conformity with the Baltimore County Master Plan, which includes the Towson Plan. The CRG Minutes indicate that this issue was also considered and the decision reached was that the Towson Plan is advisory in nature. Memoranda were submitted by the parties addressing this specific issue. Both parties cite cases supporting their positions. The Board will note that while similarities to this case exist in these citations, so also do discrepancies, which distinguish these citations to this case.

MICROFILMED

C. Dennis Webster - #CBA-83-133 & #84-167-X

3.

The Board will note that prior to the adoption of the Master Plan the subject site was zoned D.R. 16. The County Council elected not to retain this D.R. 16 zoning but to afford all properties along Bosley Avenue the R-0 classification, indicating they considered office use here as permissible. Bill No. 13-80, which created the R-0 classification, also clearly included §203.3 of the Baltimore County Zoning Regulations (BCZR) which permits Class B office buildings as a use permitted by special exception, if such use can comply with §502.1 of the Baltimore County Zoning Regulations. Section 203.2 BCZR states:

"Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate density residential zones. It is intended that buildings and uses in R-0 zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas."

The statement "some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors can no longer reasonably be restricted solely to uses allowable in moderate density residential zones" would apply to the present petition.

The Baltimore County Master Plan was adopted by Resolution 71-79 in November, 1979. In the Fall of 1980, Bill No. 13-80 was passed which created the R-0 classification, and the properties along Bosley Avenue were afforded this classification. In January, 1981, by Resolution 2-81 the Towson Plan was incorporated into the "Master Plan" and the R-0 classification continued on these properties. The Board is of the opinion that any R-0 classification that meets all of the requirements of §203.2, §203.2.B and §502.1 of the Baltimore County Zoning Regulations should be granted a Class B office use, and any petition for a Class B office use which fails on any of

C. Dennis Webster - #CBA-83-133 & #84-167-X

4.

these requirements should be denied. The adoption of the Towson Plan by the County Council is a guide to future development of the area and the requirements of the Baltimore County Zoning Regulations regarding the requested petition are the restrictions to this guidance. The Board, therefore, is of the opinion that the "Towson Plan" as written and adopted does not totally restrict Class B office use west of Bosley Avenue but provides guidelines for R-0 use as specifically delineated in the appropriate sections of 203.1, 203.2 and 203.3 BCZR. The finding of the CRG must be presumed correct. The Board has found no testimony or evidence to the contrary sufficient to rebut that presumption and will, therefore, affirm the CRG decision approving the plan as presented.

The Petitioner requested a special exception to permit the erection of a Class B office building as required in §203.3.B.2, pursuant to §502.1 BCZR. There was ample testimony that the razing of these two dilapidated buildings and the erection of the single Class B building, as described, would not be detrimental to the primary uses in the vicinity of the proposed building. There was testimony and evidence produced during this hearing that all of the requirements of §502.1 would be met by this petition. The proposed use will not be detrimental to the health, safety or general welfare of the community, would not tend to create congestion in roads, streets or alleys therein, nor be inconsistent with the purpose of the properties' zoning classification, nor is any way inconsistent with the spirit and intent of the Zoning Regulations. The Board will, therefore, affirm the Order of the Zoning Commissioner, dated January 10, 1984.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 27th day of July, 1984, by the County Board of Appeals, ORDERED that the decision of the County Review Group (CRG) approving the development plan as presented be and the same is hereby AFFIRMED, and

IT IS FURTHER ORDERED that the special exception for a Class B Office Building petitioned for, be and the same is hereby GRANTED, subject to

MICROFILMED

C. Dennis Webster - #CBA-83-133 & #84-167-X

5.

the following restrictions, and thus affirm the Order of the Zoning Commissioner dated January 10, 1984:

1. Compliance with CRG comments as set forth.
2. A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division of the Office of Planning and Zoning. Special attention shall be given to the height of the proposed shrubbery so that its appearance maintains compatibility with adjacent properties.
3. Compliance with §203.3.C - BCZR.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Peter Max Zimmerman
Peter Max Zimmerman, Clerk

Keith S. Franz
Keith S. Franz

MICROFILMED



County Board of Appeals of Baltimore County

Room 200 Court House
Towson, Maryland 21204
(301) 494-3180

July 27th, 1984

Phyllis Cole Friedman
People's Counsel for Baltimore County
Room 223 Courthouse
Towson, MD 21204

Re: Case No. 84-167-X and
Case No. CBA-83-133
C. Dennis Webster

Dear Mrs. Friedman:

Enclosed herewith is a copy of the Opinion and
Order passed today by the County Board of Appeals in the above
entitled cases.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

Encl.

cc: John B. Howard, Esquire
C. Dennis Webster
Mrs. Mary Ginn
Mr. Richard Parsons
Phyllis Cole Friedman
Norman E. Gerber
James G. Hoswell
Arnold Jablon
Jean M. H. Jung
James E. Dyer
Harry J. Fistel
Gilbert S. Benson
Edward A. McDonough
Eugene Bober
Thomas J. Bollinger, Esquire
Malcolm Spicer, Esquire

MICROFILMED

494-3180

County Board of Appeals

Room 200, Court House
Towson, Maryland 21204
February 24, 1984

Hearing Room #218

NOTICE OF ASSIGNMENT

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT
REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN
STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONE-
MENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING
DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #59-79

CASE NO. 84-167-X

C. DENNIS WEBSTER

FOR SPECIAL EXCEPTION FOR A CLASS "B"
OFFICE BUILDING

W/S OF BOSLEY AVENUE 165'
N. OF ALLEGHENY AVENUE

9th DISTRICT

1/10/84 - Z.C. GRANTED PETITION WITH
RESTRICTIONS

CONSOLIDATED WITH CASE NO. CBA--83-133 and

ASSIGNED FOR:

WEDNESDAY, MARCH 21, 1984 at 10 a.m.

cc: John B. Howard, Esquire

Counsel for Petitioner

C. Dennis Webster

Petitioner

Mrs. Mary Ginn

Protestant

Mr. Richard Parsons

"

Phyllis Cole Friedman

People's Counsel

N. E. Gerber

J. G. Hoswell

A. Jablon

Jean M. H. Jung

J. E. Dyer

Edith T. Eisenhart, Adm. Secretary

2/24/84 - Notified of appeal hearing scheduled for WEDNESDAY, MARCH 21, 1984 at 10 a.m.

John B. Howard, Esq.
C. Dennis Webster
Mrs. Mary Ginn
Mr. Richard Parsons
Phyllis Cole Friedman

LAW OFFICES
COOK, HOWARD, DOWNES & TRACY
210 ALLEGHENY AVENUE
P.O. BOX 5517
TOWSON, MARYLAND 21204

TOWSON, MARYLAND 21204

February 24, 1984

HAND DELIVERED

Mr. William T. Hackett
Director, Board of Appeals
Baltimore County Courthouse
400 Washington Avenue
Towson, Maryland 21204

RE: C. Dennis Webster
Appeal from Special Exception
Case No. 84-167-X
Appeal from CRG
Case No. CBA-83-133

Dear Mr. Hackett:

As you will note, there are two appeals pending regarding
604-606 Bosley Avenue, as referenced above. Mr. Webster,
Appellee, respectfully requests that these two appeals be
consolidated with one hearing date on March 26, 1984.

Appellant, People's Counsel for Baltimore County, has
no objection to such a consolidation.

Thank you for your attention to this matter.

Yours truly,

Robert A. Hoffman
Robert A. Hoffman

RAH:mt

cc: Phyllis C. Friedman, People's Counsel
for Baltimore County

Rec'd by [unclear]
JUN 24 1984

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

84-167-X

District: 9th Date of Posting: 2-21-84

Posted for: Appeal

Petitioner: Dennis Webster

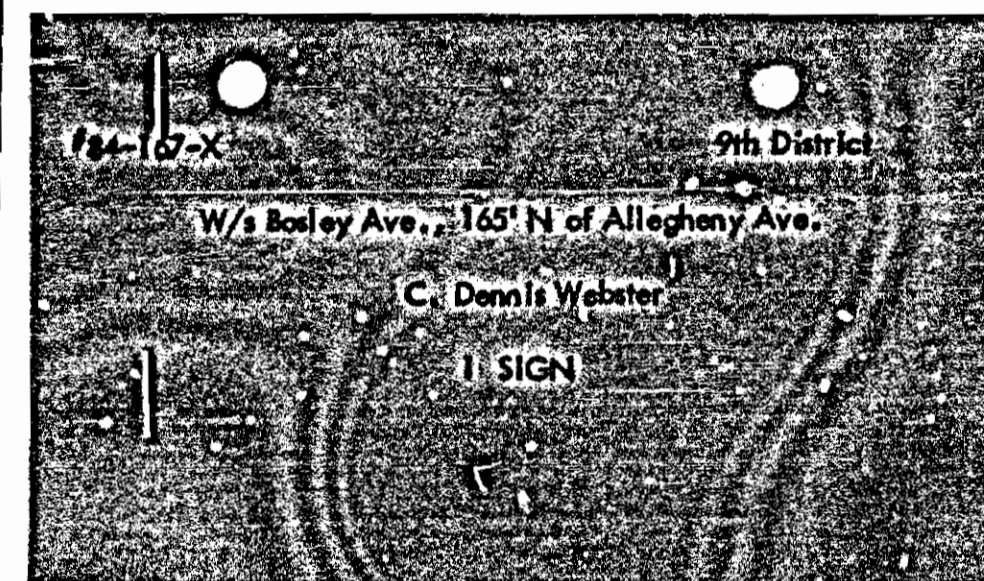
Location of property: W/S Bosley Ave. 165' N of Allegheny Ave.

Location of Signs: West side of Bosley Avenue in front of
606 Bosley

Remarks:

Posted by: Signature Date of return: 2-24-84

Number of Signs: 1



Case No. 84-167-X W/S of Bosley Ave., 165' N of Allegheny
Item No. 89 Avenue - 9th Election District
Date: 1/27/84 C. Dennis Webster - Petitioner

SE-For Class "B" Office Building

- 1. Copy of Petition
 - 2. Copy of Description of Property
 - 3. Copy of Certificate of Posting (1 sign)
 - 4. Copy of Certificates of Publication
 - 5. Copy of Zoning Advisory Committee Comments
 - 6. Copy of Comments from the Director of Planning
 - 7. Planning Board Comments and Accompanying Map
 - 8. Copy of Order to Enter Appearance
 - 9. Copy of Order - Zoning, Planning, Zoning Commissioner-1/10/84-
GRANTED with restrictions
 - 10. Copy of Plat of Property (Petitioner's Exhibit 1)
 - 11. 200' Scale Location Plan
 - 12. 1000' Scale Location Plan
 - 13. Memorandum in Support of Petition
 - 14. Letter(s) from Protestant(s)
 - 15. Letter(s) from Petitioner(s)
 - 16. Protestants' Exhibits to
 - 17. Petitioners' Exhibits 1 to 12
 - 18. Letter of Appeal, 1/30/84 by Phyllis Friedman, People's Counsel.
- John B. Howard, Esquire Attorney for Petitioner
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204
- C. Dennis Webster Petitioner
608 Bosley Avenue
Towson, Maryland 21204
- Mrs. Mary Ginn Protestant
606 Horncrest Road
Towson, Maryland 21204
- Mr. Richard Parsons Protestant
412 Woodbine Avenue
Towson, Maryland 21204
- Phyllis Cole Friedman People's Counsel
Norman E. Gerber Request Notification
James Hoswell " "
Arnold Jablon " "
Jean M. H. Jung " "
James E. Dyer " "
- ROBERT A. DiCICCO, Esq. Counsel for Appellee (WEBSTER)
405 CENTRAL AVE 21204

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

ARNOLD JABLON
ZONING COMMISSIONER

February 9, 1984

John B. Howard, Esquire
210 Allegheny Avenue
P. O. Box 5517
Towson, Maryland 21204

Re: Petition for Special Exception
W/S of Bosley Ave., 165' N of
Allegheny Avenue
C. Dennis Webster - Petitioner
Case No. 84-167-X

Dear Mr. Howard:

Please be advised that an appeal has been filed by Phyllis Cole Friedman,
People's Counsel for Baltimore County, from the decision rendered by the Zoning
Commissioner of Baltimore County in the above referenced matter.

You will be notified of the date and time of the appeal hearing when it is
scheduled by the County Board of Appeals.

Very truly yours,

Arnold Jablon
Arnold Jablon
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND
OFFICE OF REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
No. 126841
DATE 2/9/84 ACCOUNT R-01-615-000
AMOUNT \$105.00
RECEIVED People's Counsel
FOR Appeal fee on Case #84-167-X
(C. Dennis Webster)

THIS DEED, Made this 6th day of September, in the year nineteen hundred and eighty-three, by and between CHARLES E. BROOKS and NANCY S. BROOKS, husband and wife, as tenants by the entirety, both of Baltimore County, State of Maryland, parties of the first part, and C. DENNIS WEBSTER, of Baltimore County, State of Maryland, party of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable considerations, the actual consideration paid in connection with this conveyance being THIRTY-EIGHT THOUSAND SIX HUNDRED TWENTY-FOUR DOLLARS (\$38,624.00), this day paid, the receipt whereof is hereby acknowledged, the said CHARLES E. BROOKS and NANCY S. BROOKS, husband and wife, as tenants by the entirety of an undivided one-third interest, do grant and convey unto the said C. DENNIS WEBSTER, his personal representatives and assigns, in fee simple, all their one-third interest, being their entire interest, in all that parcel of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same on the west side of Bosley Avenue at the beginning point of that lot of ground which, by Deed dated March 30, 1904, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 275, folio 95, etc., was granted and conveyed by George C. Tracey to William K. Burns and Marian L. Burns, his wife, and running thence with the first line of said Deed westerly 156 feet to the center of an alley 12 feet wide, thence northerly and with the center of said alley 12 feet wide, thence northerly and with the center of said alley 12 feet wide, thence easterly and parallel to the first line 156 feet to the west side of Bosley Avenue, and thence southerly bounding on the west side of said Avenue 37 1/2 feet to the place of beginning.

THE IMPROVEMENTS THEREON being known as No. 606 Bosley Avenue. BEING the same lot of ground which was by Deed dated February 26, 1973 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 5338 folio 983, which was granted and conveyed by Sadie S. Hemphill to Elsie Y. Gerstmyer, widow, for and during the term of her natural life and upon her death the remainder unto Wilbur Henderson Gerstmyer, his heirs and assigns, the said Elsie Y. Gerstmyer died on or about the 13th day of March, 1980.

BEING the same lot of ground which was by Deed dated May 22, 1980, and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6171 folio 586, which was granted and conveyed by Wilbur Henderson Gerstmyer to John Grason Turnbull II, Charles E. Brooks and C. Dennis Webster, as Tenants in Common, in fee simple, an undivided one-third interest each, their personal representatives and assigns.

STATE DEPARTMENT OF AGRICULTURAL TRANSFER TAX ASSESSMENTS & TAXATION DATE 9/26/83

THIS DEED, Made this 9th day of August, in the year nineteen hundred and eighty-three, by and between CHARLES E. BROOKS, Baltimore County, State of Maryland, party of the first part, and C. DENNIS WEBSTER, of Baltimore County, State of Maryland, party of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable considerations, the actual consideration paid in connection with this conveyance being THIRTY-TWO THOUSAND THREE HUNDRED DOLLARS (\$32,300.00), this day paid, the receipt whereof is hereby acknowledged, the said CHARLES E. BROOKS, does grant and convey unto the said C. DENNIS WEBSTER, his personal representatives and assigns, in fee simple, all of his twenty-five percent (25%) interest, being his entire interest, in that parcel of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same at a point in distant 75 feet from the Southwest corner of Bosley and Marsh Avenues near the Joppa Road and running thence in a Westerly direction along the line of the land leased by Grafton M. Bosley and wife to John German by Indenture dated February 18, 1873, 150 feet thence in a Southerly direction parallel with Bosley Avenue 75 feet to an alley thence in an Easterly direction along the North side of said alley with the use thereof in common 150 feet to the corner of said alley and Bosley Avenue and thence along the West side of Bosley Avenue 75 feet to the place of beginning.

THE IMPROVEMENTS THEREON being known as No. 604 Bosley Avenue. BEING the same property which by Deed dated March 9, 1981 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 6267 folio 164, was granted and conveyed by Dorothy V. Trueheart to Charles E. Brooks and C. Dennis Webster, as tenants in common, in fee simple.

SUBJECT TO the operation of Deed of Trust dated March 9, 1981 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 6267 folio 167, by Charles E. Brooks and C. Dennis Webster to George W. Barrett, Jr. and Jessie H. Hass, trustees for the benefit of Rosedale Federal Savings & Loan Association.

TOGETHER with the buildings and improvements thereupon erected, made or being and all and every the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging or in anywise appertaining.

STATE DEPARTMENT OF AGRICULTURAL TRANSFER TAX ASSESSMENTS & TAXATION DATE 9/26/83

THIS DEED, Made this 12th day of August, in the year nineteen hundred and eighty-three, by and between JOHN GRASON TURNBULL, II, of Baltimore County, State of Maryland, party of the first part, and C. DENNIS WEBSTER, of Baltimore County, State of Maryland, party of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars and other good and valuable considerations, the actual consideration paid in connection with this conveyance being THIRTY-NINE THOUSAND THREE HUNDRED FIFTY-NINE DOLLARS (\$39,359.00), this day paid, the receipt whereof is hereby acknowledged, the said JOHN GRASON TURNBULL, II, does grant and convey unto the said C. DENNIS WEBSTER, his personal representatives and assigns, in fee simple, all his one-third interest, being his entire interest, in all that parcel of ground situate, lying and being in Baltimore County, State of Maryland, and described as follows:

BEGINNING for the same on the west side of Bosley Avenue at the beginning point of that lot of ground which, by Deed dated March 30, 1904, and recorded among the Land Records of Baltimore County in Liber W.P.C. No. 275, folio 95, etc., was granted and conveyed by George C. Tracey to William K. Burns and Marian L. Burns, his wife, and running thence with the first line of said Deed westerly 156 feet to the center of an alley 12 feet wide, thence northerly and with the center of said alley 12 feet wide, thence northerly and with the center of said alley 12 feet wide, thence easterly and parallel to the first line 156 feet to the west side of Bosley Avenue, and thence southerly bounding on the west side of said Avenue 37 1/2 feet to the place of beginning.

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BEING the same lot of ground which was by Deed dated May 22, 1980, and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. No. 6171 folio 586, which was granted and conveyed by Wilbur Henderson Gerstmyer to John Grason Turnbull II, Charles E. Brooks and C. Dennis Webster, as Tenants in Common, in fee simple, an undivided one-third interest each, their personal representatives and assigns.

BEING the same lot of ground in which by Deed dated February 20, 1981 and recorded among the Land Records of Baltimore County in Liber E.H.K.Jr. 6286 folio 658, Charles E. Brooks conveyed to Charles E. Brooks

STATE DEPARTMENT OF AGRICULTURAL TRANSFER TAX ASSESSMENTS & TAXATION DATE 9/26/83

RE: PETITION FOR SPECIAL EXCEPTION BEFORE THE ZONING COMMISSIONER W/S of Bosley Ave., 165' N of Allegheny Ave., 9th District OF BALTIMORE COUNTY C. DENNIS WEBSTER, Petitioner Case No. 84-167-X

ORDER TO ENTER APPEARANCE Mr. Commissioners:

Pursuant to the authority contained in Section 524, I of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman Deputy People's Counsel John W. Hession, III People's Counsel for Baltimore County Rm. 223, Court House Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this 9th day of December, 1983, a copy of the foregoing Order was mailed to John Howard, Esquire, Cook, Howard, Downes & Tracy, 210 Allegheny Ave., P. O. Box 5517, Towson, MD 21204, Attorney for Petitioner.

John W. Hession, III John W. Hession, III

PETITION FOR SPECIAL EXCEPTION 9th Election District ZONING: Petition for Special Exception LOCATION: West side of Bosley Avenue, 165 ft. North of Allegheny Avenue DATE & TIME: Wednesday, January 4, 1984 at 11:00 A.M. PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing: Petition for Special Exception for a Class B office building All that parcel of land in the Ninth District of Baltimore County

BALTIMORE COUNTY, MARYLAND OFFICE OF PLANNING & ZONING TOWSON, MARYLAND 21204 494-3353 ARNOLD JABLON ZONING COMMISSIONER December 27, 1983 John Howard, Esquire 210 Allegheny Avenue Towson, Maryland 21204 Re: Petition for Special Exception W/S Bosley Ave., 165' N of Allegheny Avenue C. Dennis Webster - Petitioner Case No. 84-167-X Dear Mr. Howard: This is to advise you that \$73.15 is due for advertising and posting of the above property. This fee must be paid before an Order is issued. Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing. Sincerely, Arnold Jablon Zoning Commissioner

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT DATE 1/4/84 ACCOUNT R-01-615-000 AMOUNT \$73.15 RECEIVED BY John Howard, Esquire Advertising & Posting Case #84-167-X (C. Dennis Webster)

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT DATE 1/4/84 ACCOUNT R-01-615-000 AMOUNT \$73.15 RECEIVED BY John Howard, Esquire Advertising & Posting Case #84-167-X (C. Dennis Webster)

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland 84-167-X District 9th Date of Posting 12-15-83 Posted for: Special Exception Petitioner: C. Dennis Webster Location of property: W/S of Bosley Ave., 165' N of Allegheny Ave. Location of Signs: West side of Bosley Ave., 165' N of Allegheny Ave. Remarks: Posted by: A.J. Smith Number of Signs: 1

CERTIFICATE OF PUBLICATION Towson, Md. 12/19 1983 THIS IS TO CERTIFY, that the annexed advertisement was published in the TOWSON TIMES, a weekly newspaper distributed in Towson, Baltimore County, Md., once a week for consecutive weeks, the first publication appearing on the 14th day of Dec - 1983 The TOWSON TIMES M. Angelillo Cost of Advertisement: \$64.00

CERTIFICATE OF PUBLICATION TOWSON, MD., December 15, 1983 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 a week of one time before the 15th day of January, 1984, the first publication appearing on the 15th day of December, 1983. THE JEFFERSONIAN, L. Lank Director Manager. Cost of Advertisement, \$ 29.25

WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.
 c/o 606 Horncrest Road, Towson, MD 21204
 March 12, 1984

Mr. Arnold Jablon, Zoning Commissioner
 County Office Building
 Towson, MD 21204

Dear Mr. Jablon:

I wish to call your attention to the zoning plan used in the applicant's request for a Special Exception on the properties at 604/606 Bosley Avenue.

The CRG approved the applicant's plan on October 27, 1983 and the Zoning Commissioner rendered his approval on January 10, 1984, as Case No. 84-167-X. The plan was an integral part of the plan, but apparently nobody checked the square footages being presented by the applicant in the plan. The square footages contain a major misleading error.

The site acreage stated in the General Notes on the Plat are given in square feet as: Gross: 23,712.50 S.F., Net: 17,100.00 S.F.

The property at 604 Bosley Avenue, however, is 75' x 150' for a gross square footage of 11,250 S.F. and the property at 606 Bosley Avenue is 37.5' x 150' for a gross square footage of 5,625 S.F. Their combined total is a gross square footage of 17,100 S.F., not the 23,712.50 S.F. stated in the site acreage notes. There are 6,612.50 S.F. missing!

It appears that the site measurement of 23,712.50 S.F. has included additional square footage approximately equal to the adjacent property at 608 Bosley Avenue and the sidewalk in front of 604/606/608 Bosley Avenue. It should be noted that the address of the applicant, C. Dennis Webster, is 608 Bosley Avenue.

The building proposed for 604/606 Bosley cannot fit on the 17,100 gross S.F. of the site described in the plat that was used in the application for Special Exception. The building would barely fit on the combined properties at 604/606/608 Bosley Avenue, and only then if the building at 608 Bosley Avenue were removed. These, however, were not the subject properties of the application for Special Exception nor was such a plan so illustrated on the plat.

The floor area ratio (11,500 S.F./17,100 S.F.) of the proposed building is .67, well over the .50 F.A.R. limit of the zoning regulations. To conform to the zoning regulations the building must have a floor area not greater than 8,550 S.F.

606/608 Bosley Avenue (cont.)

I do not care to speculate on how the applicant came to use the numbers given for the gross square footage of the properties cited on the plan, but it is clear that without the inclusion of the additional — but undefined — 6,612.5 S.F., the plan could not have been in accordance with the zoning regulations and would not have been approved by either the CRG or the Zoning Commissioner.

The applicant did not ask for a Special Exception on the basis of a floor area ratio in excess of .50 and at no time was a F.A.R. exception request raised as an issue in the application process. The approval of the plan, however, by the CRG and the Zoning Commissioner — who naturally placed reliance upon the honesty and accuracy of the figures presented therein by the applicant — has nevertheless made a de facto grant of an exception to the floor area ratio requirements.

It would seem that it is vital that immediate steps be taken by the appropriate parties to correct the errors made in granting the Special Exception on the properties in order to preserve the continued integrity and credibility of the zoning process.

The People's Council has appealed the Special Exception to the Board of Appeals where it is scheduled to be heard on March 21st. The administrative errors made in granting the Special Exception applicant and are correctible by the CRG and the Zoning Commissioner without the additional time and expense to the taxpayer of a hearing by the Board of Appeals on a case that should not be before the Board at all.

Sincerely,
 Mary E. Ginn
 Mary E. Ginn
 President

cc: Mr. Gilbert S. Benson, Chairman, CRG
 Mr. Eugene Bober, CRG
 Mrs. P. C. Friedman, People's Counsel
 Miss Diane Iiter, CRG

MEG/rw

DAFT-McCUNE-WALKER, INC.
 530 East Joppa Road
 Towson, Md. 21286
 Telephone: 301-298-3333
 Land Planning Consultants
 Landscape Architects
 Engineers

March 14, 1984

Mr. Arnold Jablon, Zoning Commissioner
 Office of Planning and Zoning
 Courts Building
 Towson, MD 21204

Dear Mr. Jablon:

As a result of Mary Ginn's letter of March 12, 1984, we have reevaluated our calculation of the gross square footage of the property and maintain that it is accurate as shown on the approved plan.

In accordance with the CRG R-O plan checklist and conversations with the Zoning Office we based our gross square footage on the area of the fee simple parcel plus 1/2" use half, up to 10 feet, of adjoining street right-of-way and alleys.

I hope this clarification will relieve Mrs. Ginn's concerns regarding the size of the proposed building. If we can be of further assistance in this matter please contact us.

Very truly yours,
 DAFT-McCUNE-WALKER, INC.
 Mary E. Ginn
 Stacy A. Fisher

Our File No. 83016

BBT/mag

WEST TOWSON NEIGHBORHOOD ASSOCIATION, INC.
 c/o 606 Horncrest Road, Towson, MD 21204
 March 12, 1984

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MRS. GINN - THE CRG RELYS ON THE ZONING OFFICE TO CHECK SQUARE FOOTAGE, FLOOR AREA RATIO, PERMITS, REQUIREMENTS. WE HAVE RECHECKED THE SITE PLAN & WE FEEL IT MEETS THE COUNTY MINIMUM. HOWEVER IF THE ZONING OFFICE TELLS ME OTHERWISE I WILL DEVELOP THE MATTER. Gene Bober 3/12/84

606/608 Bosley Avenue (cont.)

I do not care to speculate on how the applicant came to use the numbers given for the gross square footage of the properties cited on the plan, but it is clear that without the inclusion of the additional — but undefined — 6,612.5 S.F., the plan could not have been in accordance with the zoning regulations and would not have been approved by either the CRG or the Zoning Commissioner.

The applicant did not ask for a Special Exception on the basis of a floor area ratio in excess of .50 and at no time was a F.A.R. exception request raised as an issue in the application process. The approval of the plan, however, by the CRG and the Zoning Commissioner — who naturally placed reliance upon the honesty and accuracy of the figures presented therein by the applicant — has nevertheless made a de facto grant of an exception to the floor area ratio requirements.

It would seem that it is vital that immediate steps be taken by the appropriate parties to correct the errors made in granting the Special Exception on the properties in order to preserve the continued integrity and credibility of the zoning process.

The People's Council has appealed the Special Exception to the Board of Appeals where it is scheduled to be heard on March 21st. The administrative errors made in granting the Special Exception were caused by the misleading information submitted by the applicant and are correctible by the CRG and the Zoning Commissioner without the additional time and expense to the taxpayer of a hearing by the Board of Appeals on a case that should not be before the Board at all.

Sincerely,
 Mary E. Ginn
 Mary E. Ginn
 President

cc: Mr. Gilbert S. Benson, Chairman, CRG
 Mrs. P. C. Friedman, People's Counsel
 Miss Diane Iiter, CRG
 Mr. Arnold Jablon, Zoning Commissioner

MEG/rw

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 23, 1983

John Howard, Esquire
 210 Allegheny Avenue
 P.O. Box 5517
 Towson, Maryland 21294

RE: Item No. 89 - Case No. 84-167-X
 Petitioner - C. Dennis Webster
 Special Exception Petition

Dear Mr. Howard:

The Zoning Plans Advisory Committee and the County Review Group (CRG) have both reviewed the plans submitted with the above referenced petition. The following comments from the CRG have been substituted for those of the Zoning Plans Advisory Committee. They 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 with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

In view of your client's proposal to raze the existing dwellings on this site and construct an office building, this hearing is required.

It should be noted that the site plan has been revised, subsequent to the date of the enclosed comments, to reflect all proposed amenity open space to be located outside of the alley to the rear and the parking spaces, along said alley, shifted to the east.

This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,
 Nicholas B. Commodari, Jr.
 NICHOLAS B. COMMODARI, Chairman
 Zoning Plans Advisory Committee

Enclosures
 cc: Daft-McCune-Walker, Inc.
 530 E. Joppa Road
 Towson, Md. 21204

COUNTY REVIEW GROUP MEETING
 Thursday, October 27, 1983

OFFICE BUILDING - 604-606 BOSLEY AVENUE

COUNTY REVIEW GROUP - THOSE PRESENT*

Gilbert S. Benson, Chairman - Dept. of Public Works
 Eugene A. Bober - Office of Current Planning
 Susan Carroll - Office of Planning
 Diana Iiter - Office of Zoning
 Harris Shalowitz - Developers Engineering Division
 Greg Jones - Traffic Engineering
 Judy London - Economic Development Commission
 C. Dennis Webster - Owner
 John E. Howard - Attorney for Developer
 Ed Haile - Daft-McCune-Walker, Inc.
 Fred Walker - Daft-McCune-Walker, Inc.

*Attachment - Interested Citizen

The meeting was called to order at 1:30 p.m. by Mr. Benson, Chairman of the County Review Group. Mr. Benson introduced the members of the Committee and stated the purpose of the meeting.

Mr. Fred Walker, developer's engineer, presented the plan. They propose that the existing dwellings within this tract be combined in ownership. The buildings are in of repair and are to be razed. A new 3-story condominium type office building is to be erected at this site. Five offices will be within this area. Parking requirements been met for this use, and the building will be constructed as a wood and brick building. Property is zoned R0 and access to this site is from the alleyway which will be improved.

Mr. Eugene Bober, co-chairman of the CRG, summarized all of the written comments from Developers Engineering Division, Dept. of Permits & Licenses, Health Dept., Traffic Engineering Dept., Office of Planning and Office of Zoning. Mr. Bober's summary is follows:

Developers Engineering Division advises that the alleyway shall be improved as to curb and gutter adjacent to the site. It will be the developer's cost to relocate existing pole within the alleyway, and street lights are required. Storm water management is a requirement.

Permits & Licenses states that permits will be required for the razing of the existing dwellings and construction of a new facility.

Plan is recommended for approval by the Health Dept. subject to the conditions set forth by their office.

OFFICE BUILDING - 604-606 BOSLEY AVENUE -2- October 27, 1983

The alleyway as proposed as 20' wide and the access as shown is satisfactory to the Dept. of Traffic Engineering.

Office of Planning states that a landscape plan is required and must be submitted with a building permit application.

A Special Exception for Class B Office Building was filed on 9/28/83 within the Office of Zoning. Approval of this plan is contingent upon the outcome of the hearing. A 4' high compact screening must be provided across from the senior center. Note 4 shall include a note as to how the gross acreage was determined. Parking spaces which adjoin the alleyway must be located within 8' of the right-of-way.

Written comments from the aforementioned agencies were given to the developer and developer's engineer.

The Planning Office advised the developer that this site is located in the Towson Revitalization Area, which should be so noted on the plan. The Planning Office further stated that the Towson Plan contains recommendations regarding offices west of Bosley Avenue. The feasibility of this development being in conflict with the Towson Plan was discussed. The Towson Plan is advisory in nature. Also, when the plan was prepared, the recommendation on 16 and office conversion did not contemplate the R.O. classification. Additionally, this site is isolated from the rest of West Towson and a Class B building should have no effect on the residential area.

It was agreed by the County Review Group that a 20' wide alleyway would be constructed and the developer would be required to establish a 2' construction and maintenance easement along the side of the alley.

The plan was approved and signed by the Dept. of Public Works and the Office of Planning.

The meeting was adjourned at 2:30 p.m. 2/20

OFFICE BUILDING
604-606 Bosley Avenue
October 27, 1983
1:30 p.m.

C. R. G. MEETING AGENDA

1. Convene Meeting
2. Introductory statement concerning aims and goals of development regulations
3. Introduction of County representatives
4. Presentation of Plan by developer's representative
5. Comments of County agencies
6. Citizens' comments
7. Adjourn Meeting

STAFF

Name: Gene Cross - West Towers Improvement Assn. Address:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Joseph Warfield, C.R.G. Date: October 6, 1983

FROM: Mr. C. E. Rayburn, Plans Review CEB

SUBJECT: 604-606 Bosley Avenue
District 3, Prec. 4
Office Building

1. All ramps shall comply with Section 815.0, Table 815.0. See also Section 815.4 for spacing of landings as may be applicable.
2. Permits for razing of existing improvements shall be required.
3. Both Handicapped parking spaces shall be located so as not to require the handicapped to pass behind parked vehicles to reach the building entrance access. See State Code and Section 515 BOCA, the building entrance access.
4. As no architectural data on the structure has been provided, no code comments on it will be made, however a complete review of the construction plans with the exception of electrical wiring and plumbing will be made on application by the owner for a permit. The 1981 BOCA Basic Building Code, 1981 Basic Mechanical Code, the 1981 Energy Code, all as amended by Bill #4-82, are the applicable codes for this Department.
5. Curb cuts, approved handicapped parking signs, etc., have not been shown.
6. Please review Section 1414.0 for possible applicability to this project.

cc: Nick Commodari, Zoning Dept.

RECEIVED
OCT 7 1983
BUREAU OF PUBLIC SERVICES

BALTIMORE COUNTY, MARYLAND

SUBJECT: SUBDIVISION REVIEW COMMENTS DATE: October 25, 1983

FROM: Edward A. McDonough, P.E., Chief
Developers Engineering Division

PROJECT NAME: Office Building - 604-606 Bosley Avenue

PROJECT NUMBER: 883155

LOCATION: W/S Bosley Avenue, 200' N. of Allegheny Avenue

DISTRICT: 9C4

The Plan for the subject site, dated September 12, 1983, has been reviewed by the Developers Engineering Division and we comment as follows:

GENERAL COMMENTS:

All private contracts for construction of storm drains and roads intended for public title and maintenance must be let under a contract form, proposal and attachments adopted by the Baltimore County Department of Public Works. The Developer has the option of placing the storm drains under a public contract.

All construction drawings and construction for public use shall conform with Baltimore County Department of Public Works Design Standards and Standard Specifications and Details for Construction.

The Developer is responsible for the full cost of all highway and storm drain construction.

A Public Works Agreement must be executed by the owner and Baltimore County for the required public improvements, after which a Building Permit may be approved.

There is an existing pole line in the alley to the rear of this site. The Developer's Engineer must consider this pole line in any design for new construction.

HIGHWAY COMMENTS:

The Developer is responsible for the cost of any alley reconstruction, since the alley provides him his only parking area. The alley must be constructed as an ultimate 20-foot concrete alley on a 24-foot right-of-way with 7 inches of concrete on a 4-inch C&G base course. Concrete curb and gutter must be constructed along the Developer's full frontage, 10 feet off the centerline of the existing right-of-way. Details of this required construction may be obtained from the Bureau of Public Services.

Project #83155
Office Building - 604-606 Bosley Avenue
Page 2
October 25, 1983

HIGHWAY COMMENTS: (Cont'd)

It shall be the responsibility of the Developer's Engineer to clarify all rights-of-way within the property and to initiate such action that may be necessary to abandon, widen or extend said rights-of-way. The Developer shall be responsible for the submission of all necessary plats and for all costs of acquisition and/or abandonment of these rights-of-way.

The entrance locations are subject to approval by the Department of Traffic Engineering.

In accordance with Bill No. 32-72, street lights are required in all developments. The Developer will be responsible for the full cost of installation of the cable, poles and fixtures. The County will assume the cost of the power after installation.

Ramps shall be provided for physically handicapped persons at all street intersections.

STORM DRAINS, SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS:

The Developer is responsible for the total actual cost of drainage facilities required to carry the storm water run-off through the property to be developed to a suitable outfall. The Developer's cost responsibilities include the acquiring of easements and rights-of-way - both onsite and offsite - and the deeding in fee of said rights-of-way to the County. Preparation of all construction, rights-of-way and easement drawings, engineering and surveys, and payment of all actual construction costs including the County overhead both within and outside the development, are also the responsibilities of the Developer.

Onsite drainage facilities serving only areas within the site are considered private. Therefore, construction and maintenance shall be the Developer's responsibility. However, a drainage area map, scale 1"=200', including all facilities and drainage areas involved, shall be shown on the required construction plans.

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

The Developer 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 Developer.

Project #83155
Office Building - 604-606 Bosley Avenue
Page 3
October 25, 1983

STORM DRAINS, SEDIMENT CONTROL AND STORM WATER MANAGEMENT COMMENTS: (Cont'd)

In accordance with Baltimore County Council Grading Ordinance (Bill No. 10-77) a grading plan shall be approved and a Performance Bond posted prior to issuance of a grading permit.

Sediment control provisions will be required for the building permit application and for any grading involved.

Storm water management will not be required if the total new impervious area of the site is 1/4 acre or less.

WATER AND SANITARY SEWER COMMENTS:

A preliminary print of this property has been referred to the Baltimore City Water Division for review and comment in regard to adequacy of water pressure in this development. If Baltimore City has any comment, it will be forwarded.

Water and sewer exist to serve this site.

This property is subject to Water and/or Sewer System Connection Charges based on the size of water meters utilized.

The total Water and/or Sanitary Sewer System Connection Charge is determined, and payable, upon application for the Plumbing Permit. This charge is in addition to the normal front foot assessment and permit charges.

Permission to obtain a metered connection for water and a connection for sewer from the existing mains may be obtained from the Department of Permits and Licenses.

The Developer is responsible for the cost of capping or plugging any existing house connection not used to serve the proposed site.

The Developer will be given credit for one System Connection Charge for each existing house which is now connected into the public services.

This site is subject to the sewer allocation policy as established by the Baltimore County Council.

Fire hydrant spacing and location are subject to review and approval by the Fire Protection Section of the Fire Department.

The Plan may be approved, subject to the above comments.

EDWARD A. MCDONOUGH, P.E., Chief
Developers Engineering Division

EM:HMS:iss
cc: File

COUNTY REVIEW GROUP
COMMENTS ON PROPOSED SUBDIVISION PLANS
BALTIMORE COUNTY DEPARTMENT OF HEALTH

Office Building, 604-606 Bosley Avenue
Subdivision Name, Section and/or Plat

C. Dennis Webster, Deft, McQuinn, Walker, Inc.
Developer and/or Engineer

Towson Brook	1	0.5	Public	Public
Watershed	No. of Lots	Total Acreage	Water	Sewer
	or Units			

COMMENTS ARE AS FOLLOWS:

- Soil percolation tests are required; a minimum of two test are required within a designated 10,000 square foot sewage disposal reserve area. For further information regarding these requirements, contact this office at 494-2762.
- Soil percolation test have been conducted. Revised plans, must be submitted prior to approval of plat, are not required and the plat can be approved as submitted. Contact this office for more complete information, 494-2762.
- Public sewers, public water, must be utilized and/or extended to serve the property.
- A Hydrogeological Study and Environmental Effects Report for this subdivision, must be submitted, are not required, is incomplete and must be revised, has/have been reviewed and approved.
- A Water Appropriation Permit Application, must be submitted, has been submitted. NOTE: Greater than 33 lots necessitates a public hearing with Water Resources Administration as part of the permit process.
- It is recommended the plan, be approved as submitted, be approved as submitted subject to the following conditions noted in the attached memo dated October 20, 1983.
- It is recommended this plan not be approved at this time. See revisions and/or comments.

REVISIONS AND/OR COMMENTS: AH

J. P. Powell

SS 783R

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Brooks Stafford Date: October 20, 1983

FROM: Stephanie Taylor

SUBJECT: ENVIRONMENTAL EFFECTS REPORT
OFFICE BUILDING 604-606 BOSLEY AVENUE
CRG MEETING OCTOBER 27, 1983 1:30 P.M.

Plan Review Notes

1. Office building and parking lot on 0.544 acres.
2. Public water and sewer proposed.
3. Not in reservoir watershed.
4. No wetland soils.
5. No streams on the property.
6. Stormwater Management is not required by Dept. of Public Works.
7. Proposed impervious area is less than one-half acre.

Response

Environmental Effects Report is approved, subject to the following conditions:

1. The owner agrees in writing to comply with the following Best Management Practices at this site:
 - A. All areas except that used for buildings, sidewalks and paved parking will be planted with vegetated cover and/or landscaped as soon as possible after final grading and maintained in such condition.
 - B. Dirt and debris accumulating on private roads and parking lots will be removed according to the following schedule: May through October, concurrent with grass mowing; November through April, monthly.
 - C. Snow removal will be by mechanical means except in severe snow and ice conditions, when deicing compounds may be used.
 - D. Application of fertilizers, herbicides and pesticides will not exceed recommendations of the University of Maryland Cooperative Extension Service.
 - E. Filling will not occur in grassed or lined drainage ditches or swales.

ST:pms/1

BALTIMORE COUNTY, MARYLAND

TO: Mr. Robert Morton DATE: October 25, 1983

FROM: C. Richard Moore

SUBJECT: C.R.G. COMMENTS

PROJECT NAME	Office Building 604-606 Bosley Avenue	C.R.G. PLAN	X
PROJECT NUMBER & DISTRICT	9C4	DEVELOPMENT PLAN	
LOCATION	Bosley Avenue and Allegheny Avenue	RECORD PLAT	

One-half of a 20ft. wide alley will be needed to the rear of the property. The (3) parking spaces along the rear alley need to be off of the paving for the ultimate 20ft. alley.

C. Richard Moore
Acting Deputy Director

CRN/GJL/ccm

BALTIMORE COUNTY, MARYLAND
 SUBJECT: COUNTY REVIEW GROUP COMMENTS
 FROM: OFFICE OF PLANNING AND ZONING
 DATE: October 27, 1983
 PROJECT NAME: Six Zero Four-Six Bosley Avenue PLAN XXXXXXXXXXXXXXXX
 COUNCIL & ELECTION DISTRICT IX-414 PLAN EXTENSION
 REVISED PLAN
 FLAT

The Office of Planning and Zoning has reviewed the subject plan and has the following comments:

Elevation drawings are required which demonstrate that this development will be compatible with residential uses in the area.

A landscape plan is required and must be submitted with the building permit application.

Susan Carroll
 Susan Carroll

BALTIMORE COUNTY, MARYLAND
 SUBJECT: COUNTY REVIEW GROUP COMMENTS
 FROM: ZONING
 DATE: October 27, 1983
 PROJECT NAME: Office Building PLAN: ✓
 LOCATION: 604-606 Bosley Avenue DEVELOPMENT PLAN:
 DISTRICT: 9th Election District FLAT:

- A special exception for a Class B Office Building was filed on September 28, 1983. CRG approval is contingent upon the outcome of the hearing.
- The following revisions must be made on the site plan to be approved by the CRG.
 - Note 4 - site acreage should include a note as to how the gross acreage was calculated; i.e., inclusive of 30 feet of Bosley Avenue times frontage on Bosley, and 1/4 of the right of way of each of the alleys times frontage on each.
 - Amenity open space calculations should be based on 25% of the gross acreage inclusive of 1/4 of the right of way of each of the alleys times frontage on each. A note should be added to the general notes which indicates that amenity open space is shown as a shaded area.
 - Four foot high compact screening must be provided for the parking spaces which are across from the Senior Center.
 - Lighting must be directed away from any off-site dwellings. It appears from this plan that the immediately adjacent properties are office buildings or parking lots, but that there may be a home at 612 Bosley Avenue.
 - The parking spaces which adjoin the 24 foot wide sections of alleys B & C must be located at least 8 feet from the right of way. This may be accomplished by decreasing the driveway width to 22 feet.

BALTIMORE COUNTY, MARYLAND
 SUBJECT: COUNTY REVIEW GROUP COMMENTS
 FROM: ZONING
 DATE: October 27, 1983
 PROJECT NAME: Office Building PLAN:
 LOCATION: 604-606 Bosley Avenue DEVELOPMENT PLAN:
 DISTRICT: 9th Election District FLAT:
 Page 2 of 2

f. Elevation drawings should be provided for review.

- It should be noted that in order for the Zoning Commissioner to grant a special exception for a Class B Office Building, the petitioner must meet the requirements of Section 502 and the legislative intent of the R.O. zone. Section 203.2 which states the following, "The R.O. zoning classification is established... to accommodate houses converted to office buildings and some small Class B office buildings in predominately residential areas... It is intended that buildings and uses in R.O. zones shall be highly compatible with the present or prospective uses of nearby residential property."

It should be noted that one of the handicapped spaces, which faces Alley B is unsatisfactory according to Mr. Charles Burnham, Supervisor, Buildings Plans Review. It should be redesigned and a sign should be noted on the plan for the handicapped space.

Diana Ipper
 DIANA IPPER
 Zoning Supervisor III

DI:bsc

7/32bac

BALTIMORE COUNTY
 FIRE DEPARTMENT
 TOWSON, MARYLAND 21204-2586
 494-4500

PAUL H. REINCKE
 CHIEF

November 29, 1983

Mr. William Hammond
 Zoning Commissioner
 Office of Planning and Zoning
 Baltimore County Office Building
 Towson, Maryland 21204

Attention: Nick Commodari, Chairman
 Zoning Plans Advisory Committee

RE: Property Owner: G. Dennis Webster

Location: W/S Bosley Avenue 165' N. of Allegheny Avenue

Item No.: 89

Zoning Agenda: Meeting of October 11, 1983

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

(X) 1. Fire hydrants for the referenced property are required and shall be located at intervals of 300 feet along an approved road, in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments, at this time.

REVIEWER: *Patricia M. ...* Noted and Approved: *William Hammond*
 Planning Group Fire Prevention Bureau
 Special Inspection Division

/mb

STREET TRAFFIC STUDIES, LTD.

STEPHEN G. PETERSEN, P.E., PRESIDENT
 March 20, 1984

Cook, Howard, Downes & Tracy
 C/O John B. Howard
 Bosley Building
 210 Allegheny Avenue
 Towson, Maryland 21204

RE: 604-606 Bosley Avenue
 Towson, Maryland

Dear Mr. Howard,

At your request I have conducted a brief traffic planning study related to the development of 604-606 Bosley Avenue as an office building. The results of my analysis show that there will not be an adverse impact on the nearby roadnet as a result of the development. The methodology used as a basis for my conclusion are contained in the paragraphs that follow.

Existing Traffic Volumes

STS conducted two-way machine traffic counts along the alleys adjacent to the site. The counts were conducted at the following locations and times.

LOCATION	DAY AND DATE	24 HOUR VOLUMES
Along the Alley off of Bosley Avenue	Monday, 11/28/84	154
	Tuesday, 11/22, 29/84	172
	Wednesday, 11/23/84	173
Along the Alley off of Joppa Road (Parallel to Bosley Avenue)	Monday, 11/28/84	504
	Tuesday, 11/22, 29/84	511
	Wednesday, 11/23/84	589
	Friday, 3/16/84	612

Based upon the above counts (shown in the Appendix) the peak volume along the Alley near Joppa Road is 104 vehicles (8-9 AM)

Traffic Planning & Engineering Consulting • Traffic Counting • Signal Design • Traffic Impact & Adequate Public Facilities Analysis
 Land Use & Transportation Planning
 Principal Office - Washington/1608 S Westland Dr., Goldensboro, MD 20777 301/948-1754
 Offices: Baltimore/4 Presbytery Garth, Parkton, Md. 21120 301/343-0550 • Columbia/7118 Talleman Lane, Columbia, Md. 21046 301/595-4617

or an average of only 1 vehicle every 35 seconds. The peak volume along the Alley near Bosley Avenue is 34 vehicles (4-5 PM) or an average of only 1 vehicle every 1.76 minutes (106 seconds).

The site is planned to be developed with 11,240 sq.ft. (GFA) which is expected to generate 2.8 trips/1000 sq.ft. during the PM Peak Hour or a total of only 31 peak hour trips. Due to the location of the site access, it is likely that most of the site generated trips will use the Alley off of Bosley Avenue for access. This will increase the peak hour flow to 65 vehicles in the PM Peak or 1 vehicle every 55 seconds (average).

The final study conducted dealt with an observation along southbound Joppa Road at Bosley Avenue. There is a total of 150 ft. between Bosley Avenue and the Alley behind 604-606 Bosley Avenue. This distance is off sufficient length to store a minimum of 6 vehicles, assuming 25 ft./vehicle. We observed the queued vehicles along Joppa Road every 60 seconds for 2 hours from 4-6 PM on Monday, March 19, 1984. The field sheet is in the Appendix. The results of the observations show that there were only 58 occurrences out of 120 observations when 7 or more vehicles were queued along southbound Joppa Road. This equates to a temporary blockage of the Alley only 4% of the time, for 60 seconds or less.

Based upon the data in this report it is my opinion that the use of the site as proposed will not have an adverse impact.

Very truly yours,
John W. Guckert
 John W. Guckert

APPENDIX

STATION	DATE	TIME	TYPE	NO. OF VEHICLES	NO. OF PEDESTRIANS	NO. OF BICYCLES	NO. OF HORSE-DRAWN CARRIAGES	NO. OF TRAILERS	NO. OF MOTORCYCLES	NO. OF OTHER VEHICLES	NO. OF TOTAL VEHICLES
100	11/28/84	8:00-9:00 AM	Peak	104	0	0	0	0	0	0	104
100	11/22/84	8:00-9:00 AM	Peak	172	0	0	0	0	0	0	172
100	11/23/84	8:00-9:00 AM	Peak	173	0	0	0	0	0	0	173
100	11/28/84	8:00-9:00 AM	Peak	504	0	0	0	0	0	0	504
100	11/22/84	8:00-9:00 AM	Peak	511	0	0	0	0	0	0	511
100	11/23/84	8:00-9:00 AM	Peak	589	0	0	0	0	0	0	589
100	3/16/84	8:00-9:00 AM	Peak	612	0	0	0	0	0	0	612

the following restrictions, and thus affirm the Order of the Zoning Commissioner dated January 10, 1984:

1. Compliance with CRG comments as set forth.
2. A detailed landscaping plan shall be submitted to and approved by the Current Planning and Development Division of the Office of Planning and Zoning. Special attention shall be given to the height of the proposed shrubbery so that its appearance maintains compatibility with adjacent properties.
3. Compliance with §203.3.C - BCZR.

Any appeal from this decision must be in accordance with Rules B-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett
William T. Hackett, Chairman

Leroy B. Staffier
Leroy B. Staffier

Keith S. Franz
Keith S. Franz

IN THE MATTER	:	BEFORE
OF THE APPLICATION OF	:	COUNTY BOARD OF APPEALS
C. DENNIS WEBSTER	:	
FOR A SPECIAL EXCEPTION	:	OF
FOR A CLASS B OFFICE BUILDING	:	BALTIMORE COUNTY
AND DEVELOPMENT PLAN	:	
W/S OF BOSLEY AVE. 165'	:	NO. CBA-83-133
N. OF ALLEGHENY AVENUE	:	and
9th DISTRICT	:	NO. 84-167-X

OPINION

These two cases come before this Board on appeal from a decision of the County Review Group (CRG) approving the proposed development of the property and an approval by the Baltimore County Zoning Commissioner of a special exception for the erection of a Class B Office Building on the site. Since the two issues are totally dependant upon each other for the project to proceed, it was agreed by all parties that both cases should be heard simultaneously and so ruled upon. The subject property is located on the west side of Bosley Avenue 165 feet north of Allegheny Avenue, in the Ninth Election District of Baltimore County.

In this Opinion the Board will first address the decision reached by the CRG. A review of the file in case #CPA-83-133 reveals that the relatively same conditions were presented to the Board of Appeals as were presented to the CRG. Two abutting properties on the west side of Bosley Avenue were purchased by the Petitioner; one, 606 Bosley Avenue, was purchased in May of 1980, and the other, 604 Bosley Avenue, was purchased in March, 1981. The existing residence at 604 Bosley Avenue is in very bad condition structurally and has been unoccupied and unused since 1974. The other, 606 Bosley Avenue, is also in decrepit condition with water in the basement, no plumbing, no central heat and has been unoccupied since the prior owner's death.

C. Dennis Webster, real estate developer, property owner and the petitioner, testified as to the details of his proposed use of the properties and the building to be erected, as well as nearby property uses.

Mr. Fred Walker, Engineer, and Mr. Peter S. Kuchta, Architect, testified as to the proposed building and also nearby property uses. John Guckert, Traffic Engineer, testified as to his traffic studies on the site and he stated that no adverse impact could be expected.

People's Counsel presented as their witness J. Timothy Fagan, Director of the Baltimore County Department of Aging. This agency uses as their headquarters the one-time school building directly to the rear of the subject properties. Mr. Fagan was concerned as to the effect of additional traffic on the alley between his site and the proposed office building.

Errol Markowitz, Baltimore County Fire Department, testified as to the number of calls processed by the Fire Department which is located at Bosley Avenue and York Road. Catherine Asenors, a school crossing guard who is assigned to the intersection of Bosley Avenue and Joppa Road, described traffic conditions at this point. Mary Ginn, a long time resident of the area, questioned the compatibility of the proposed office building with the nearby residences. John Engle and Eugene Cross also testified as to existing traffic conditions and the possible effect this proposed use could have on these conditions.

The Board, at this point, will note that in addition to Mr. Guckert's report obtained through actual traffic counts there was no negative report from Baltimore County's Traffic Engineer as to the proposed use. The Board can see no significant difference in the traffic generated from the proposed use vs. the traffic generated if both old buildings were completely renovated and fully utilized as office space, which could be accomplished merely by permit. A study of the case file indicates careful consideration by the CRG of these points and CRG approval granted. People's Counsel, however, raised the issue as to whether or not any new office building could be permitted west of Bosley Avenue and still be in conformity with the Baltimore County Master Plan, which includes the Towson Plan. The CRG Minutes indicate that this issue was also considered and the decision reached was that the Towson Plan is advisory in nature. Memoranda were submitted by the parties addressing this specific issue. Both parties cite cases supporting their positions. The Board will note that while similarities to this case exist in these citings, so also do discrepancies, which distinguish these citations to this case.

The Board will note that prior to the adoption of the Master Plan the subject site was zoned D.R. 16. The County Council elected not to retain this D.R. 16 zoning but to afford all properties along Bosley Avenue the R-0 classification, indicating they considered office use here as permissible. Bill No. 13-80, which created the R-0 classification, also clearly included §203.3 of the Baltimore County Zoning Regulations (BCZR) which permits Class B office buildings as a use permitted by special exception, if such use can comply with §502.1 of the Baltimore County Zoning Regulations. Section 203.2 BCZR states:

"Statement of Legislative Policy. The R-0 zoning classification is established, pursuant to the findings stated above, to accommodate houses converted to office buildings and some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors, can no longer reasonably be restricted solely to uses allowable in moderate density residential zones. It is intended that buildings and uses in R-0 zones shall be highly compatible with the present or prospective uses of nearby residential property. It is not the R-0 classification's purpose to accommodate a substantial part of the demand for office space, it being the intent of these Zoning Regulations that office-space demand should be met primarily in C.T. districts, C.C.C. districts, and, to a lesser extent, in other commercial areas."

The statement "some small Class B office buildings in predominately residential areas on sites that, because of adjacent commercial activity, heavy commercial traffic, or other, similar factors can no longer reasonably be restricted solely to uses allowable in moderate density residential zones" would apply to the present petition.

The Baltimore County Master Plan was adopted by Resolution 71-79 in November, 1979. In the Fall of 1980, Bill No. 13-80 was passed which created the R-0 classification, and the properties along Bosley Avenue were afforded this classification. In January, 1981, by Resolution 2-81 the Towson Plan was incorporated into the "Master Plan" and the R-0 classification continued on these properties. The Board is of the opinion that any R-0 classification that meets all of the requirements of §203.2, §203.2.B and §502.1 of the Baltimore County Zoning Regulations should be granted a Class B office use, and any petition for a Class B office use which fails on any of