

Tax Map/Block/Parcel  
No. 73-6-760

Building Permit/Zoning  
Certificate No. 91-2456

Case 3619

**OFFICIAL DECISION  
BOARD OF ZONING APPEALS  
CARROLL COUNTY, MARYLAND**

**APPLICANT:** Eldersburg Business Center, Inc.  
2066 Lord Baltimore Drive  
Baltimore, Maryland 21207

**ATTORNEY:** William B. Dulany, Esquire  
127 E. Main Street  
P.O. Box 525  
Westminster, Maryland 21158

**REQUEST:** A conditional use for a planned business center,  
which is first allowed in the "B-L" Local  
Business District, in an "I-R" Restricted  
Industrial District

**LOCATION:** 1380 Progress Way in Election District 5;  
Eldersburg Business Center subdivision, Section  
1, Area 1, lot 1 recorded in Carroll County Plat  
Records in book 32, page 35

**BASES:** Article 12, Sections 12.2(b) and 12.6; Article  
10, Sections 10.1(e), 10.4, and 10.6; Article  
14, Division VI; Ordinance 1E. (The Carroll  
County Zoning Ordinance)

**HEARING HELD:** September 25, 1991

On September 25, 1991, the Board of Zoning Appeals heard testimony and received evidence concerning the conditional use request.

The Board visited the site September 18, 1991, prior to the public hearing.

The application, testimony and evidence comprising the record of this case are hereby included by reference in this decision. Based on the record, the Board will authorize the conditional use.

The pertinent findings determining the Board's decision include the following facts:

**FINDINGS OF FACT**

The 8.088 acre lot is located on the easterly side of Sykesville Road (Md. Rt. 32) between Bennett Road and Progress Way, and is known as Eldersburg Business Center subdivision,

Section 1, Area 1, lot 1. As depicted by the conceptual plan for development of the planned business center, vehicular access to the property will be solely from Progress Way.

As indicated by Applicant's Exhibit 3, the area of the industrial park is approximately 75 acres. One building containing 340,200 square feet has been erected and is fully leased. A second building of approximately 70,000 square feet is under construction. Although the applicant does not own lots 12, 13, 14 and 15 as depicted by a sketch plan part of Applicant's Exhibit 3, seven office/warehouse buildings are planned for the center. The area of the buildings will range upward from 36,000 square feet.

The planned business center is intended to complement the industrial subdivision and provide services to present and future employees within the subdivision.

Concerns and opposition to the request were expressed by several adjacent property owners. However, no probative evidence was presented to substantiate that establishment of the planned business center would unduly affect the adjoining properties or public interest.

#### APPLICABLE LAW

Unless otherwise noted, Articles and Sections cited below are of Ordinance 1E.

The authority to zone and rezone land in Carroll County, excluding the incorporated towns and municipalities, rests solely with the County Commissioners of Carroll County and is not involved in this request.

As depicted by zoning map 73B, the lot and adjacent properties are zoned "I-R" Restricted Industrial District. The lots located on the northerly side of Bennett Road are zoned "R-40,000" Residence District as depicted on zoning map 68B. The property located west of Sykesville Road, owned by the Carroll County Board of Education, is zoned "C" Conservation District as indicated on zoning map 73B.

The land use regulations for the "I-R" Restricted Industrial District are expressed in Article 12. The preamble of Article 12 reads:

The purpose of this district is to provide locations for some of the lighter manufacturing processes and which may not be as extensive as those provided in the "I-G" District. For the most part, the manufacturing is composed of processing or assembly of previously processed

materials. It is not the purpose of this district to promote or encourage the use of land within the district for retail services or planned business centers normally expected to be located within the established business district; however, it is anticipated that there may be areas or locations where retail services or planned business centers can be reasonably and logically considered due to their relationship with other uses existing within the district, as well as their relationship with the district boundary line or the configuration of the property and the relative scale of the project. (Amended 9/22/77)

Section 12.2, Conditional Uses (requiring Board authorization), paragraph (b) was added to the zoning ordinance September 22, 1977. The provision governs this request and reads in relevant part:

Any use permitted and as regulated as a principal permitted use and conditional use in the "B-L" and "B-G" District, except dwellings, mobile homes, and mobile home parks, provided that in addition to the criteria set forth under Section 17.6, the Board shall also consider criteria set forth under Section 14.61(a), (b) and (c) in authorizing the use of any land for a planned business center..., in accordance with the stated purpose of the "I-R" District. (Added 9/22/77)

For purposes of clarification, since amendment of Article 17, the correct reference is now Section 17.7, not 17.6.

In considering conditional use requests, the Board is governed by the provisions of Article 17, Board of Zoning Appeals; Section 17.7, Limitations, Guides and Standards.

In addition to the provisions of Section 17.7, the Board is governed by decisions of the courts. In the case of *Schultz v. Pritts*, 291 Md. 1, 22, (1981) the court wrote:

We now hold that the appropriate standard to be used in determining whether a requested special exception use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed at the particular location proposed would have any adverse effects above and beyond

those inherently associated with such a special exception use irrespective of its location within the zone. (Citations omitted.)

For purposes of clarification, special exception uses are referred to in the zoning ordinance as conditional uses.

Article 10, Section 10.1(e) specifies that planned business centers are a principal permitted use in the "B-L" Local Business District, subject to the provisions of Section 14.6.

Article 14, Division VI, Section 14.6 provides that planned business centers are subject to the approval of the Carroll County Planning and Zoning Commission.

#### REASONING

As indicated in the preamble of Article 12, a planned business center may be found to be an appropriate and compatible land use in the "I-R" Restricted Industrial District. In this case, the proposed planned business center will complement the industrial subdivision, which is intended to be a major employment center that will generate substantial vehicular traffic. By providing such services within the subdivision, traffic that would otherwise be forced to services outside of the subdivision will be reduced. Thus, the planned business center will be beneficial to the industrial subdivision and the public interests.

Prior to the addition of Section 12.2(b) to the zoning ordinance in 1977 land uses first allowed as a matter of right as principal permitted uses in the "B-L" Local Business District and "B-G" General Business District were allowed as principal permitted uses in the "I-R" Restricted Industrial District. In order to preserve "I-R" Restricted Industrial District land for industrial uses, the zoning ordinance was amended to allow businesses in industrial districts only as conditional uses. Only those business uses specifically determined to be appropriate in the district because of their particular characteristics are exempted [Section 12.1(b).]

In 1981, the standard expressed in *Schultz v. Pritts* regarding special exception uses or conditional uses, was established by the Court of Appeals of the State of Maryland.

In considering the standard established by *Schultz v. Pritts*, the provisions of Article 17, Section 17.7, and Article 12, Section 12.2(b) of the zoning ordinance, the Board finds that the planned business center will complement the industrial subdivision, and will not adversely affect the adjacent properties or public interests.

CONCLUSION

Accordingly, the Board hereby authorizes the conditional use request.

Oct. 16, 1991  
Date

John Totura  
John Totura, Chairman

JDN/bdc/C3619DEC  
October 15, 1991