

Petition for Zoning Re-Classification

To the Zoning Commission of Baltimore County—

Burke Land Corporation, legal owner, of the property situated on the westernmost and northernmost sides of a proposed road, shown as Road "B" on plat of Burke Land Corp., filed with the Zoning Department (said road being an extension southerly and westerly of Stevens Lane) and the southernmost side of Road "C", as shown on said plat (Road "C" running northerly from Stevens Lane 800', more or less, south of Burke Ave.), Towson, 14th District of Balto. Co., thence southerly, and westerly on the said sides of Road "B" and across a proposed 60 ft. road 1370' to the southernmost side of Road "C" and thence northerly and easterly on the south-east and south sides of Road "C" and across the proposed 60 ft. road, 1370',

herely petition that the zoning status of the above described property be reclassified, pursuant to the Zoning Law of Baltimore County, from an "A" Residence zone to an "M" Commercial zone.

Reasons for Re-Classification:.....

Character of use for which above property is to be used:..... Shopping Center

Size and height of building: front.....feet; depth.....feet; height.....feet.

Front and side set back of building from street lines: front.....feet; side.....feet.

Property to be posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above re-classification, 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.

Burke Land Corp.
Secretary
Legal Owner
Address 1322 Chestnut Rd. Baltimore Md.

ORDERED by The Zoning Commissioner of Baltimore County, this 20th day of November, 1947, that the subject matter of this petition be advertised, as required by the "Zoning Law of Baltimore County, in a newspaper of general circulation throughout Baltimore County, that property be posted, and that the public hearing herein be had in the office of the Zoning Commissioner of Baltimore County, in the Bechard Bldg. in Towson, Baltimore County, on the 31st day of December, 1947, at 10:00 o'clock P.M.

Zoning Commissioner of Baltimore County

of Zoning Appeals, Earle L. Dingle and William A. Sapp, constituting a majority thereof, passed an order sustaining the decision of the Zoning Commissioner. On the same date, Dr. Samuel H. Hoover, Chairman of the Board, filed a dissenting opinion to the effect that the reclassification should have been denied.

4. That the aforesaid Order of the majority of the Board of Zoning Appeals, dated April 26, 1948, should be reversed, set aside and annulled by this Honorable Court on the grounds that said Order is illegal in that:

- a. Said Order constitutes an arbitrary and capricious act and amounts to a gross abuse of administrative discretion.
- b. That the area sought to be reclassified was so indefinitely described as to render its ascertainment and exact location impossible.
- c. That the Order as expressed by the majority of the Board was against the weight of the evidence adduced at the hearing on the point of "need for shopping facilities" in the area.
- d. That the majority opinion of the Board was against the weight of the evidence adduced on the point of traffic conditions in the community affected; that the minority dissent filed by the Board Chairman was the proper conclusion in view of the evidence.
- e. That the Burke Land Corporation's vague and indefinite proposals for future use of the subject tract, as set forth in the evidence of the case, amounted to a detriment to and reaction against the general welfare of the Petitioners.

5. That this Petition and appeal is filed pursuant to the provisions of Chapter 502 of the Laws of Maryland, 1945.

WHEREFORE, your Petitioners pray:
1. That a writ of Certiorari be issued by this Honorable

Pursuant to the advertisement, posting of property, and public hearing on the above petition and it appearing that by reason of..... the above re-classification should be had.....

It is Ordered by the Zoning Commissioner of Baltimore County this..... day of..... 19..... that the above described property or area should be and the same is hereby re-classified, from and after the date of this Order, from a..... zone to a..... zone.

Pursuant to the advertisement, posting of property and public hearing on the above petition and it appearing that by reason of..... the above re-classification should NOT be had.....

It is Ordered by the Zoning Commissioner of Baltimore County this..... day of..... 19..... that the above petition be and the same is hereby denied and that the above described property or area be and the same is hereby continued as and to remain a..... zone.

Zoning Commissioner of Baltimore County

Approved.....
County Commissioners of Baltimore County

Date..... By..... President

RE: PETITION FOR RECLASSIFICATION FROM "A" RESIDENCE ZONE TO "M" COMMERCIAL ZONE WESTMOST & NORTHEAST LINES OF STEVENS LANE - 17th DISTRICT - BURKE LAND CORPORATION PETITIONER.

Pursuant to the advertisement, posting of the property, and public hearing on the above petition dated the 20th day of November, 1947, and it appearing from the evidence and data submitted at said hearings the said property should be reclassified for the purpose of establishing a community commercial shopping center for the use, benefit and future development of the community in which said tract of land is situated from the standpoint of the following considerations:

- 1 - That there are no adequate shopping facilities within a radius of approximately one mile of said location; that there is existing at the present time a large population in all types of residential properties and there is much undeveloped land in said radius and on beyond, which is ripe for development, and which the establishment of a commercial shopping center will aid and encourage.
- 2 - That the granting of said reclassification and the use of said property for a commercial shopping center will not adversely affect the health, safety, morals and general welfare of the community, and will not tend to create congestion in the roads, streets and alleys, and will not create a fire hazard and will not interfere with schools, transportation and other public requirements and conveniences, and will not endanger the safety of the public from panic and other dangers.
- 3 - That there will be ample off-street parking area of not less than two and one-half square feet to each one foot of land covered by commercial buildings, the maintenance of said ratio of parking area being a condition to the granting of said reclassification.
- 4 - That the property at the present time is in the main non-residential, and that the greatest utility to which the property is inescapably is for commercial use.

WHEREFORE, it is ORDERED by the Zoning Commissioner of Baltimore County this 17th day of December, 1947, that the above described property be reclassified from and after the date of this Order, from an "A" residence zone to an "M" commercial zone.

Charles H. Hoover
Zoning Commissioner
of Baltimore County

Approved.....
County Commissioners of Baltimore County
Date..... By..... President

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RECD MAY 2

JOHN F. APEY, JR.,)
LAWRENCE A. BAYLOR, JR.,) IN THE CIRCUIT COURT
JOSEPH P. STONE)
HOWARD LITZ, ET AL.,) PETITIONERS)

VS.)
DR. SAMUEL H. HOOVER,) FOR)
EARLE L. DINGLE, and))
WILLIAM A. SAPP,))
The Board of Zoning Appeals))
for Baltimore County,) DEFENDANTS)
BALTIMORE COUNTY)

PETITION AND APPEAL

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Petition and appeal of John F. Apey, Jr., et al., respectfully shew unto your Honor:

- 1. That your Petitioners are residents of Baltimore County, State of Maryland, residing in or near the community of Fellowship Forest in the Ninth Election District of Baltimore County, Maryland.
- 2. That the Burke Land Corporation heretofore applied to the Building and Zoning Commissioner of Baltimore County for reclassification from "A" Residence Zone to "M" Commercial Zone of a certain tract of land situated and lying in the Ninth Election District of Baltimore County, State of Maryland, South of Burke Avenue, East of the York Road, part of a tract formerly owned by the Towson Nurseries.
- 3. That the said Zoning Commissioner of Baltimore County by his Order dated December 17, 1947, granted the reclassification. That your Petitioners and others filed an Appeal to the Board of Zoning Appeals for Baltimore County and the matter was heard on February 4, 1948 by said Board of Zoning Appeals for Baltimore County. That on April 26, 1948, two of the members of the Board

CARROLL W. HOOPER
ATTORNEY AT LAW
TOWSON & BALTIMORE

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of the people and communities effected.
It is the writer's opinion that the applicant should have waited until the pattern of development of the area effected is clear from a residential standpoint before any commercial enterprises are undertaken.

Samuel H. Hoover

Dissenting Opinion

Hoover, Chairman, dissents with the opinion and conclusions filed by the majority of the Board for reasons as follows:

- 1. That early in 1947, the Burke Land Corporation, applicant in the instant case, made application for reclassification of 17.47 acres of ground lying on the South side of Burke Avenue, East of the York Road, the property formerly owned by the Towson Nurseries, from "A" Residential to "C" Residential for the purpose of constructing approximately 250 units of garden-type apartments. ~~Thereafter~~ ~~about a month or thereabouts.~~ At the hearing early in 1947, the Burke Land Corporation made it clear to the protestants, as well as to the Board, that no further demand for reclassification of any part of the tract would be made. Notwithstanding this, the Burke Land Corporation applied in late Fall of 1947 for reclassification of approximately 4 1/2 acres from "A" Residential to "M" Commercial. To grant the reclassification of this commercial tract would be "piecemeal" zoning, inconsistent with realistic zoning practices as well as the announced intention of the applicant.
- 2. That from the evidence in the case, it is impossible to distinguish the exact location of the subject tract inasmuch as there is no survey plat; the only location was by vague distance of non-existent roads. Accurate description is required if proper plats and other zoning records are to be maintained.
- 3. In contradiction to the opinion of the majority of the Board, I emphasize that there was no testimony to the effect that there was any existing need for a shopping center in the subject tract. On the contrary, every witness testified that there were ample

facilities within close proximity to their homes and the subject tract of land.

4. Many witnesses offered concrete evidence that a commercialization of the subject area would definitely create traffic hazards in the area. The only present available road to the subject tract is Stevenson Lane which runs from Hillen Road to York Road through Fellowship Forest and which is not over 16 feet in width; that there are no sidewalks in the vicinity and pedestrian traffic would naturally be endangered from the vehicles of the commercial patrons and particularly from the trucks of the vendors which would be serving the various stores. In addition thereto, the new Towson High School will be located within 3 or 400 yards of the subject tract, and it is not possible to reach any conclusion other than that there will be definitely many children playing in the vicinity and travelling to and from the school. The entrance from Burke Avenue to the proposed commercial area would be about 50 feet west of where Burke Avenue and Hillen Road intersect which is, even under present conditions, a rather dangerous intersection, and the increased traffic burden would certainly worsen the situation.

5. The spokesman for the applicant appeared to be very vague and uncertain as to the types of proposed stores to utilize the commercial area, possibly because at the time it was clear that there was no need for any commercial facilities in the area. However, he did testify that it might be possible that the applicant would utilize part of the tract for a bar or tavern. This obvious lack of planning on the part of the applicant indicates to me that a reclassification at the time could be possibly be detrimental to the welfare

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CARROLL W. ROYSTON
ATTORNEY AT LAW
OFFICE BUILDING
TOWSON 4, MD.
TOWSON 1940

December 27, 1947

Dr. Charles H. Doing
Zoning Commissioner of Baltimore County
Reckord Building
Towson 4, Maryland

Re: Petition for reclassification
from "A" Residence Zone to "B"
Commercial Zone - Northeast
and Northwest sides of Stevens
Lane - 9th District - Burke Land
Corporation, Petitioner.

Dear Sirs:
Please enter an appeal from your decision and
order in the above entitled matter to the Board of Zoning
Appeals of Baltimore County.

Very truly yours,
Carroll W. Royston

CRS:bc

7/24/48
130

RE: PETITION FOR RECLASSIFICATION FROM AN
"A" RESIDENCE ZONE TO AN "B" COMMERCIAL
ZONE OF THE PROPERTY OF THE WESTMINSTER
AND NORTHEAST SIDES OF STEVENS AVE.,
9th District of Baltimore County,
BURKE LAND CORPORATION, PETITIONER

Upon hearing on appeal on February 5, 1948, from the Order
of the Zoning Commissioner of Baltimore County passed on Decem-
ber 17, 1947, granting the petition for reclassification, from
an "A" Residence Zone to an "B" Commercial Zone, in the above
entitled matter, and it appearing from the facts and evidence
adduced at the appeal hearing that there are no adequate shop-
ping facilities within a radius of approximately one mile;
that there exists at the present time a large population in
all types of residential properties; that the granting of a
semi reclassification and the use of said property for a com-
mercial shopping center will not adversely affect the health,
safety, morals and general welfare of the community; will not
tend to create congestion in the roads, streets and alleys;
will not create a fire hazard; will not interfere with schools,
transportation and other public requirements and convenience;
and that there will be ample off-street parking facilities of
not less than two and one-half square feet to each one foot of
land covered by commercial buildings, the maintenance of said
ratio of parking area being a condition to the sustaining of the
order of the Zoning Commissioner, therefore:

It is this 26th day of April, 1948, ORDERED
by the Board of Zoning Appeals of Baltimore County that the
said Order of the Zoning Commissioner of Baltimore County in
granting the petition for reclassification from an "A" Residence
Zone to "B" Commercial Zone be affirmed and that the property
mentioned in the aforesaid petition be and the same is hereby
reclassified, from and after the date of this Order, from
an "A" Residence Zone to "B" Commercial Zone.

William A. Goff
Carlton J. ...
Board of Zoning Appeals of
Baltimore County.

Approved: County Commissioners of
Baltimore County
By *Carlton J. ...*
President

Date: April 27, 1948

April 26, 1948: Dissenting opinion of Dr. Samuel F. Hoover, the remaining
member of the Board, filed.

JOHN F. APSEY, JR.,
LEONARD L. BAILEY, JR.,
JOSEPH P. STIGES,
HOWARD LITCH, ET AL.,
PETITIONERS

IN THE CIRCUIT COURT

VS.
FOR

DR. SAMUEL F. HOOVER,
EARL L. GIBBLE, and
WILLIAM A. GIFF, COMPLAINANTS
THE BOARD OF ZONING APPEALS
FOR BALTIMORE COUNTY,
DEFENDANTS

BALTIMORE COUNTY

DATE OF COURT

Upon the foregoing Petition and Appeal and Affidavit,
it is by the Circuit Court for Baltimore County this 25th day
of May, 1948, ORDERED that a Writ of Certiorari be issued
directed to the Board of Zoning Appeals for Baltimore County
to reverse the decision and order of said Board of Zoning
Appeals for Baltimore County, dated April 26, 1948, and that
a return thereto must be made and served upon the relators' at-
torney within thirty days from the date of this Order.

IT IS FURTHER ORDERED that the Board of Zoning Appeals
for Baltimore County be and it is hereby required to return to
this Court the original papers acted upon by it, together with
a transcript of the testimony taken at the hearing and copies
of exhibits filed therein.

J. Howard Murray
JUDGE

True Copy Test
T. Brandon Abbott
Clerk

CARROLL W. ROYSTON
ATTORNEY AT LAW
TOWSON 4, MARYLAND
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Court directed to the Board of Zoning Appeals for Baltimore County
prescribing the time within which a return thereto must be made
and served upon relators' attorney.

2. That this Honorable Court reverse, set aside and annul
and declare void and of no effect the Order of the majority of the
Board of Zoning Appeals for Baltimore County, dated April 26, 1948.

3. That the Board of Zoning Appeals for Baltimore County
be required to return to this Honorable Court the original papers
acted upon by it or certified or sworn copies thereof, and that
such returns shall conclusively set forth such other facts as may
be pertinent and material to show the grounds of the decision of
the Order appealed from, together with a transcript of the testi-
mony taken at the hearing and copies of exhibits filed therein.

4. That your Petitioners may have such other and further
relief as the nature of their case may require.

AND as in duty bound, etc.

Attorney for Petitioners

STATE OF MARYLAND, BALTIMORE COUNTY, to wit:

I HEREBY CERTIFY that on this day of May, in the
year nineteen hundred and forty-eight, before me, the subscriber,
a Notary Public of the State of Maryland, in and for Baltimore
County aforesaid, personally appeared John F. Apsey, Jr., one of
the Petitioners named herein, who came oath in due form of law on
his own behalf and on behalf of his co-Petitioners, that the mat-
ters and facts set forth in the foregoing Petition and Appeal are
true and correct as therein stated, to the best of his information,
knowledge and belief.

WITNESS my hand and Notarial Seal.

Notary Public

CARROLL W. ROYSTON
ATTORNEY AT LAW
TOWSON 4, MARYLAND
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Carroll W. Royston, Esquire,
Attorney for
John F. Apsey, et al.,
Offutt Building,
Towson - 4, Md.
June 5, 1948

to
Jeanette C. Morris
Reckord Building
Towson - 4, Md.

To making certified copies of papers in the
matter of petition of Burke Land Corporation
for reclassification of property on Stevens
Ave., 9th District \$6.00

Pa

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December 29, 1947

\$22.00

RECEIVED of Carroll W. Royston, Attorney,
for protestants, cost of appeal to the Board of Zoning
Appeals of Baltimore County from the Decision of the
Zoning Commissioner granting the petition of Burke Land
Corporation for reclassification of property on the west-
terminus and northern side of Stevens Lane, 9th Dis-
trict of Baltimore County.

Zoning Commissioner.

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PAID
DEC 29 1947
COUNTY COMMISSIONERS

December 19, 1947

\$26.00

RECEIVED of William P. Cho, the sum of Twenty
Six (\$26.00) Dollars, being cost of petition for reclas-
sification, advertising and posting of property, Stevens
Avenue, 9th District of Baltimore County.

Zoning Commissioner

PAID
DEC 19 1947
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

June 13, 1948

\$6.00

RECEIVED of Carroll W. Royston, Attorney for
John F. Apsey, et al, the sum of Six Dollars and
Twenty Cents being cost of certified copies of
papers in the matter of petition of Burke Land Cor-
poration for reclassification of property on Stevens
Ave., 9th District

Zoning Commissioner.

PAID
JUN 15 1948
COUNTY COMMISSIONERS
OF BALTIMORE COUNTY

1096

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

1096

District 9 Date of Posting Nov 26/47

Posted for: Shopping Center

Petitioner: Burke Land Corp

Location of property: westernmost & northernmost sides of proposed road,
shown as Road "B" on plat of Burke Land Corp.

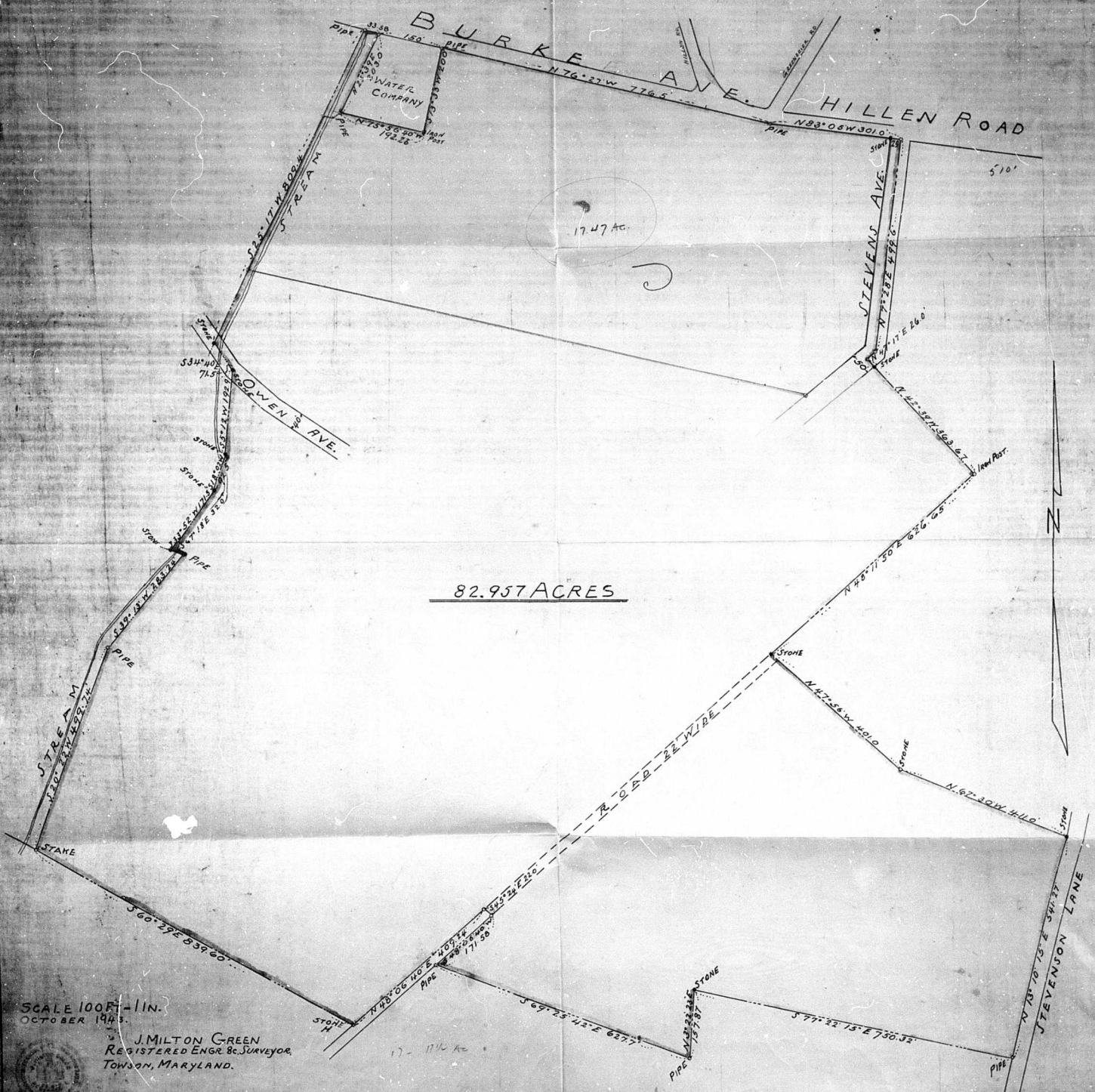
Location of Signs: 3 signs on the south side of Burke Ave.

650-800-950 feet west of Stevens Land

Remarks: _____

Posted by Harry C. Gartside Date of return: Nov 26/47

Signature



82.957 ACRES

17.47 AC.

SCALE 100 FT. = 1 IN.
OCTOBER 1943.

J. MILTON GREEN
REGISTERED ENGR. & SURVEYOR
TOWSON, MARYLAND.

17 - 17.47 AC.