Proposed Changes in the Zoning Regulations

By JOHN W. NEUMANN, General Counsel, Suburban Maryland Builders Association

In the October issue of the Potomac Valley Architect there appeared an article by Ray V. Murphy, concerning planning in the Washington Suburban area of Maryland, and an editorial on "Contingent Zoning". Mr. Murphy, with his usual clarity of thought and expression, gave an excellent digest of the planning situation, particularly with respect to zoning, and the editorial included some worthy ideas on the possibility of improving the zoning process in our area. After reading these two expositions, however, it occurred to me that the architects and their friends might also like to know about a few of the planning and zoning improvement projects that are now underway so that they could have the best possible basis for exercising their very considerable influence on the course of planning, zoning and development in suburban Maryland.

One of these is the minimum-average lot size device which Mr. Murphy mentions. Legislation to amend the Montgomery County zoning ordinance to incorporate this device into the zoning process is now before the Montgomery County Council, which has already held a public hearing on it and has spent many hours discussing its adoption. The Council has already tentatively agreed that the average minimum concept should be applied to the RR size lots in one manner or another, probably as an automatic provision where sewer and water are available.

In addition, the County Council has asked its Committee on Open Spaces, chairmanned by Blair Lee III, to prepare and submit to it a draft of legislation providing for planned community group zoning. This Committee was the instrument through which the minimum-average lot size proposals were formulated and submitted to the Council, and it is expected that the Committee will be in a position to make recommendations to the County Council on planned community groups by the end of the year. In short, there is every evidence that the County Council is aware of the need for new zoning approaches and that the existing laws in this regard are not completely responsive to the present day demands. The Park and Planning Commissioners are also aware of the necessity for changes in existing approach, and recently have shown their willingness to consider and recommend new proposals in this regard.

In the articles that appeared in the October issue, both Mr. Murphy and the editorial writer urged the adoption of laws permitting "conditional zoning", which is zoning reclassification granted on the basis of fulfilling some extra-legal condition by the property owner, such as architectural design or the placing of structures on the property in a certain manner. It is probably impossible to achieve this directly, even with amendment of the enabling legislation. In a number of decisions the Court of Appeals of Maryland has held that this kind of zoning cannot be permitted and will be stricken down by the Courts when it is attempted. The most recent of these decisions was a case arising in Prince Georges County (Carole Highlands Citizens Association v. Board of Co. Commrs. of P.G. Co. 158 A 2d 663, decided March 16, 1960). In a case decided February 18, 1959, the Court of Appeals stated that the reason for this position is that it is beyond the power of a zoning body, exercising a delegation of the State's police powers, to make agreements which inhibit those police powers by means of what amounts to a contract concerning the conditions to be imposed. The statements in the long line of cases, both in this jurisdiction and in other states concerning this concept, are so strong that there seems little doubt but that the Courts will continue to prohibit an out-and-out conditional zoning proposition. In my opinion, this is a desirable long-range result

(continued on page three)

Appointments to the Planning Commission

When considering appointments to public agencies, such as the Maryland-National Capital Park and Planning Commission, it is reasonable for the public to expect that those persons under consideration shall be respected and qualified citizens of the community, with a demonstrated interest in civic affairs and the general welfare. Beyond this, we expect of members of such commissions the qualities of sound, practical sense, independence of action without regard to private interest, and that most necessary quality, vision.

Reliance upon the technical staff of the commission perhaps makes unessential specific qualification as planners for commission members, and enables a broad community of viewpoint to be represented. It is with regard to anticipation of the needs of the community and the appreciation of the various possibilities of development that the commission as presently constituted is most open to challenge. We have not had imaginative, creative planning; in short we have not had the benefit of vision. It is highly desirable that commission members represent a variety of backgrounds and various professions; one is most struck by the fact that there is no representative of two of the professions most closely concerned with planning on the creative level. Why have we no architects or land planners as members of the commission?

The needs of the counties in the area of planning demands the imagination and training of skilled and dedicated professionals at the policy level. Responsive popular government should know where to find them.

We have been assured, as witnessed by Mr. Neumann’s response to Ray Murphy’s article in the October issue of the Potomac Valley Architect, that the Montgomery County Council and the Park and Planning Commissioners are eager to receive advice and ideas. Mr. Murphy’s plea for more detailed planning of proposed commercial, apartment and industrial zones points to the most glaring weakness of the schemes put forth by the Planning Commission. Perhaps there is a lack of understanding of what is meant by detailed plans and a lack of appreciation of the need for this kind of planning on the part of public officials, the existing technical staff, and most certainly on the part of the business and real estate people. The general public is only aware of the after-effects of helter-skelter, catch as catch can development. The more articulate among them voice dissatisfaction with the inconvenience, the ugliness, and the raw monotony that has been thrust upon them.

On the technical staff planning needs the applied talents of trained civic designers, who would propose specific uses for tracts based upon projected and immediate needs. At the planning level they should be able to encourage good architectural and landscape design, and act as an influence to coordinate and harmonize development. We need the services of people specifically trained in the art of civic design, supported by commissioners and the general public, and removed from the influences of politics and the pressure of influential land-holders.

Hal

Mount Airy

A little while ago I went with a party to visit the stately old house Mount Airy, which from high ground overlooks the Rappahannock, at a point some forty miles below Fredericksburg. It is of especial interest to architects, not only because of its restrained Georgian design, but because it was and is the home of the Tayloe family, whose town house was at one time the Octagon in Washington. Mount Airy House was built by Colonel John Tayloe. Several dates have been set down for it—1747, 1750, 1758. This may possibly be because it is actually three buildings—the main house; the two flanking buildings, to the side and somewhat in front of the main structure; and the two quarter-circle connecting wings in the Mount Vernon manner. The dates may thus refer to partial and to full completion.

There is an impressive approach terrace before the main entrance to the house, extending between two lovely stone urns. One of the curved connecting passageways used to be an orangery, a very posh thing in early days, so much so that when one of the Tayloe ladies married a Lloyd of the Eastern Shore, one of the first things she did was to persuade them to build an orangery, as an adjunct to the Lloyd Wye House near Easton.

The son of John Tayloe, Benjamin Ogle Tayloe, felt the need of a town house as well, and in 1800 he built the Octagon House, now proudly A.I.A. headquarters.

The country house is well named Mount Airy, since it is on high ground overlooking the river and surrounding countryside. The road from the little town of Tappahannock runs directly toward Mount Airy house, turning to curve to the left to sweep around the Tayloe land. In fact, it is the belief that Colonel Tayloe persuaded the authorities to swing the road around so that he could have the house for his estate.

The great Tayloe estate is still generally intact and is operated as a farm, a cheering fact since few of the old stately houses can be maintained except by the very rich. Actually, Mount Airy has been helped by a generous grant from Mr. Rockefeller, which has helped to keep the house in repair.

Unfortunately in 1850 one of the slaves, embittered, set fire to the house, which was saved, but the interior finish destroyed. Jack Stenhouse speaks of another occasion when the house again faced probable destruction. A company of Confederate soldiers during the war entered the house, presumably with sabotage in mind. But there was a mechanical organ in the house and, when one of the soldiers put it in motion, it burst forth with the strains of Yankee Doodle. The soldiers apparently felt that this was a Heaven-sent omen. At any rate the detachment departed in solemn mood, without defacing or destroying the house.

Edwin Batenian Morris FAIA

Zoning Regulations

(continued from page one)

as it accords with our basic governmental philosophy that all persons in the same situation are to be treated alike, with no more given or required of one than another.

There are means, however, whereby the result can be achieved without the use of conditional zoning as such. The Maryland Court of Appeals in a lengthy opinion rendered in June, 1957 (Huff v. Balto. County, 214 Md 48, 133 A 2d 83) pointed out one possibility. This case upheld a provision of the Baltimore County ordinance whereby one of the manufacturing zones could be approved by the Zoning Commissioner for any parcel of land more than ten acres in size and having some other stated characteristics, provided that certain conditions to be imposed by the Commissioner were met. The Court said that this amounted to a grant of something in the nature of a special exception. The device used in the Baltimore County ordinance, since it has the sanction of the Courts, should be examined for possible use in our area.

Perhaps an even better method to get at the results that are claimed would be achieved by conditional zoning, is use of the planned community device, which as stated above is now under consideration. A "planned community" would include in it a variety of uses and types of dwelling units designed to complement each other and to provide a self-contained community area to suit the needs of all who would live in it, both as to housing, open spaces, services, and where possible, employment. Communities elsewhere, especially around Toronto, Canada, have been built just this way.

The grant of zoning reclassification to permit the development of a planned community would require that the community be built in the manner proposed by the applicant at the time of his application for the zoning. The land owner would be bound by his proposal to the zoning body, and building permits would only be issued if the buildings to be erected would be in substantial conformity with those shown in evidence at the hearing on the zoning application. Such a zone would have to be optional with the land owner, who would have the right to elect to apply for other zones that now exist in the zoning ordinance if he so desired. Once having been granted the planned community group zoning, and having done anything at all on the land to commence the development of the planned community, the land from that time on would be subject to the conditions voluntarily assumed at the time of the application by the land owner.

Some of these things mentioned above, and many of those mentioned by Mr. Murphy, if proposed five years ago, may have met with either active opposition, or at least lack of interest, by the governing officials. Today both the County Council and the Park and Planning Commissioners are eager to receive advice and ideas. My guess is that the zoning regulations will change more in the next five years than they have in the last thirty years.
Mt. Vernon Clay Products Co.
800 Hamlin Street, N.E.
Washington 17, D. C.
D'Ecatur 2-5267

ROOFING

Over 100,000 Roofs in the Metropolitan Area Since 1892
Rose Brothers Company
1441 No. 19th Street
Arlington, Va.
Jackson 2-1223

National Brick & Supply Company
High Pressure Cured Block and Brick
Dox Plank Floor and Roof System
Terra Cotta
Washington 11, D. C.
Lawrence 9-4000

James A. Cassidy Co., Inc.
Building Products - Modernfold Doors
Arcadia Sliding Glass Doors, Windows and Curtain Walls
8th and Lawrence Streets, N.E.
Washington 17, D. C.
LA 9-5400

ARCHITECTURAL CONCRETE
Tecfab, Inc.
Precast Structural Insulating Panels and Window Wall Systems
Plastic and Tile Fittings
Beltville, Md.
GR 4-2211

Atlantic Paritect Co.
Lightweight Concrete Roof Decks
1930 Keswick Ave., N.E., Wash., D. C.
SP 3-2020

BUILDING EQUIP. & MATERIALS
The Hampshire Corp.
Acoustic Tile, Plastering, Flooring, Partitions, Roof Deck
6026 Annapolis Rd., Bladensburg, Md.
...UN 4-0300

West Bros. Brick Co.
Tunnel Kiln Face Brick, Various Colors
6000 Sheriff Rd., N.E., Wash., D.C.
6-8200

Washington Brick Co.
Masonry Manufacturers & Distributors
6th and Duct St., N.E., Wash., D. C.
LA 9-7000

Macomber Incorporated
Standardized Steel Building Products
5113 Fenton St., Silver Spring, Md.
JU 9-7504

Jack T. Irwin, Inc.
"Dealers in Natural Stone". Flagstone, Building Stone, Georgia Marble, Slate Products
1508 Rockville Pike, Rockville, Md.
OL 4-6252

Barber & Ross Company, Inc.
Hardware - Lumber - Millwork
Roofing - Bricklaying - Structural Steel
Packaged Homes
2523 4th St., N.E., Wash., 2, D.C.
DE 2-6501

A. & K Woodworking Co.
Fine Wood Work for Churches, Homes, Offices and Institutions
214 L St., N.E., Wash., 2, D.C.
LI 6-9210

FURNISHINGS & EQUIPMENT
Hope's Windows, Inc.
The Finest in Aluminum and Steel Windows
1820 N. Wash St., Arlington, Va.
JA 5-8910

Milo Products Corp.
Milo Cribbets, Wall Clouts and Fronts
Milo Bi-Fold Doors, Metalic Warp-Proof Sliding Doors, Accordion-Fold and Wavy-Wood Doors
1610 Vermont Ave., N.W., Wash., 5, D.C.
ST 3-9437

Klon O. Row, Inc.
Sarsenmetal and Wels Toilet Partitions
Floors City Ornamental Iron Co.
4380 MacArthur Blvd., N.W., Wash., 7, D.C.
FE 3-4410

Schatz Kitchen Equipment, Inc.
Washington's Oldest Manufacturers of Kitchen Equipment for Restaurants and Schools
5011 Minerals Ave., N.E., Wash., 27, D.C.
SP 3-5000

GENERAL
Standard Supplies, Inc.
Everything for the Building Trades
Wholesale Plumbing, Heating, Mill Supplies
110 E. Middle La., Rockville, Md.
GA 4-3350

Floyd E. Koontz
Pella Wood Folding Doors and Windows
Mamla Medicine Cabinets and Mirrors
Sargent Incinerators
3230 K St., N.W., Wash., D.C.
FE 3-2500

Builders Hardware Corp.
Architectural Hardware Consultants
9490 St. Elmos Ave., Bethesda, Md.
OL 6-6800

D. A. Hubbard Co.
Panicked Aluminum Doors, Frames
Benyes Windows, Erie Porcelain
Grade-Aid, U.S. Incinerator
Bldg 5939, 8000 Norwalk Ave., Bethesda 14, Md.
OL 5-8402 EM 5-2747

T. M. Woodall, Inc.
Plastering and Acoustical Treatment
6406 Sligo Mill Rd., Takoma Park 12, Md.
JU 9-3811

Fries, Beall & Sharp Co.
Architectural Hardware Consultants
Representative of Sargent & Co. and Schlag
FL 4-3600

The Shade Shop
224-16 M. St., N.W., Wash., 9, D.C.
FE 7-1200

GENERAL CONTRACTORS AND BUILDERS
Altamont Bros., Inc.
4929 Bethesda Ave., Bethesda 14, Md.
OL 2-7000

Martin Brothers, Inc.
General Contractors
1600 Conn. Ave., N.W., Wash., 9, D.C.
HD 2-0126

Warthen & Ward
General Contractors
4104 Montgomery Ave., Kennington, Md.
LO 5-1186

Hill and Kimmel, Inc.
General Contractors
1105 Wayne Ave., Silver Spring, Md.
JU 3-8911

C. M. Hale Co., Inc.
Specializing in Churches, Commercial and Public Work
3708 Perry Ave., Kensington, Md.
LO 4-8363

Duncan Construction Co., Inc.
16310 Kensington Pkwy., Kensington, Md.
LO 4-7023

HEATING AND FUELS
Griffith-Consumers Co.
 Distributors of All Types of Commercial and Residential Fuels and Heating Equipment
1413 New York Ave., N.W., Wash., 5, D.C.
ME 6-6440

MASONRY
A. Myron Cowell, Inc.
Quality Masonry Contractors
Brick - Glazed Tile, Cinder Block
Rubble Stone — Glass Block
Cut Stone Specializing
538 Forest Glen Rd., Silver Spring, Md.
LO 4-3500

Anthony Izzo Co., Inc.
Bricklaying Contractors
Suite 711, 1000 Conn. Ave., N.W., Wash., 6, D.C.
BT 3-6587

McLeod & Romberg Stone Co., Inc.
Cut Stone Contractors
Bladensburg, Md.
WA 7-2462

PAINT
Cunningham Paint Company Distributors
Furniture, Marine, Masonry Finishes for All Interior and Exterior Walls
1326 20th St., N.W., Wash., 6, D.C.
FE 7-6810

W. R. Winslow Co.
Distributors for Benjamin Moore, National Gypsum, Winslow Products
922 New York Ave., N.W., Wash., D.C.
NA 8-4301

Mc Cormick & Son, Inc.
Distributors and Raynor Co., Color Consulting and Coordination Services
ROY J. MORRIS, Color Consultant
5191 Georgia Ave., N.W., Wash., 11, D.C.
TA 9-4300

PLUMBING & HEATING
American Radiator and Standard Sanitary Corp.
Specifications for Plumbing and Heating
6041 Celestine Rd., Silver Spring, Md.
JU 7-1161

Crane Co.
For Specifications Contact
Washington Sales Office
6310 Chillum Pl., N.W., Wash., D.C.
TA 9-5200

Porcelain
Calcore Porcelain Co., Inc.
Subsidiary of Calore Appliance Corp.
Architectural Porcelain - Curtain Walls - Store Fronts - Service Stations
1128 Archer Ave., Silver Spring, Md.
JU 7-6811

REPRODUCTIONS & SUPPLIES
Leet-Melbrook, Inc.
Blueprints, Architectural Photos, Drafting Supplies
550 Sligo Ave., Silver Spring, Md.
EU 5-3450

Cooper-Trent
Your Authorized K & E Distributor
Complete Reproduction Service
4923 Cordell Ave., Bethesda, Md.
OL 4-7620

Geo. F. Muth Co., Inc.
Architects' Engineers' Drafting and Artists' Supplies
Office Equipment and House Paints
1352 New York Ave., N.W., Wash., 5, D.C.
BT 3901

SPECIAL SERVICES
Foundation Test Service, Inc.
James M. Schuhb, President
Test Holes — Auger Holes
Rock Core Drilling — Soil Testing
1908 Sunderland Pl., N.W., Wash., D.C.
CO 4-0718

Joseph P. Sullivan
Estimating and Cost Analysis
Government and Private Projects
10005 Edward Ave., Bethesda 14, Md.
EM 9-7900

Mickelson's
Prints and Patines
Fine Picture Framing
709 G St., N.W., Wash., D.C.
NA 8-4301

TILE
The Mosaic Tile Co. of Virginia
Tile Manufacturer
Warehouse and Showroom
607 S. Ball St., Arlington, Va.
DT 4-5550

Standard Art, Marble & Tile Co.
Scagliola, Marble, Mosaic, Terrazza, Ceramic, Slate
117 D St., N.W., Wash., D.C.
NA 8-4301